

## SUBJECT

American Rescue Plan (ARPA) Process Update

## DESCRIPTION/ISSUE

The Council will review and discuss a suggested approach and process for the Council to determine how to allocate the remaining ARPA funding

## SUMMARY OF KEY DISCUSSION POINTS

- President Biden signed into law the American Rescue Plan Act (ARPA) on March 11, 2021 to support the country's recovery from the COVID-19 pandemic. The County Government is expected to receive \$204.1 million in two equal tranches – one tranche was received in June 2021 and the second tranche is expected in May or June 2022
- As part of the FY22 budget process, the Council supported and approved the Executive's recommendation to use \$127.69 million in ARPA funding in FY21 and FY22. The approved uses account for 63% of the total ARPA funding the County will receive. The County has \$76.41 million in unallocated ARPA funding remaining, or about 37% of the total.
- The Council requested that Council staff, in collaboration with Executive staff, produce a suggested approach and process for the Council to determine how to allocate the remaining ARPA funding.
- Council staff's suggested approach includes three primary components:
  - Determine how much of the unallocated ARPA funding to set aside for FY23 (see pg. 3)
  - Consider ARPA funding opportunities at multiple points during the fiscal year (see pg. 3-4)
  - Develop a structured review process for proposed uses to ensure eligibility and alignment with Council priorities (see pg. 4)

### **This report contains:**

Staff Memorandum

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## MEMORANDUM

July 9, 2021

TO: County Council

FROM: Craig Howard, Deputy Director  
Gene Smith, Legislative Analyst

SUBJECT: **ARPA Process Update**

### A. Background

President Biden signed into law the American Rescue Plan Act (ARPA) on March 11, 2021. ARPA is a \$1.9 trillion economic recovery package to support the country's recovery from the COVID-19 pandemic. The package included multiple categories of spending to support this recovery, including direct support to state, local, and tribal governments. The County Government is expected to receive \$204.1 million in two equal tranches – one tranche was received in June 2021 and the second tranche is expected in May or June 2022.<sup>1</sup>

In general, the ARPA law states that funds can be spent on the following broad uses:

1. To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers.
3. For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency.
4. To make necessary investments in water, sewer, or broadband infrastructure.

As part of the FY22 budget process, the Council supported and approved the Executive's recommendation to use \$127.69 million in ARPA funding in FY21 and FY22. The approved uses accounts for 62.6% of the total ARPA funding the County will receive and included:

- Approving \$91.95 million in ARPA funds in FY21 based on Revenue Loss Factor Recognition. The County's Revenue Loss Factor for calendar year 2020 is approximately \$189 million. The County's approved fiscal plan, including reserve estimates, included the use of \$91.95 million in FY21 for the County's Revenue Loss Factor Recognition.

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<sup>1</sup> The County also anticipates receiving ARPA funding for targeted areas including Transit Services, Montgomery County Public Schools, and Montgomery College separate from this allocation.

- Allocating \$35.74 million as part of the FY22 operating budget to fund specific ARPA-eligible services, as detailed in Table 1 below.

**Table 1: ARPA-eligible Expenditures in Approved FY22 Operating Budget (\$ millions)**

Department - Expenditure	Amount
NDA – Working Families Income Support Expansion	25.00
HHS – Therapeutic Recreation Services	0.75
HHS – Mobile Health Clinic	0.62
HHS – Service Hubs	3.60
HHS – Mental Health Services for MCPS Students & Families	0.25
HHS – Rapid Rehousing Expansion	0.49
HHS – Rental Assistance	1.00
NDA – DHHS Mobile Crisis Van	0.26
CCT – Remote Proceeding Facilitators & Schedulers	0.27
CVB – Aid to Conference Visitors Bureau	0.80
DTS – FiberNet2 Maintenance	0.50
Cable – FiberNet3 Build Out	0.70
Cable – Digital Equity	0.10
Debt – Short-Term Line of Credit Administrative Costs	1.40
<b>Total</b>	<b>35.74</b>

After these actions, the County has \$76.41 million in unallocated ARPA funding, or about 37.4% of the total ARPA allocation. All ARPA funds must be spent by December 31, 2026.

As part of the budget process, the Council created an initial list of potential ARPA funding uses (referred to as the Category 1 list during budget). The list included proposed expenditures in FY22 and FY23 – \$8.44 million in FY22 and \$28.5 million in FY23. Proposed expenditures in FY23 included ARPA-eligible expenditures already approved by the Council in FY22 for the Working Families Income Supplement expansion, Mobile Health Clinic, and Service Hubs.

These items were not intended to be a final or comprehensive list of potential uses of ARPA funding, but instead a starting point for items that arose during budget discussions. All items on that initial list along with any other suggested uses will need to be reviewed for ARPA eligibility as part of this process.

The Department of Treasury has issued several guidance and eligibility documents related to ARPA funding following the passage of the law. The guidance documents are listed below. Executive Branch and Council staff used the interim final rule to vet proposed uses in the FY21 and FY22 budget and to calculate the allowable revenue loss recognition factor in May. Since then, Treasury has issued new compliance and reporting guidance that staff is reviewing.

- [Interim Final Rule for Coronavirus State and Local Recovery Funds](#), published May 17, 2021
- [Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions](#), last updated June 24, 2021

- [Compliance and Reporting Guidance: State and Local Fiscal Recovery Funds](#), June 24, 2021

The Council requested that Council staff, in collaboration with Executive staff, produce a suggested approach and process for the Council to determine how to allocate the remaining ARPA funding.

## **B. Suggested ARPA Approach and Process**

Council staff's suggested approach includes three primary components.

- Determine how much of the unallocated ARPA funding to set aside for FY23
- Consider ARPA funding opportunities at multiple points during the fiscal year
- Develop a structured review process for proposed uses to ensure eligibility and alignment with Council priorities

### **1. Setting Aside ARPA funds for FY23**

Council staff suggests that the Council consider setting aside a portion of the unallocated ARPA funding for FY23. The Council identified at least \$28.5 million of possible expenditures in FY23 (\$25.0 million for the Working Families Income Supplement; \$3.0 million for Service Hubs; and \$0.5 million for the Mobile Health Clinic). All these proposed expenditures were funded by ARPA in the FY22 budget.

In addition to the already identified \$28.5 million, Council staff suggests that the Council consider tentatively setting aside up to \$20 million for unknown needs either at the end of FY22 or in FY23. Setting aside some amount greater than the \$28.5 million will provide flexibility to potentially continue certain pandemic-related programs and services funded in FY22.

The Council's consideration of setting aside any ARPA funds today is not a final action. The Council would still need to approve the use of this funding, either through special appropriations in FY22 or through the budget process in FY23. For example, if the Council chose to set aside a total of \$48.5 million in ARPA funds for FY23, it would leave \$28.2 million to appropriate in FY22. The Council could revisit the set aside amount during each funding cycle described below.

### **2. Multiple ARPA funding opportunities**

Council staff suggests that the Council consider having multiple ARPA funding opportunities in FY22, beginning with an initial consideration of any time-sensitive items in July 2021 and then a second review cycle in Fall 2021. Given the Council's worksession calendar, it would need to consider proposed expenditures in July 2021 that are necessary and can begin implementation in July or August 2021. Additional funding cycles will be considered later in FY22 depending on how much funding is allocated in the July and Fall 2021, including any FY23 set aside amount. Prior to each round of funding consideration, Councilmembers would have an opportunity to identify any additional proposed expenditures for review.

This approach would allow for a comprehensive review of proposed expenditures, provide time to develop nascent concepts, and provide the opportunity to respond to unexpected needs based on how the County's COVID response and recovery process proceeds. For example, there may be unforeseen response costs related to the Delta (or another) variant.

As noted above, the County will not receive the second tranche of \$102 million in ARPA funding until May or June 2022. Since the approved FY22 budget already assumes ARPA spending that exceeds the first tranche, any further ARPA appropriations in FY22 will be forward-funded – meaning the actual dollars will come from reserves and then be reimbursed by ARPA when the second tranche is received as allowed under the Treasury guidelines. If the Council does not want to forward fund any further ARPA appropriations, it would need to wait until the May/June timeframe to approve any additional expenditures funded with ARPA.

### **3. Structured Review Process**

Staff suggests that the Council use a structured review process to evaluate proposed uses of ARPA funds. The first step in this approach would be for Council and Executive Branch staff to screen any proposed expenditures to ensure it is ARPA-eligible, complies with the guidelines and requirements issued by Treasury, and aligns with the Council's policy for one-time revenues. The second step would be for Council and Executive Branch staff to review ARPA-eligible proposed expenditures to help the Council identify the opportunities that address the County's priorities in responding and recovering from the pandemic.

Suggested screening elements to initially review proposed expenditures include:

- The expenditure must be eligible for ARPA funding per U.S. Treasury's guidance.
- The expenditure must be able to meet U.S. Treasury's reporting and compliance requirements (released on June 24, the compliance and reporting requirements differ than those for the CARES Act expenditures and therefore may result in a more detailed and lengthy screening review).
- The expenditure must be a discreet, time limited FY22 or FY23 expenditure that is related to the County's response to the pandemic.
- The expenditure must not be eligible for other targeted ARPA funding (e.g., certain transportation, school funding) and should not duplicate existing County funding or State funding.

Some of the Council's focus elements for its review of ARPA-eligible proposed expenditures could include:

- Alignment with the County's priorities and efforts related to racial justice and social equity in response to the pandemic.
- Continuing or creating an added benefit to County residents in response to the pandemic.
- Clearly demonstrating demand or need in the community.
- For capital projects, expanding and/or addressing the County's response to the pandemic.
- Bolstering the health and well-being metrics of the County.

#### **4. Next Steps**

Council staff will proceed with this suggested framework, and any alterations, based on the Council's review during today's update. In summary, this framework includes:

- Setting aside \$28.5 million for the already identified FY23 expenditures, as well as any additional amount the Council would like to tentatively set-aside for unknown expenditure needs in FY23 and/or late FY22. The Council would revisit the "additional" set-aside in conjunction with each funding cycle.
- Coordinating with the Council to implement multiple funding rounds for ARPA uses, with the first two funding rounds to proceed in July 2021 and Fall 2021.
- Implementing a structured review process to ensure expenditures are ARPA-eligible and aid the Council's opportunities to address the County's priorities in responding and recovering from the pandemic