



# Board Agenda Item 3

DATE: February 1, 2022

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, County Administrative Officer

SUBJECT: American Rescue Plan Act - Coronavirus State and Local Fiscal Recovery Funds

RECOMMENDED ACTION(S):

- 1.) **Receive presentation on the American Rescue Plan Act of 2021 (ARPA).**
- 2.) **Adopt Subrecipient Selection Policy for the County's potential transfer of Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to prospective subrecipients of such funds for eligible subrecipient proposals.**
- 3.) **Discuss the ARPA Ad-Hoc committee's recommended plan for the County relating to internal (i.e., the County, as a recipient of SLFRF) and external (i.e., subrecipients of SLFRF) projects or programs, and earmark and prioritize potential funding for internal (County) and external (subrecipient) proposals set forth in the ARPA Ad-Hoc committee's recommended plan for the County's use of SLFRF, with any future allocation of such funding by the Board for activities, subject to confirmation of eligibility (\$194,063,657).**
- 4.) **Direct staff to return to the Board with proposals recommended for award of SLFRF to subrecipients, for an external project or program, subject to each recommended subrecipient entering into a written agreement with the County on terms and conditions acceptable to the County.**

Approval of the second recommended action would establish a subrecipient selection policy for the solicitation and processing of eligible subrecipient proposals. The third recommendation would enable your Board to discuss and make adjustments to the ARPA Ad-Hoc committee's recommended plan for expenditure of the SLFRF on internal (County) projects and external (subrecipient) projects according to general categories, and earmark and prioritize the potential funding of SLFRF according to the recommended plan, as adjusted by your Board. This earmarking does not commit your Board to allocating these SLFRF. Any future allocation of such funding by your Board for activities would be subject to confirmation of eligibility. The fourth recommended action provides direction to staff to return to your Board for consideration of eligible subrecipient proposals in May 2022, or sooner, depending on your Board's priority of requests. Your Board's action on the ARPA Ad-Hoc committee's recommended plan (Attachment A), together with any changes deemed appropriate by your Board, will provide staff with direction for internal (County) project proposals and external (subrecipient) project ideas and/or requests, subject to the review and confirmation of SLFRF eligibility by County staff. This item is Countywide.

ALTERNATIVE ACTION(S):

Your Board may modify the ARPA Ad-Hoc committee's recommended plan and earmark potential funding to alternative internal (County) projects and external (subrecipient) projects according to general categories,

subject to the review and confirmation of SLFRF eligibility by County staff.

**FISCAL IMPACT:**

There is no increase in Net County Cost associated with recommended actions. Costs for administration and projects associated with this item will be funded through ACTTC Org 1033 - Disaster Claiming - Fund 0026 - Subclass 91021.

**DISCUSSION:**

On March 11, 2021, ARPA was signed into law by President Biden, with the goal of accelerating the national recovery from the COVID-19 pandemic. The United States Department of the Treasury (Treasury) issued the Interim Final Rule (IFR) on May 10, 2021, to guide recipients and facilitate rapid and effective implementation of the SLFRF program established under ARPA. Treasury has since issued a Final Rule on January 6, 2022, which includes updates and clarifications to the IFR. The Final Rule does not take effect until April 1, 2022, but the County may take advantage of the Final Rule's flexibilities and simplifications prior to the Final Rule effective date, and Treasury will not take action to enforce the IFR to the extent that a use of funds is consistent with the terms of the Final Rule, regardless of when the SLFRF are used.

The County of Fresno will receive \$194,063,657 of SLFRF in two installments. The County received the first tranche of \$97,031,825 on June 17, 2021 and will receive the remaining balance in May of 2022. Funds may be used for eligible activities under four general categories:

- A. Supporting public health response/addressing negative economic impacts;
- B. Providing premium pay for essential workers;
- C. Replacing public sector revenue loss, subject to certain limitations; and
- D. Investment in water and sewer infrastructure, and broadband infrastructure.

The IFR and Final Rule permit SLFRF to be used to cover costs for eligible activities within those four general categories for the period that begins March 3, 2021 and ends on December 31, 2024. Recipients, including the County, and its subrecipients, must return any funds to Treasury not obligated by December 31, 2024, and any funds not expended to cover such obligation by December 31, 2026.

The Final Rule clarifies that if the County is providing SLFRF to an individual or entity for the purpose of carrying out an SLFRF program or project on behalf of the County, then that individual or entity is acting as a subrecipient. When subrecipients spend SLFRF, they must comply with the same statutory and regulatory requirements that apply to the County's expenditures of SLFRF.

If the County is providing funds to an individual or entity for the purpose of directly benefitting that individual or entity as a result of experiencing a public health impact or negative economic impact of the pandemic, then that individual or entity is acting as a beneficiary, not a subrecipient.

Staff expect that beneficiaries will receive funds through programs or projects that are operated by the County or through programs or projects that are operated on behalf of the County by subrecipients that are selected according to the Subrecipient Selection Policy.

**ARPA Principles**

The following principles are detailed in the ARPA Guidance, the IFR, and the Final Rule, and should guide the County in its selection of projects and selection of subrecipients:

- To commit that in allocating SLFRF, the County will protect the interests of the federal government, and embrace the goals of the federal government set forth in the IFR, the Final Rule, and the

Guidance.

- That in allocating SLFRF, the County shall, and shall cause its subrecipients to, maintain a robust documentation and compliance regimen, so that SLFRF granted to the County produce measurable results that satisfy the federal government's interests.
- That in allocating SLFRF, the County shall, and shall cause its subrecipients to use these funds to promote equitable outcomes, including programs designed with equity in mind.

### **Community Outreach (Survey and Statement of Interest)**

In recognition that the SLFRF through ARPA will make a significant impact in the community, the County Administrative Office solicited community input to assess the community's priorities for the types of investments that the community would like to see funded.

The County maintains an ARPA web page, which is accessible through the County's main web page. The link to that page is found at:

<https://www.co.fresno.ca.us/departments/county-administrative-office/american-rescue-plan>

The County conducted an online ARPA Community Survey from November 1st through December 24, 2021. The County advertised the multilingual survey through its social media platforms, the internet, and direct emails to over 150 Community Based Organizations (CBOs) and agencies. The County received a combined total of 658 paper and online survey entries. Attachment B provides an overview of the survey results.

On December 10, 2021, the County issued a press release to announce the upcoming release of a multilingual "Statement of Interest" (SOI) form, and two virtual community engagement Zoom webinars (held on December 15th and 22nd at 6:00 p.m. in English and Spanish). The County also advertised the SOI through its social media platforms, the internet, and direct emails to over 150 CBOs and agencies. Webinar attendance ranged from 20 to 25 participants representing a variety of interested organizations and faith-based groups.

On December 15, 2021, County staff announced the opening period for prospective subrecipients (organizations, special districts, and nonprofit organizations that would carry out SLFRF projects or programs on behalf of the County) to submit a SOI with the County for potential project activities eligible for SLFRF. The SOI was released to solicit and gauge interest from eligible subrecipients as to the potential of funding. This initial phase of the County's process does not commit the County to grant any amount of funding to any type of subrecipient or for any type of project activity. As of the preparation date of this report, the County has received 51 SOIs and letters for subrecipient and/or beneficiary projects or programs totaling over \$84,000,000. Based on the value of SOIs received, 57 percent fall in Category A - "Support Public Health and Address Negative Economic Impacts" (equivalent to \$47.6 million). Eligible requests in Category A include funding to address negative impacts to local organizations and business, improve community facilities, fund affordable housing projects, and fund technical support and assistance programs in economically impacted communities. The remaining 43 percent fall in Category D- "Investment in Water or Sewer Infrastructure" (equivalent to \$36.4 million). Eligible requests in Category D include capital investment requests to address drinking water capacity, storage, and wastewater treatment facilities in disadvantaged communities.

The County has also received a number of public comments pertaining to ARPA. Public comments are included with this agenda item as Attachment D.

### **Ad-hoc Committee Recommended Plan**

In recognition of the unprecedented amount of stimulus and the resulting opportunity to invest and provide ongoing benefits provided by ARPA, your Board created an Ad-Hoc Committee on March 23, 2021 at its regular public meeting, consisting of Chairman Brandau and Supervisor Magsig, to work with the CAO's office and Department Heads to develop principles and plan for the expenditures of the funds.

On January 10, 2022, the ARPA Ad-Hoc committee convened to discuss the County's list of internal (County) proposed projects and review a list of external (subrecipient) letters and SOIs. The ARPA Ad-Hoc committee then developed the recommended plan, which is attached to this agenda item as Attachment A. The plan identifies general categories, consistent with the eligible activities for the SLFRF, for internal (County) and external (subrecipient) projects or programs.

Your Board may accept the ARPA Ad-Hoc committee's recommended plan, or make changes, if so desired. Acceptance of the recommended or modified plan will "earmark" funding according to general categories for internal (County) and external (subrecipients) projects and provide direction to staff to work with County Departments on internal projects; if funding is earmarked for potential subrecipient proposals, staff will initiate and follow the steps delineated in the Subrecipient Selection Policy.

For earmarked internal (County) projects, Departments will return to your Board with budget resolutions for final allocation of funding; those resolutions would require a 4/5 vote by your Board. If funds are earmarked for external (subrecipient) proposals, staff will return to your Board for consideration of eligible subrecipient proposals in May 2022, or sooner, depending on your Board's priority of requests.

### **Subrecipient Selection Policy**

As a condition of receiving SLFRF from Treasury, the County is required to comply and adhere to reporting responsibilities under the SLFRF program, the Award Terms and Conditions, the IFR, the Final Rule, Treasury's Compliance and Reporting Guidance (ARPA Guidance), the SLFRF implementation regulations, and other regulatory and statutory requirements, including regulatory requirements under the Uniform Guidance (2 CRF Part 200).

The intent of the Subrecipient Selection Policy (Attachment C) is to structure, strengthen, and streamline a transparent process that promotes swift, effective, and equitable use of SLFRF in line with Treasury's SLFRF Principles. If the Subrecipient Selection Policy is adopted by your Board, subrecipients will be subject to the policy, which requires each subrecipient to enter into an agreement with the County to ensure that funds awarded to subrecipients comply with all applicable regulatory and statutory requirements, and that subrecipients comply with their documentation and reporting responsibilities back to the County.

### **Special Consideration under Selection Process**

As part of the selection process, your Board may elect to prioritize selection and award to certain subrecipients without those subrecipients going through the selection process described above, subject to a determination by your Board that each such selected subrecipient meets the SLFRF eligibility requirements, that each such subrecipient's proposal fits into one of the statutory eligible use categories, and provided each such subrecipient enters into an agreement with the County on terms and conditions acceptable to the County. These subrecipients would still need to comply with the procurement requirements for procurement of goods and services, following any County award of SLFRF to those subrecipients.

### **Procurement Requirements**

Under the IFR, the Final Rule, and the Guidance, the County is responsible for ensuring that any procurement using the ARPA funds, referred to as SLFRF, or payments under procurement contracts using

such funds, are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR § 200.317 through 2 CFR § 200.327, as applicable (collectively, the “Uniform Guidance”), as well as ensure adherence to any County, State, and federal procurement laws and regulations. The County must, and also must cause its subrecipient to, have and use documented procurement procedures, consistent with State, County, and tribal laws and regulations, and the standards of Section 200.318, for the acquisition of property or services required under the Federal award to the County or the County’s subaward to the subrecipient, and must maintain oversight to ensure that their respective contractors perform in accordance with the terms, conditions, and specifications of their respective contracts or purchase orders.

REFERENCE MATERIAL:

BAI #7, August 24, 2021  
BAI #7, July 13, 2021  
BAI #36.1, May 25, 2021

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A - Ad-Hoc Committee Recommended Plan  
Attachment B - Summary of Public Survey  
Attachment C - Subrecipient Selection Policy  
Attachment D - Public Comments

CAO ANALYST:

Yussel Zalapa