by Tom Kaleko

# It's Raining Money... Where's My Bucket?

## *Leveraging The American Rescue Plan And Infrastructure Act To Achieve Community Goals*


### Summary

Unless you worked for local government in the 1960s, you have likely never experienced the influx of federal dollars we are seeing today. Two recent, significant pieces of federal legislation, the American Rescue Plan Act (ARPA) and the Infrastructure Investment and Jobs Act (IIJA), provide significant funding for Missouri cities. There could be more. While the Build Back Better Act (BBB) appears dead, the Biden Administration continues to pursue the "Build Back Better Framework" with many expecting that elements of BBB will emerge again in future legislation in the form of place-based programs intended to help communities and their residents.

Expenditure of this money will take time. Your city has nearly two years to obligate its ARPA award and almost four years to get the cash out the door. Implementation of the many grant programs under the ARPA and IIJA must overcome pandemic-related headwinds such as the Great Resignation and disrupted supply chains. The legislation creates a peak in demand that will take federal and state workforces time to address. Still, local governments hoping to capitalize on this generational opportunity to transform their communities should prepare now in order to succeed strategically later.

Your existing resource allocation processes are critical to getting the most from the ARPA and IIJA. Think strategic plan, comprehensive plan, long-term financial forecast, capital improvement plan and operating budget. If these processes reflect current community priorities, are financially sound and supported by a diverse team of professionals, chances are you have what is needed to create a transformational ARPA and IIJA strategy. Perhaps, however, these resource allocation processes have weakened in recent years. Maybe it was felt the few discretionary dollars available made the stakes too low to merit the investment in time and effort. Possibly, your professional team lacks the expertise to fully respond to the opportunities created in the ARPA and IIJA. In that case, quick action is needed to strengthen resources and processes to seize this opportunity before it slips away.

## The American Rescue Plan Act

The ARPA, signed into law on March 11, 2021, allocated $350 billion in pandemic-related aid to states, territories, tribes and local governments. This includes $130.2 billion in State and Local Fiscal Recovery Funds (SLFRF) to local governments. The SLFRF Interim Final Rule released by the Treasury in May 2021 was superseded by the Final Rule when it was distributed in January 2022.

The Final Rule preserves the Interim Rule's focus on promoting a strong, equitable recovery by:

- Supporting COVID-19 response efforts.
- Replacing lost public sector revenue.
- Economically stabilizing impacted households and businesses.
- Addressing systemic public health and economic challenges inequitably borne by certain populations.

The Final Rule also generally maintains previously authorized eligible uses. However, it increases the flexibility with which the funds may be utilized and, in many cases, simplifies administration.

The Final Rule becomes effective on April 1, 2022. SLFRF obligations and expenditures incurred prior to that date should comply with either the Interim Final Rule or the Final Rule. The Final Rule will govern all obligations and expenditures incurred after April 1, 2022.

The most significant change in the Final Rule is a dramatic simplification to the lost revenue provision. To identify the general revenue amount lost due to the pandemic, recipients may now choose to do one of the following:

- Perform the revenue loss calculation provided in the Final Rule.
- Assume a standard allowance of up to their entire award or $10 million, whichever is less.

Revenue loss dollars can be used for "government services" – essentially any service for which a local government normally spends money, including roads and public safety. The overarching ARPA use prohibitions still apply, which are: debt service payments; extraordinary pension contributions; payment of legal settlements and judgements; and deposits into rainy day funds.

Revenue loss funds may be used to meet the non-federal cost share or matching requirement of other federal programs. However, these funds may not be used for the non-federal share of a state's Medicaid program and/or Children's Health Insurance Program (CHIP).

Nearly 97% of Missouri cities received ARPA awards less than $10 million and will want to choose the standard allowance, allowing them to expend their entire award for government services. If a recipient's award is greater than $10 million and its general revenues have been significantly reduced during the pandemic, it may be advantageous to perform the revenue loss calculation. Communities electing to calculate revenue loss now have the option to determine revenue loss on a fiscal year *or* calendar year basis. However, they must consistently apply whatever option they choose. They also may adjust their calculation based on certain tax increases and decreases adopted after Jan. 6, 2022. The revenue loss calculation still requires identification of a pre-pandemic revenue growth rate to which actual revenue gain (or loss) is compared. Recipients may choose to calculate the actual rate or utilize a standard growth rate. The standard growth rate is increased in the Final Rule from 4.1% to 5.2%.

Entities will make an election whether to use the $10 million standard allowance or revenue loss calculation when they file their first Project and Expenditure report (P&E). Those required to report in January may change their revenue loss election with the P&E filed in April 2022. A table summarizing ARPA reporting deadlines by recipient type is available in the next article of this March/April 2022 *Review* issue, on page 16.

The Final Rule also includes new or expanded provisions aimed at responding to the public health and economic impacts of COVID-19. These include:

- Paid family and medical leave for public sector employees to enable compliance with COVID-19 public health precautions.
- Local government re-hiring up to 107.5% of its pre-pandemic baseline.
- Additional funding eligibility for employees who were furloughed

or experienced pay cuts, worker retention incentives and administrative costs related to hiring, support and retention. Notably, funds may be used to maintain inflationary adjusted compensation levels to avoid layoffs.

- Premium pay clarification and streamlining (although no substantial change to the benefit that may be provided).
- Clarity on capital expenditures permitted outside the infrastructure expenditure category, with additional reporting requirements for capital expenditures over $1 million.

The Final Rule eases the identification of households, businesses and not-for-profits negatively impacted by the pandemic. Metrics are provided to help determine those "impacted" and "disproportionately impacted." Those meeting certain defined thresholds may be presumed eligible. A methodology is available to identify eligible uses outside of those explicitly defined in the Final Rule.

Infrastructure eligibility is expanded in the Final Rule to include certain stormwater, residential well, lead remediation and dam/reservoir rehabilitation projects. Broadband infrastructure eligibility is expanded to include cybersecurity modernization.

## Infrastructure Investment And Jobs Act

The Infrastructure Act, which represents the largest investment in the country's infrastructure in decades, became law on Nov. 15, 2021.

The Infrastructure Act's monumental five-year federal funding package will help state and local governments grow and sustain their economies, create jobs, enhance community resiliency and improve America's infrastructure grade and global ranking. Much of the funding will be distributed to local government through a combination of formula and competitive grants.

The IIJA includes $550 billion in new funding for roads, bridges, public transportation, public power, water and sewer and broadband upgrades.

- $110 billion investment for roads, bridges and major infrastructure projects, including funding for bridge repair, replacement and rehabilitation; major projects considered too large or complex for traditional funding programs; transportation safety; and money to reconnect communities.
- $39 billion to modernize public transit, including repairing and upgrading existing infrastructure, improving accessibility and bringing transit services to new communities. Additionally, the deal calls for $66 billion to improve the Northeast Corridor passenger and freight rail service and bring transit service to new communities. This will be the largest federal investment in public transit in the country's history.
- $65 billion to improve the nation's broadband infrastructure (building on the billions of dollars provided for broadband deployment in the American Rescue Plan) and aims to help lower the price households pay for internet service and ensure everyone has access to the internet.
- $65 billion to rebuild the electric grid and protect against power outages, improving the reliability and resiliency of the U.S. power grid. It will also boost carbon capture technologies and more environmentally friendly electricity sources like clean hydrogen.
- $50 billion through the U.S. Environmental Protection Agency (EPA) to upgrade water and sewer infrastructure and improve utility system resiliency to protect from drought, floods and cyber-attacks. This includes more than $20 billion for safe drinking water, $15 billion to replace lead pipes and more than $12 billion to ensure clean drinking water for communities. This will be the largest investment in clean drinking water and wastewater infrastructure in American history.
- $17 billion in port infrastructure and $25 billion in airport repair and maintenance, congestion and emissions reduction, and promotion of electrification and other low-carbon technologies.

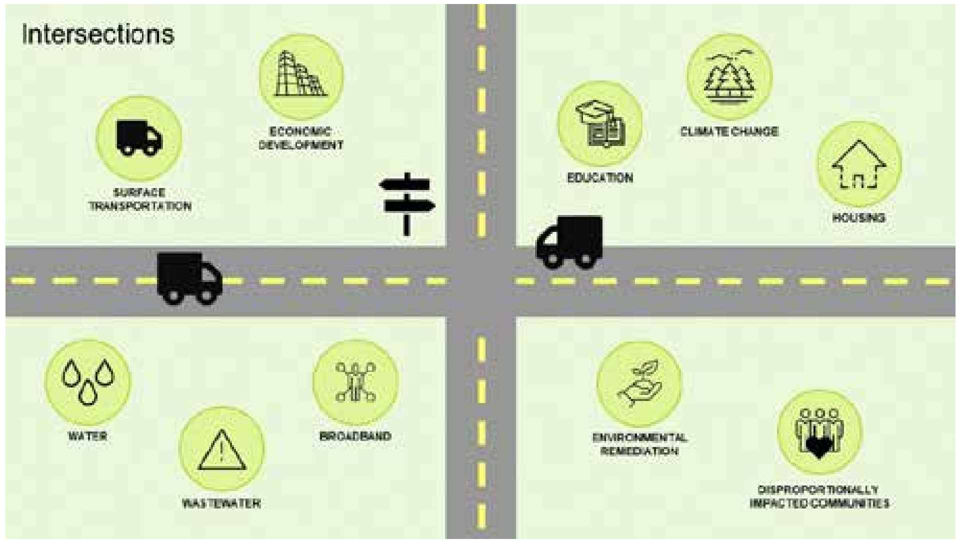


**Figure 1**

- $21 billion to clean up Superfund and Brownfield sites, reclaim abandoned mine land and cap orphaned gas wells.
- $7.5 billion to build a nationwide network of plug-in electric vehicle chargers and another $7.5 billion for zero- and low-emission buses and ferries, aiming to deliver thousands of electric school buses to districts across the country.

Missouri will receive almost $7 billion from the IIJA and approximately $2.7 billion through the ARPA. Some of these funds will trickle down to cities. As of this writing, Missouri's Governor has indicated a desire to make a portion of the state's Fiscal Recovery Funds available to cities for water, sanitary sewer, stormwater and broadband infrastructure.

## Build Back Better Act

When it passed in the House of Representatives and before it stalled in the Senate, the Build Back Better Act included an array of place-based programs intended to help communities and their residents. The $2.2 trillion bill included programs "aimed at combating the nation's epidemic of uneven development, with spatially targeted funds that would promote a more equitable distribution of economic growth across the country."[1] While the Build Back Better Act appears dead, the Biden Administration continues to pursue the "Build Back Better Framework" with many expecting that elements of BBB will emerge again in future legislation.

## Intersections

Considering the adopted and proposed legislation, there are funding intersections that are of great importance to Missouri cities.

It is these intersections to which communities should compare their goals and dreams in order to leverage the ARPA and IIJA to their maximum benefit. The tools for making this comparison and creating a financing plan are your existing resource allocation processes. These include a strategic plan, comprehensive plan, long-term financial forecast, capital improvement plan and operating budget. If these processes reflect current community priorities and are financially sound and supported by a diverse team of professionals, chances are you have what is needed to create a transformational ARPA and IIJA strategy. Perhaps, however, these resource allocation processes have weakened in recent years. Maybe it was felt the few discretionary dollars available made the stakes too low to merit the investment in time and effort. Possibly, your professional team lacks the expertise to fully respond to the opportunities created in the ARPA and IIJA. In that case, quick action is needed to strengthen resources and processes to seize this opportunity before it slips away.

## Prepare Now To Succeed Strategically Later

The good news is that expenditure of awards and rollout of the myriad formulaic and competitive grant programs will take time. ARPA awards may be obligated through the end of 2024 and expended through the end of 2026. Many of the IIJA programs and rules are still being crafted. State use of ARPA and IIJA allocations are currently under consideration. In the background, there are pandemic-related headwinds that will slow progress. The workforce charged with implementation has been reduced through the Great Resignation. Supply chains for almost everything have been disrupted. Rising interest rates and inflation must be factored into planned projects. Still, competition for these resources will be fierce. Like a long-distance racer, cities should move quickly now to separate themselves, creating space to execute a well-considered strategic plan. Here are questions to consider.

***Do I have the needed expertise on my team?*** To take advantage of all the ARPA and IIJA have to offer, cities may need to add specialists focused on these Acts and their grant programs. Outside specialists can assist with determination of eligibility, pursuit, compliance, monitoring and reporting. There may also be additional engineering needed to make potential infrastructure projects to the point that they are "grant ready." Pursuit of transformational changes may require closer coordination with neighboring jurisdictions and the local council of governments or a regional planning agency.

***Are community goals clear and current?*** Community goals must be up to date and prioritized in order to effectively match them to the ARPA/IIJA intersections (Figure 1). There is no *right* way to identify community goals. Cities should follow a process with the level of inclusivity preferred by their residents and governing body. Strategic plans and comprehensive plans are typical sources for identifying community goals. If these are not current or thorough, updating them may be a wise investment of ARPA award dollars. Remember, now is the time to think big.

***Are financial planning processes in need of a refresh?*** The following question reveals ARPA and IIJA leverage points; "What investments have we wanted to make in the past that would have paid continuing dividends in the form of lowered operating costs, increased operating revenues or improved quality of life, but could not for a lack of funds?" This question is easily answered if the long-term financial plan and capital improvement plan are up to date and comprehensive. However, many communities allow these important tools to decline when discretionary money is scarce thinking that the stakes are too low to justify the time and effort. With advent of the ARPA and IIJA, the stakes just got higher. Dust off that long-term financial plan. While you are at it, consider creating multiple plans assuming varying scenarios. Today's environment is so variable that a single plan with middle of the road assumptions may be of little guidance. A set of plans assuming varying potential circumstances will allow your organization to be nimbler.

Your capital improvement plan should be much more than a wish list. It should build on infrastructure facility plans and condition inventories to create a holistic plan for maintenance, improvement and expansion of your community's most valuable assets. Deferred capital maintenance is one the most insidious and expensive costs that local governments incur. If facility plans and condition inventories are missing or out of date, this also would be an excellent investment from your ARPA award and will position your community well to compete for IIJA infrastructure grants. Examine the criteria you are using to prioritize projects in your capital plan. Do they include both criticality and condition of the asset? Do they recognize new technologies and trends (e.g., smart meters, climate resistance)?

## Conclusion

The ARPA and IIJA represent a once-in-a-generation opportunity to make transformational improvements in Missouri cities. Accomplishing transformation will require many communities to move quickly now to strengthen their resource allocation processes to better match community desires to available funding and identify the most strategic uses of funds.

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**End Notes:**

*[1] Brookings Institute, "The House's Build Back Better Act is a Milestone for place-based solutions," Mark Muro, Robert Maxim, Anthony F. Pipa, Yang You, and Colleen Dougherty, November 23, 2021*