

ARPA FUNDS AND BROADBAND

American Rescue Plan Act of 2021 (ARPA)

- Signed into law by President Biden on March 11, 2021. 42 USC §802, *et seq.*
- Section 603 creates Coronavirus Local Fiscal Recovery Fund (CLFRF).
- Counties are authorized recipients and must use the funds by December 31, 2024.
- Allowed Uses under Section 603:
 - 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;
 - To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
 - 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; and
 - **To make necessary investments in water, sewer, or broadband infrastructure.**

Implementing Federal Regulations

- ARPA Section 603(f) authorized the Secretary of Treasury “to issue such regulations as may be necessary or appropriate to carry out this section.”
- On May 17, 2021, the Secretary of Treasury issued an interim final rule implementing the CLFRF. 86 Fed. Reg. 26786, *et. seq.*
- The rule states that CLFRF provides significant resources to local government “to meet the wide range of public health and economic impacts of the COVID-19 public health emergency.”
- Within the eligible use categories State, local, and Tribal governments have flexibility to determine how best to use payments from the Fiscal Recovery Funds to meet the needs of their communities and populations. The Interim Final Rule facilitates swift and effective implementation by establishing a framework for determining the types of programs and services that are eligible under the ARPA along with examples of uses that State, local, and Tribal governments may consider.

BROADBAND REGULATIONS

- The COVID-19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.
- Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the interim final rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

BROADBAND REGULATIONS 31 CFR 35.6

- **§ 35.6 Eligible uses.**
- In general. Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section
- (e) To make necessary investments in infrastructure. A recipient may use funds to make investments in:
 - (2) Broadband. Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:
 - (i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or
 - (ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:
 - (A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and
 - (B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- <https://ecfr.federalregister.gov/current/title-31/subtitle-A/part-35/subpart-A/section-35.6>

BROADBAND REQUIREMENTS

- Objective is to provide or improve quality of service to unserved and underserved households and businesses.
 - Underserved means service below 25 mbps download or 3 Mbps upload.
 - New service must aim to provide 100 Mbps download and at least 20 Mbps upload (with 100Mbps upload preferred). Fiber optic investment is encouraged due to its scalability.
 - Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved communities, recipients are encouraged to focus on projects that achieve last mile-connections.