



PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

July 16, 2021

Comments to the U.S. Treasury on the Interim Final Rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

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The Pennsylvania State Association of Township Supervisors (PSATS) is submitting these comments to the U.S. Treasury on the implementation of the Coronavirus State and Local Fiscal Recovery Fund. PSATS represents Pennsylvania's 1,454 townships of the second class and is committed to preserving and strengthening township government and securing greater visibility and involvement for townships in the state and federal political arenas. Townships of the second class cover 95% of Pennsylvania's land mass and represent more residents — 5.5 million Pennsylvanians — than any other type of political subdivision in the commonwealth.

PSATS is greatly appreciative of the critical funding provided to our member local governments in Pennsylvania and requests your consideration of our comments so that these communities can make the best use of the funds to maximize the benefit to their residents. While two of our members are entitlement communities, the remainder are non-entitlement units that have limited access to federal resources. As such, the American Rescue Plan Act funds are particularly welcome and our membership requests that Treasury provide these communities with greatest level of flexibility in the use of the funds within the framework of the act to meet the needs of the community and have the greatest benefit to their residents, businesses, and nonprofits.

1. Expand allowable infrastructure eligibility.

PSATS requests that Treasury clarify the Interim Final Rule to include roads, bridges, culverts, ditches, and private wells as allowable infrastructure projects. NEUs do not receive federal funds to offset the cost of local road maintenance. In Pennsylvania, there are more than 117,000 road miles and municipalities are responsible for maintaining **more than two-third of these roads**. As such, PSATS requests that Treasury provide NEUs with greater flexibility in allowable infrastructure eligibility to include investment in local roads.

PSATS asks that Treasury clearly expand water and sewer infrastructure projects beyond those eligible under the EPA's Clean Water and Drinking Water State Revolving Funds. There appears to be a bias toward urban areas in the Interim Final Rule, which rely on underground storm sewers that are eligible under CWSRF. However, Pennsylvania is diverse and the large rural areas of the commonwealth rely on ditches and culverts as drainage infrastructure, which appears to have limited eligibility. To improve climate resiliency and reduce the potential for flooding, it is necessary to replace dilapidated and/or undersized culverts, as well as improve ditching. In recent years, townships throughout the commonwealth have faced significant flooding issues on their road and bridge infrastructure due to more severe and frequent storms on their road and

bridge infrastructure, including washouts, deteriorating bridges, and severe drainage issues. This has resulted in millions of federal FEMA dollars used for repairs. This funding could save additional federal mitigation dollars by being able to use the ARPA funds to address these significant issues and repair roads and bridges damaged by stormwater and flooding. The installation and improvement of culverts, ditches, and other drainage infrastructure would help to preserve existing road infrastructure, prevent stormwater runoff and sediment into our waterways, as well as protect residences and businesses.

Another example of urban bias is the expanded use in Qualified Census Tracts and areas disproportionately impacted by the COVID-19 pandemic. There are limited QCTs in rural areas, and smaller NEUs may be more hesitant to demonstrate how their communities/areas within their communities are disproportionately impacted by the pandemic, even though wages may be significantly lower in these areas due to reduced employment opportunities. Funds can be used to repair and replace lead water lines in QCTs and disproportionately impacted areas. PSATS requests that this be expanded to private wells, which many rural and suburban Pennsylvania residents rely on for drinking water and should be eligible for drinking water system testing and remediation. In addition, work on private on-site septic systems should be added as an allowable use of ARPA funds, which improves water quality and is less expensive than installing sewer systems and extending lines.

Please clarify: If a recipient uses local fiscal relief funds for a water/wastewater/stormwater project, can those funds be used to repair any road that was damaged due to the project? PSATS suggests that municipalities should be able to use funds for that purpose given that the repairs would be necessitated by the infrastructure upgrades.

2. Expand the public health response category to include purchase of fire trucks and ambulances.

PSATS asks Treasury to allow funds to be used to purchase fire trucks and ambulances under the public health response category (it now appears to be allowable only under revenue loss). It is our understanding that the purchase of sanitation vehicles is an eligible use of funds. However, equally as important to the public health response is access to funds for public safety vehicles, which were, and continue to be, directly involved in the response to the pandemic and future health emergencies.

3. Clarify nonprofit eligibility.

PSATS requests that Treasury amend the rule to allow all 501(c) nonprofit entities to be eligible subrecipients of local relief funds. Most importantly, all public, private, and nonprofit fire and EMS companies should be eligible recipients. NEUs in Pennsylvania are responsible for making sure that fire and EMS service is available in their communities. Many of our volunteer fire departments are organized as 501(c)(4)s and they provide a critical service to the community and nearly all experienced negative economic impacts through increased expenses driven by response and recovery as well as decreased revenues from fundraisers canceled due to mitigation orders. Many of our communities would like to use these funds to appropriately address those impacts.

4. Flexibility on broadband deployment.

PSATS requests maximum flexibility with upload and download broadband speeds. While the interim rule allows some flexibility on upload speeds, there is no flexibility for download speeds. There are many areas of Pennsylvania that are unserved or critically underserved. Broadband access is critical in all communities and our many rural, historically disadvantaged and often low-income communities, have seen the residents, businesses, and schools struggling. Some broadband service is better for our communities than none at all and as such, we request maximum flexibility for both upload and download speeds.

5. Local Procurement.

Pennsylvania has stringent procurement guidelines for local governments, including NEUS, that provide maximum opportunities for maximum participation in contracts. While it is our understanding that states, counties, and entitlement communities are authorized to use state procurement guidelines and laws for ARPA expenditures, it is our understanding that NEUs are directed to use federal guidelines. We believe it would be far more beneficial for NEUs to conduct procurement under the state rules that they know and understand, rather than be required to comply with federal guidance for these funds. Instead, we request that all recipients be able to spend these funds using existing state procurement processes, which are open and transparent.

6. Limitation on Responsive Purchases Prior to March 2021

PSATS requests that Treasury reconsider its restrictions on using ARPA funds to pay for expenses incurred by NEUs in 2020 and early 2021 that were a direct response to the pandemic and the mitigation orders. Many townships incurred expenses to protect their employees and residents from COVID-19 that were unreimbursed by FEMA or CARES funds. In addition, many first responders and frontline township employees were required to quarantine and isolate due to exposures or positive tests during 2020 and NEUs were required to pay for this leave as required by law. However, local governments were not eligible for any federal reimbursement of these expenses. As NEUs did not receive direct CARES funding or reimbursement for mandatory COVID-19 leave, we ask that Treasury reconsider this limitation.

7. Lost Revenues

On lost revenue calculation, PSATS requests that Treasury consider allowing NEUS to include all revenue items or state that the refunds, etc. are the definitive list of exclusions. We understand that the intent of this legislation is to make local governments whole that experienced lost revenue. We believe this formula should be simplified so that all recipients do not incur unnecessary expenses in trying to calculate their losses. Consideration should also be given to providing an option to calculate lost revenues on a line-item basis.

8. Parks and Recreation

PSATS requests Treasury clearly state that upgrades to park and recreation facilities are a per se response to COVID-19 if due to greater use of the facilities for passive recreation during COVID-19 or to implement mitigation, such as social distancing and healthy living

opportunities. While Treasury has provided FAQs on this issue, it would be beneficial for the language of the rule to reflect this guidance. Many of our members saw significant increases in use for outdoor recreation and worked to meet that need while making needed improvements to keep users safe. This is another category where some recipients made significant timely improvements in 2020 that are currently unreimbursed expenses.

9. Premium Pay

PSATS asks that Treasury consider eliminating the cap on salaries for employees eligible for premium pay. The challenge of calculating this cap for small NEUs may have the unintended consequence of many choosing not to use this option and this is more likely for small, rural communities with lower wage rates.

10. Negative Economic Impact

PSATS asks that Treasury provide guidance on what is “reasonably proportional” with respect to “responding to” negative economic impact. For example, if a nonprofit volunteer fire department lost 10 percent of its revenue, is the NEU’s support limited to 10 percent or can they provide 20 percent? In addition, may the subrecipient nonprofit use these funds as needed or are they limited to the categories in the legislation?

11. Good Faith Uses

PSATS encourages Treasury to include language in the Rule recognizing good faith efforts by recipients to reasonably determine that a specific use falls within a permissible category. This good faith recognition should protect recipients from audit findings if a good faith effort was made.

12. Simplified Guidance

PSATS suggests that Treasury consider simplified charts, lists, and other guidance to make the rules and guidance easier to understand. Many recipients are small and even larger communities have limited resources. Such additions would help ensure compliance by eliminating confusions and reduce the burden on Treasury staff to provide additional FAQs. For example, an extensive listing of permitted uses and lists of non-permitted uses.

Thank you for the opportunity to submit comments on behalf of our member recipients on this critical issue. We are happy to provide additional input and documentation as needed.

Sincerely,



David M. Sanko
Executive Director