Local Assistance and Tribal Consistency Fund

Allocations to Eligible Revenue Sharing Counties

September 2022

Section 605 of the Social Security Act (the Act), added by Section 9901 of the American Rescue Plan (ARPA), established the Local Assistance and Tribal Consistency Fund (LATCF), which provides for Treasury to pay $2 billion to eligible revenue sharing counties and eligible Tribal governments across fiscal years 2022 and 2023 for use on any governmental purpose except for a lobbying activity. This document summarizes Treasury's methodology for determining eligibility and allocating funds to eligible revenue sharing counties.

The Act appropriates $1.5 billion to Treasury for payment to eligible revenue sharing counties, reserving $750 million for each of fiscal years 2022 and 2023, and directs the Secretary of the Treasury (the Secretary) to allocate the funds "taking into account economic conditions of each eligible revenue sharing county using measurements of poverty rates, household income, land values, and unemployment rates as well as other economic indicators, over the 20 year period ending September 30, 2021."[1]

Eligibility Criteria

Statutory requirements for determining eligibility

The statute defines eligible revenue sharing counties to include any county, parish, or borough

(i) that is independent of any other unit of local government;
(ii) that, as determined by the Secretary, is the principal provider of government services for the area within its jurisdiction; and
(iii) for which, as determined by the Secretary, there is a negative revenue impact due to implementation of a Federal program or changes to such program.[2]

The statute also specifically enumerates the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands as eligible revenue sharing counties.[3]

[1] 42 U.S.C. § 805(b)(1). Treasury previously announced the allocation of the $500 million reserved for Tribal governments, available here: https://home.treasury.gov/system/files/136/605-LATCF-Allocation-Methodology-Summary.pdf.

[2] *See* 42 U.S.C. § 805(f)(1)(A).

[3] *See id*. § 805(f)(1)(B).

Defining "a county, parish, or borough" that is "independent of any other unit of local government" and "the principal provider of government services"

Treasury referred to Census Bureau classifications to determine which units of government constitute "a county, parish, or borough" that is "independent of any other unit of local government" and "the principal provider of government services." Treasury referred to the Census Bureau's census of governments[4] and its classification of the functional status of counties and equivalents.[5]

First, Treasury referred to those geographic areas classified by the Census as counties including those that the Census Bureau categorizes as parishes or boroughs.[6]

Second, Treasury determined that counties that are consolidated with other units of government are not "independent of any other unit of local government."[7]

Third, Treasury determined that counties that do not have government functions or have only very limited government functions do not qualify as "principal provider[s] of government services." Such counties include those classified by the Census Bureau as "non-functioning legal entities."[8]

Defining "negative revenue impact due to implementation of a federal program implementation or changes to such program"

Treasury is defining counties with a "negative revenue impact due to the implementation of a Federal program or changes to such a program" to be counties that participate in the Payments in Lieu of Taxes (PILT) program administered by the Department of the Interior and the Refuge Revenue Sharing program administered by the Fish and Wildlife Service (FWS).[9] Both of these revenue sharing programs provide funds to counties that are available for expenditure for general

[4] *See* 13 U.S.C. § 161; Individual State Descriptions: 2017, 2017 Census of Governments, U.S. Census Bureau, G17-CG-ISD (April 2019) (2017 Census of Governments Report).

[5] *See* Functional Status Codes and Definitions, U.S. Census Bureau, https://www.census.gov/library/reference/code-lists/functional-status-codes.html.

[6] Entities in the Census of Governments Report with functional status codes of "F" and "S" are either fictitious county entities created by the Census Bureau to fill its geographic hierarchy or statistical entities that the Census Bureau uses to subdivide the unorganized borough of Alaska and are, therefore, not counties, parishes, or boroughs. *See* 2017 Census of Governments Report at 17.

[7] Such counties are listed in the Census of Governments Report with functional status codes "B" and "C."

[8] The Census Bureau lists those counties classified as non-functioning counties with functional status code "N." *See* 2017 Census of Governments Report at 280. In addition, the 14 counties in Vermont that perform very limited functions do not qualify as principal providers of government services. As summarized by the Census of Governments, Vermont's counties "perform very limited functions, which consist chiefly of maintaining the courthouse and county jail." *See* 2017 Census of Governments Report at 280.

[9] More specifically, Treasury will include counties that otherwise qualify as eligible revenue sharing counties and are listed by Interior as having land that is entitlement land for purposes of PILT or donated or acquired refuge land for purposes of the Refuge Revenue Sharing program.

purposes. Congress has not always provided consistent funding for these programs.[10] Counties receiving payments from these programs suffer a negative revenue impact when these programs are not fully funded, and the inconsistent funding of these programs means these counties are not able to confidently project their future revenues and thus are not able to plan their expenditures efficiently.

Under PILT, the Department of the Interior provides annual payments to counties and other local governments with certain categories of federal lands within their borders. These lands, referred to as "entitlement lands," include national parks, national forests, land managed by the Bureau of Land Management (BLM), land managed by FWS that has never left federal ownership, and others as set forth in PILT statute. Although Congress has appropriated full funding for the PILT program since fiscal year 2018, the PILT program has experienced other periods of constrained funding since 2005, requiring prorated reductions to the amounts paid to recipients under the allocation formula.

Under the Refuge Revenue Sharing program, the FWS provides annual payments to counties and other local governments that have land administered solely or primarily by the FWS. This includes payments for refuge lands that were acquired by or donated to the federal government and that are thus not included as entitlement lands for purposes of PILT. The Refuge Revenue Sharing program has also been inconsistently funded by Congress. Since 1981, Congress' appropriations for the program have varied, and the program has not been fully funded to pay the full amount to each county provided for in the allocation formula.

Thus, Treasury is defining counties "for which, as determined by the Secretary, there is a negative revenue impact due to implementation of a Federal program or changes to such program" as those counties that participate in the PILT and Refuge Revenue Sharing programs.

District of Columbia, Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands

The District of Columbia, the Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands are statutorily included as eligible revenue sharing counties for the LATCF program.

Total Eligible Revenue Sharing Counties

Overall, 2,086 total local governments meet the definition of a "county, parish, or borough" that is "independent of any other unit of local government" that is "the principal provider of services" and for which there is "a negative revenue impact as the result of the implementation of a federal program or changes to such program." This includes the District of Columbia and the 3 territories, Puerto Rico, Guam, and U.S. Virgin Islands, specifically enumerated as eligible by the statute.

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[10] *See* FWS, Historical Summary of Refuge Revenue Sharing Payments, https://www.fws.gov/sites/default/files/documents/RefugeRevShare%20Historical%20Summary2022.pdf (indicating less than full funding for the Refuge Revenue Sharing program since 1981). A discussion of annual funding levels for PILT is provided in Interior's PILT annual reports, available at https://www.doi.gov/pilt/resources/annual-reports.

Allocation Methodology

The Act provides that the Secretary shall determine the allocations for eligible revenue sharing counties "taking into account economic conditions of each eligible revenue sharing county, using measurements of poverty rates, household income, land values, and unemployment rates as well as other economic indicators, over the 20-year period ending with September 30, 2021."[11]

Data Sources for Statutory Economic Indicators ("poverty rates, household income, land values, and unemployment rates")

Poverty Rates and Median Household Income

Treasury used data on poverty rates and median household income as published by the Census Bureau at the county level in its Small Area Income and Poverty Estimates (SAIPE) program, last published in December 2021, reflecting data for calendar year 2020.[12] This Census Bureau data source is meant to "provide estimates of income and poverty for the administration of federal programs and the allocation of federal funds to local jurisdictions."[13]

Unemployment Rates

Treasury used data on unemployment rates by county, through 2021, published by the Bureau of Labor Statistics (BLS) Local Area Unemployment Statistics (LAUS) dataset. BLS LAUS program data is derived from the Current Population Survey, which is the household survey that is the source of the national unemployment rate.[14]

Land Values

Given the program's legislative purpose of providing additional funding to counties with federal lands[15] and the lack of comprehensive availability of property value data at a county or territorial level, Treasury's allocation uses the amount of acres of federal land constituting entitlement land for the purposes of PILT and acquired or donated federal lands for purposes of the Refuge Revenue Sharing program for fiscal year 2021 in an eligible revenue sharing county.

Data Sources for "Other Economic Indicators"

Treasury considered various other economic indicators to factor into the allocation methodology. In evaluating whether to add a specific metric, staff considered whether there is available data at

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[11] 42 U.S.C. § 805(b)(1).

[12] "The U.S. Census Bureau's Small Area Income and Poverty Estimates program produces single-year estimates of income and poverty for all U.S. states and counties." Census, Small Area Income and Poverty Estimate Program, https://www.census.gov/programs-surveys/saipe/about.html..

[13] *Id.*

[14] BLS, Local Area Unemployment Statistics, https://www.bls.gov/lau/lauov.htm.

[15] 167 CONG. REC. S1271 (daily ed. Mar. 5, 2021) (statement of Sen. Wyden).

the county level and the extent to which the additional metric captures something distinct from what is already required by the statute.

Treasury incorporated childhood poverty and population into the allocation as "other economic indicators." Childhood poverty, while correlated with overall poverty, provides a distinct measure of economic conditions, given the long-term impact of poverty on children.[16] Childhood poverty data is available as published by the Census Bureau at the county level in the SAIPE program, last published in December 2021, reflecting data for calendar year 2020, and is incorporated into the Economic Distress Index described further below.

Population is a useful proxy for the size of an economy and the extent of the burden placed on the county government to provide essential services. Population data at the county level is available as published by the Census Bureau via its Subcounty Resident Population Estimates data set.[17] To account for population as an additional economic indicator, as described further below, Treasury imposed a per capita maximum payment using population data as of July 1, 2021, scaled to the effective fiscal year 2021 per capita maximum under PILT.

Allocation Formula

Overall, Treasury's allocation formula is based on the calculation of a county's relative economic condition compared to other eligible revenue sharing counties and its acres of federal land. Allocations are subject to a total maximum of $6,000,000, a total minimum of $50,000, as well as a per capita maximum of $300. This methodology and the above data sources were used to determine allocations for both fiscal years 2022 and 2023. Specifically, Treasury used the following methodology to allocate funds:

- Treasury calculated an Economic Distress Index (EDI) by multiplying economic indicators (poverty rate, childhood poverty rate, median household income, and unemployment rate), averaged over the 20-year period for which data are available, in proportion to their national figures (except for the data for Puerto Rico, which were averaged over the available 10-year period, and Guam and U.S. Virgin Islands, which do not have a calculated EDI, as further described below). A higher EDI value reflects relatively higher economic distress.

- Treasury sorted eligible revenue sharing counties into five groups based on the quintile of their EDI values, such that group 1 has the least distressed economic conditions and group 5 has the most distressed economic conditions. Counties in the same group receive the same "EDI group number," reflecting which EDI group they fall in. The relationship is such that counties in group 2 receive twice the EDI weighting as counties in group 1, counties in group 3 receive three times the EDI weighting as counties in group 1, counties

[16] *See*, *e.g.*, Chapter 3: Consequences of Child Poverty, A Roadmap to Reducing Child Poverty. National Academies of Sciences, Engineering, and Medicine. National Library of Medicine Bookshelf. https://www.ncbi.nlm.nih.gov/books/NBK547371/. February 28, 2019.

[17] *See* Incorporated Places and Minor Civil Divisions Datasets: Subcounty Resident Population Estimates: April 1, 2020 to July 1, 2021 (SUB-EST2021); https://www.census.gov/newsroom/press-kits/2022/subcounty-estimates.html.

in group 4 receive four times the EDI weighting as counties in group 1, counties in group 5 receive five times the EDI weighting as counties in group 1.

- Treasury then calculated a county's "Scaled EDI" by multiplying its EDI group by its acres of federal land (sum of a county's PILT-eligible acres as listed by Interior as having land that is entitlement land for purposes of PILT or donated or acquired refuge land for purposes of the Refuge Revenue Sharing program).

- Treasury calculated the annual allocation for an eligible revenue sharing county by comparing the county's Scaled EDI as a proportion of the available annual funds ($750,000,000) relative to the sum total of all Scaled EDIs, subject to a minimum, an absolute maximum, and a per capita maximum.

- Treasury calculated the total allocation of FY22 and FY23 payments by multiplying each eligible revenue sharing county's annual allocation by 2.

Treatment of the District of Columbia, Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands

While all data described above is available for the District of Columbia, data availability varies for Puerto Rico, Guam, and the U.S. Virgin Islands. The District of Columbia is treated the same as other eligible revenue sharing counties in the allocation formula.

For Puerto Rico, while data is available for unemployment rate and land values, the data for poverty rate, childhood poverty rate, and median household income data is only available for a ten-year period, from 2010-2019. Accordingly, Treasury's evaluation of Puerto Rico's economic conditions is based on available data for 2010-2019.

For Guam and the U.S. Virgin Islands, BLS does not publish unemployment data, and poverty rate, childhood poverty rate, and median household income data is only available for 2009, 1999, and 1989 via the decennial Census. The available data suggests these territories should be placed in the most economically distressed group, group five, for purposes of the allocations.

Payment schedule

Treasury expects to make two payments to eligible counties. The first payment will be available immediately and will be made to eligible revenue sharing counties on a rolling basis. Treasury expects to make the second payment after the start of calendar year 2023.

To receive payments, eligible revenue sharing county governments must submit their information online through the Treasury Submission Portal, which is available at treasury.gov/LATCF. County governments will be required to complete payment information and sign an award agreement. The award agreement will cover both tranches of payments. After an eligible revenue sharing county government's submission is received, Treasury expects that it will take approximately 4-5 business days for Treasury to review and process the payment. Once the information and documentation submitted is determined to be complete and accurate, the point of contact that an eligible revenue sharing county government designates in its online submission will receive information regarding the timing and amount of the first payment.

The deadline to complete the submission is January 31, 2023, at 11:59 PM AKST. If an eligible revenue sharing county government does not complete its submission by that deadline, the eligible revenue sharing county government will not be eligible to receive any payments under the LATCF.

Treasury may reallocate funds unclaimed by eligible revenue sharing county governments by the deadline noted. Treasury expects that the reallocated funds will be included in the second payment to counties that submitted the requisite information by the deadline.

In fiscal year 2023, Treasury expects to communicate to eligible revenue sharing county governments the amount of such reallocation, if any, and the date for the second payment.