



State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street, 5th Floor
Montpelier, VT 05609-0201
www.aoa.vermont.gov

[phone] 802-828-3322
[fax] 802-828-3320

Susanne R. Young, Secretary

May 19, 2021

Honorable Janet L. Yellen
Secretary of the U.S. Treasury

Re: Vermont ARPA Local Fiscal Recovery Funds-Allocation to Counties

Dear Secretary Yellen:

This letter is to request that the U.S. Treasury Department recognize that Vermont's 14 counties are not units of general local government for purposes of allocating funding under the American Rescue Plan Act of 2021. We respectfully request the U.S. Treasury consider the factual and legal analysis below, and for purposes of the allocation, apply the special rule that will allow Vermont to distribute its county allocations to its local units of general government, our towns and villages.

General Background

During the course of debate of the HEROS Act in December 2020 and the Fiscal Year 2021 Reconciliation Act, the Governors of the states of Connecticut, Massachusetts, Rhode Island, and Vermont supported and advocated that those States should receive federal funds on behalf of counties. The reason for this position was because counties in these states are not "units of general local government." Please see attached letters to Speaker Pelosi and Congresswoman Maloney.

The Governors noted that the New England states of Connecticut, Massachusetts, Rhode Island and Vermont have "counties [that] exist as lines on a map but have minimal or no local governmental function." The Governors requested that their four states be able to retain the county funds and disburse those funds as necessary. Alternatively, they requested flexibility in any disbursement formula to municipalities and to recoup from municipalities any funds that could not be put toward eligible expenses.

The requests were made both in recognition of the limited or non-existent governmental functions performed by our counties and the significant role that state government has played in COVID-19 response and recovery efforts in those four states. The concept of special treatment for counties that are not units of general local government was included in the American Rescue Plan Act of 2021. By its terms, Vermont ought to be included as a state whose county allocations should be sent to the State for distribution to our towns and villages. In a link on its website, the U.S. Treasury has signified that Vermont's county allocations will be distributed directly to its counties. See [fiscalrecoveryfunds_countyfunding_2021.05.10-1a-508A.pdf](https://www.treasury.gov/fiscalrecoveryfunds_countyfunding_2021.05.10-1a-508A.pdf) ([treasury.gov](https://www.treasury.gov)).



Applicable ARPA Provisions

The American Rescue Plan Act of 2021, Subtitle M, Section 603, titled Coronavirus Local Fiscal Recovery Fund, provides coronavirus local fiscal aid to: (1) Metropolitan Cities; (2) Nonentitlement Units of Local Government; and (3) Counties. Section 603(b)(3) discusses fiscal aid to Counties and includes special rules for “Counties that are not units of general local government” in Section 603(b)(3)(B)(ii) as follows:

(ii) COUNTIES THAT ARE NOT UNITS OF GENERAL LOCAL GOVERNMENT.—In the case of an amount to be paid to a county that is not a unit of general local government, the amount shall instead be paid to the State in which such county is located, and such State shall distribute such amount to each unit of general local government within such county in an amount that bears the same proportion to the amount to be paid to such county as the population of such units of general local government bears to the total population of such county.

A “unit of general local government” is defined at Section 603 (g)(10) by reference to the Housing and Community Development Act of 1974 ([42 U.S.C. 5302\(a\)\(1\)](#)) definition, which, in relevant part, states:

(1) The term “[unit of general local government](#)” means any [city](#), county, town, township, parish, village, or other *general purpose political subdivision* of a [State](#); Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a *general purpose political subdivision thereof... (emphasis added)*.

Vermont Counties

A. Vermont counties are not units of general local government.

Units of general local government and general-purpose political subdivisions are referred to commonly as subdivisions of the state whose authority is general and not limited to only one function or combination of related functions. Vermont counties provide minimal, limited, singular purpose governmental functions predominantly related to the judiciary. See *Town of Stowe v. Lamoille County*, 134 Vt. 402 (1976) (The Vermont county is a unit of special functions. It operates as an electoral district for assistant judges, state’s attorneys, and sheriffs). The limited powers and duties of assistant judges and sheriffs are provided by statute and have been narrowly tailored and construed. See *Id.*

Vermont counties have no territories which they govern, have no governing board or executive officer, cannot pass ordinances or rules, and do not have websites. Counties also have been given no express authority to accept federal grants. In fact, because counties have no boards or executive officers, there is no designated person or entity to even apply for the receipt of funds. Emergency powers and response, as well as economic development authority and responsibilities, expressly fall to municipalities and State government, not counties. Simply put, Vermont counties have minimal, specific judicial functions and are not units of general local government.

B. Providing local fiscal aid to counties in Vermont is contrary to legislative intent.

The appropriations within the American Rescue Plan Act of 2021 are intended to “mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (COVID–19).” In Vermont, State and local governments – not counties – have performed the coronavirus-related recovery



and mitigation efforts including coordinating and funding contact tracing and testing, distribution of essentials from food to PPE, emergency non-congregate housing, remote learning and educational coordination, vaccination administration and distribution of economic assistance to Vermonters and Vermont businesses to mitigate the impact of COVID-19. As noted above, in light of the State and municipal – not county – roles in coronavirus response and recovery, Governor Scott co-authored two letters with three other compact New England states urging Congress to carve out an exception like this for States who have counties that do not function as units of general local government.

Finally, Vermont counties do not possess the resources or infrastructure necessary to administer federal funds in a manner consistent with federal rules and regulations, nor do they have the comprehensive authority of our State and local governments. For example, one Vermont county’s annual budget (used to support its county courthouse, sheriffs’ department and related infrastructure and administrative needs) is only \$666,000, reflective of the limited scope and duties of a county. If the special rule for counties that are not units of general local government did not apply to Vermont, that county would receive \$11,345,000. Providing close to 20x the annual budget in fiscal relief to an entity that has a limited, judicial function would frustrate the intent of the legislation.

C. The Census definition is not applicable.

Section 603(g)(10) defines “County” as “a county, parish, or other equivalent county division (as defined by the Bureau of the Census).” That definition, however, is inapplicable to Vermont counties with respect to local fiscal aid under provisions of Section 603 because Vermont falls under the special rules for “counties that are not units of general local government” in Section 603(b)(3)(B)(ii), as detailed above. The more general definition of “county” within the definition section of 603(g), should only apply to states whose counties do not fall into the exception detailed in the special rules, not to Vermont.

In closing, we thank you for the difficult and important work your Office has undertaken to provide guidance to the various states and territories, and we appreciate your consideration of this request to recognize that Vermont’s 14 counties are not units of general local government.

Sincerely

Susanne R. Young
Secretary of Administration

Cc: Jason Gibbs, Chief of Staff, Office of Governor Phil Scott
Jaye Pershing Johnson, Legal Counsel, Office of Governor Phil Scott
Rebecca Ellis, Office of Congressman Peter Welch
Meagan Foster, Office of Congressman Peter Welch
Erica Chabot, Office of Senator Patrick Leahy
Kathryn Van Haste, Office of Senator Bernie Sanders

