Douglas Farnham, Chief Recovery Officer **09/04/2024**

Sec.E.106 of Act 113 of 2024 establishes authority for the Agency of Administration and the Department of Finance and Management to revert and establish new spending authority for unobligated American Rescue Plan Act – State Fiscal Recovery (ARPA-SFR) funds prior to December 31, 2024, for up to $95,000,000. Any reversions and establishment of new spending authority above that amount must go to existing ARPA-SFR programs and will require approval by the Joint Fiscal Committee. The justification for this authority is that any ARPA-SFR funds which are unobligated as of December 31, 2024, must be returned to the U.S. Treasury and, as of 06/30/2024, over $185,000,000 of ARPA-SFR funds remain unobligated.

Additionally, all ARPA-SFR funds must be expended by December 31, 2026, and, if a program's expenditure rate does not appear to support completion by that date, it is in Vermont's interest to re-obligate the funds now as opposed to following the stricter requirements U.S. Treasury has published for changing obligation amounts between January 1, 2025, and December 31, 2026.

To accomplish the above, the Agency of Administration has implemented the following process which is primarily being administered by the recovery team.

June 2024 through August 2024, Preliminary Meetings: The recovery team within the Agency of Administration met with program managers and executive leadership for programs with either a large proportion of funds unobligated or unexpended.

September 04, 2024, Obligation Webinar: Ethan Hurley of the recovery team provided a webinar (slide deck available) to describe the obligation and reversion process. There were approximately 62 attendees. This webinar resulted in additional questions and clarifications to program managers.

September 30, 2024: All activity through this date will form the basis for discussions between the recovery team and program managers. This is the agency obligation deadline.

October 17,2024, Quarterly Reports Due to AOA: AOA will receive quarterly report data from agencies and departments administering ARPA-SFR programs and begin constructing a reversion list.

October 17 - November 15, 2024: AOA will evaluate and finalize reversions. Some programs will be allowed to perform additional obligations in this time period if approved by AOA (e.g. the Municipal Energy Resilience Program is currently collecting applications, and AOA is closely monitoring the program progress).

November 18 – December 31, 2024: Reverted funds will be applied to payroll through two methods – the first being "rehiring of public sector capacity" and new spending authority will be established per Sec. E.106 of Act 113. All applications to payroll related to E.106 will need to occur before 12/31/2024 to meet the US Treasury obligation deadline. If funds are applied to previously expended payroll, the ARPA-SFR funds will be reported as expended.

If funds are being reverted from a revenue loss replacement program (page 9 of the SLFRF Final Rule Overview) then those funds will be applied to a non-payroll general fund expenditure to preserve payroll capacity. These applications will also need to be performed before 12/31/2024 to meet the US Treasury obligation deadline. If funds are applied to previous expense, the ARPA-SFR funds will be reported as expended.

New spending authority will be established after ARPA-SFR funds are applied to payroll and the accompanying general fund is reverted from the originating business unit in the following order: $36M to DPS for FEMA match or municipal support for hazard mitigation, $4M to AOA for admin costs, $30M to VHCB for housing, $25M to VHFA for housing. Please see the example below for more detail on that process.

Rehiring of Public Sector Capacity

"Rehiring of Public Sector Capacity" is a category of expenditure allowed by the US Treasury. Additional information about the category can be found in the US Treasury FAQs and SLFRF Final Rule Overview on pages 27 and 28. To summarize, US Treasury establishes a calculation for the number of full-time equivalents (FTEs) a state can use ARPA-SFR funds to support. Those positions must be hired after March 3, 2021, and hired by December 31, 2024. AOA is finalizing the FTE calculation to account for staff devoted to pandemic response during Covid. This will include a complete position by position listing of all eligible positions for Vermont. Vermont's capacity for this category should exceed $47M annually and, to date, approximately $15M has been applied in prior fiscal year fiscal years.

Example application:

Step 1: DCF Weatherization 2022 Act 185 G.600(a)(1) Dept ID 3440892306 has over $20M remaining unexpended as of 09/30/2024.

Step 2: AOA determines DCF will reasonably expend $5M by 12/31/2026 and $5M should be reverted to protect the state from loss of the use of those funds.

Step 3: Dept ID 3440892306 will be reduced from $40M to $35M.

Step 4: AOA will identify the exact positions the $5M will be applied to and authorize spending authority in those business units to cover the payroll expense. **This step must occur by 12/31/2024 and will be aggregated from all reversions to simplify the accounting entries**.

Step 5: Department of Finance and Management will revert the general fund spending authority associated with those positions. This will either free up general funds already expended or spending authority for the remainder of FY25.

Step 6: When sufficient reversions have occurred to cover each approved use, general fund spending authority will be granted following the Act 113 Sec.E.106 order. This establishment does not need to occur by 12/31/2024 because they are general funds and no longer subject to federal requirements.

Next Steps

The Agency of Administration plans to have reversions identified for the November JFC meeting and will be able to report definitively if the $95M of reallocation capacity established in Act 113 will be exceeded. Based on current information, it is unlikely that reallocations will exceed $95M and that a December JFC meeting will be necessary.