

STATE OF ALABAMA            )  
COUNTY OF BALDWIN        )

**RESOLUTION #2023-068  
OF THE BALDWIN COUNTY COMMISSION**

**RESOLUTION FOR THE ADOPTION OF IMPLEMENTATION POLICIES AND PROCEDURES FOR  
PROVIDING ASSISTANCE TO NONPROFITS USING AMERICAN RESCUE PLAN ACT FUNDS**

**WHEREAS**, Baldwin County, Alabama (the "County") has received American Rescue Plan Act state and local fiscal recovery funds ("ARPA funds") and is charged with ensuring that such funds are expended in accordance with state and federal law; and

**WHEREAS**, under the Final Rule published by the U.S. Department of Treasury dated Jan. 6, 2022, the County may use ARPA funds to provide financial assistance to nonprofit entities to mitigate financial hardship caused by the COVID-19 pandemic; and

**WHEREAS**, pursuant to 603(c)(3) of the American Rescue Plan Act, PL 117-2, March 11, 2021, 135 Stat 4, the County may transfer ARPA funds to nonprofit entities.

**NOW, THEREFORE, BE IT RESOLVED BY THE BALDWIN COMMISSION** as follows:

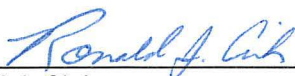
The County Commission shall implement any project to provide assistance to nonprofit entities using ARPA funds in accordance with the implementation policies and procedures set forth in Addendum 1 to this Resolution, the provisions of which are fully adopted and incorporated herein by reference.

**IN WITNESS WHEREOF**, the Baldwin County Commission has caused this Resolution to be executed in its name and on its behalf by its Chairman on the 24<sup>th</sup> day of February 2023.

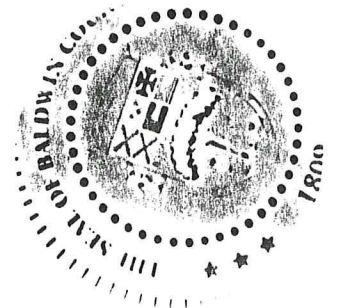


Charles F. Gruber  
Chairman, Baldwin County Commission

ATTEST:



Ronald J. Cink  
Budget Director/Interim County Administrator



ADDENDUM 1 TO RESOLUTION FOR THE ADOPTION OF IMPLEMENTING POLICIES AND  
PROCEDURES FOR PROVIDING ASSISTANCE TO NONPROFITS USING AMERICAN RESCUE PLAN  
ACT FUNDS

**ARPA Funds Project for  
Nonprofit Assistance Using American  
Rescue Plan Act Funds (2.34)  
Implementation Policies and Procedures for  
Baldwin County**

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# **ARPA Funds Project for Nonprofit Assistance Using American Rescue Plan Act Funds (2.10)**

Baldwin County ("the County") may use American Rescue Plan Act state and local fiscal recovery funds ("ARPA funds") to provide assistance to nonprofits to mitigate financial hardship caused by the COVID-19 pandemic, subject to further limitations as required by Alabama law.

Section 94 of Alabama's Constitution prohibits a County from lending credit, granting public monies, or providing a thing of value to an individual, association, or corporation. Therefore, general public assistance programs (e.g., loans or grants to nonprofits to cover payroll or other expenses) solely for the purpose of ensuring the continuation of a nonprofit entity or otherwise solely benefitting the nonprofit entity are not eligible uses of ARPA funds under state law, even if a nonprofit entity can demonstrate financial hardship caused by the COVID-19 pandemic.

The County, however, may provide ARPA funds to the extent of this demonstrated financial hardship if the expenditure would serve a public purpose, i.e., confer a direct benefit to a significant portion of the community, if providing this benefit to the public is within the County's state statutory or constitutional authority. (Opinion to Honorable Rachel Laurie Riddle, dated Oct. 22, 2021, A.G. No. 22- 002, at 8.) .) Alternatively, if the project is to be funded with the County's Revenue Replacement Funds, the expenditure of these funds for the project must confer a direct benefit to a significant portion of the community that is an authorized use under the Final Rule of ARPA funds for government services. *In either case, providing the benefit or service to the community must be within the County's state statutory or constitutional authority. Id.*

These policies and procedures relate only to ARPA funds to be awarded to nonprofit entities to mitigate the financial hardship caused by the COVID-19 pandemic. These policies and procedures do not apply to an award of ARPA funds (including funds designated as revenue replacement funds) to a nonprofit entity to carry out another ARPA eligible project on behalf of the County (for example, water or sewer project or eligible government services projects). The County will consult with IAC staff regarding the procedures for providing awards to nonprofit entities for this purpose.

## **I. ELIGIBLE RECIPIENTS**

- A. To be eligible to receive direct assistance in the form of a grant of ARPA funds from the County, the nonprofit must:
  - 1. Be an entity organized under Section 501(c)(3) or 501(c)(19) of the U.S. Internal Revenue Code;

2. Demonstrate that the entity has suffered a significant, objectively quantifiable financial hardship caused by the COVID-19 pandemic (e.g., expenditure of resources to provide additional assistance to the community due to increased demand on services during the pandemic; the financial impact of temporary closures; declines in donations or other revenue; increased operating costs associated with adopting COVID-19 measures or CDC guidelines; or declines in volunteer support leading to additional paid staffing hours, over and above normal pre-pandemic operational needs); and
  3. Demonstrate that an award of ARPA funds under the County's grant program to the entity would serve a public purpose, i.e., confer a direct benefit to a significant portion of the community and that providing this benefit to the public is within the County's state statutory or constitutional authority; and
  4. Have not received alternate funding sources sufficient to mitigate the financial hardship caused by the pandemic. Alternative funding includes, but is not limited to, payments covered by insurance or grants or loans provided by the state or federal grants (for example, Alabama's Revive and Revive Plus programs).
- B. Once the County determines that a nonprofit entity is an eligible recipient of an ARPA funded grant (as provided in Section I(A)), the County may provide direct assistance to the entity using ARPA funds to the extent of the entity's demonstrated financial hardship caused by the COVID-19 pandemic.

*Reference: Ala. Const. art. 94; Ala. Const. art 94.01 (amend. 772); Slawson v. Ala. Forestry Comm., 631 So. 2d 953 (Ala. 1994); 31 CFR § 35.6(b)(6) & (7); and ARPA FAQ 2.8.*

## **II. PROGRAM ESTABLISHMENT AND APPLICATION PROCESSES**

1. The County will notify IAC staff at [iac@alabamacounties.org](mailto:iac@alabamacounties.org) of its intention to grant funding assistance to a designated nonprofit entity. IAC staff will create a project in PROCORE.
2. The County will send a notice of funding opportunity and application to the designated nonprofit entity.
3. The nonprofit entity will submit an application and provide information necessary for the County to evaluate and determine whether and to what extent it is an eligible direct recipient of ARPA funds. All applications will be sent to IAC staff at [iac@alabamacounties.org](mailto:iac@alabamacounties.org) to be uploaded into PROCORE.



4. IAC will review the applications and provide a recommendation to the County as to the eligibility of the award. A copy of this recommendation will be forwarded to the County for review.
5. The County Commission will make a final determination regarding the eligibility of using ARPA funds to provide direct assistance to the applicant. This determination will include an assessment of (1) the amount of financial hardship suffered by the nonprofit entity, (2) that the financial hardship was caused by the COVID-19 pandemic, (3) whether providing this assistance will confer a direct benefit to a significant portion of the community, and (4) whether providing this benefit to the public is within the County's state statutory or constitutional authority.
  - a. If the direct assistance and related expenditure of ARPA funds are deemed eligible, the County will adopt a resolution conditionally allocating ARPA funds to the entity for a public purpose and issue a conditional award letter to the entity.
  - b. The entity will sign the letter acknowledging acceptance of the award and return the signed acknowledgment to the County.
  - c. A copy of the resolution and signed award letter will be provided to IAC staff at [IAC@alabamacounties.org](mailto:IAC@alabamacounties.org) to be uploaded in PROCORE.
  - d. Upon receipt of the signed award letter, the ARPA Program Director will cause the grant award amount to be distributed to the entity from Fund 298.

### **III. REPORTING AND AWARD INFORMATION TO BE UPLOADED INTO PROCORE**

- A. All obligations and expenditures of ARPA funds must be reported to Treasury in the County's Project and Expenditure Report. Reporting is to be done on a quarterly basis.
- B. For projects implemented pursuant to these policies and procedures, the County must include the following project information in its Project and Expenditure Report:
  1. Project name (Assistance to Nonprofit Organizations);
  2. Project number (This will be automatically assigned by PROCORE);
  3. Expenditure category (EC 6.1);
  4. Description of the project (grants to nonprofits that experienced financial hardship caused by the COVID-19 pandemic);
  5. Status of project completion (not started, less than 50% complete, more than 50% complete, and complete);
  6. Amount of obligations and expenditures for the project (current period obligations, cumulative obligations, current period expenditures, cumulative expenditures);
  7. A certification of the County's compliance with Title VI of the Civil Rights Act; and
  8. Whether this project will primarily serve a disproportionately impacted community.

- C. On a quarterly basis, the ARPA Program Director will provide the information below to IAC staff at [iac@alabamacounties.org](mailto:iac@alabamacounties.org) to be uploaded in PROCORE for auditing and reporting purposes.
1. For a grant to a nonprofit entity that is greater than or equal to \$50,000, the information set forth in Subsection E, below.
  2. For grants to nonprofit entities each that are less than \$50,000, the following information for each grant awarded:
    - a. The entity's EIN or Unique Entity ID (SAM);
    - b. The entity's legal name and address;
    - c. The grant amount; and
    - d. Date grant award was distributed to the recipient.
- D. *Grants under \$50,000*: As part of its Project and Expenditure Report, the grants made to nonprofit entities that are less than \$50,000 will be aggregated.
- E. If a grant to a nonprofit entity is greater than or equal to \$50,000, the County will report this obligation and related expenditure(s) separately in its Project and Expenditure Report and will be required to provide more detailed information about the nonprofit entity in the report.

The information required to be included in the County's Project and Expenditure Report for these entities is as follows:

1. The nonprofit entity's Unique Entity ID (SAM) assigned by the SAM.gov website;
  2. The entity's legal name;
  3. The entity's point of contact email address;
  4. The entity's address;
  5. Verification that the entity is registered with SAM.gov (NOTE: For purposes of reporting, an entity is not "registered" with SAM.gov if its registration is limited to obtaining a Unique Entity ID (SAM));
  6. The subaward number (to be provided by IAC and included in the County's award letter);
  7. The subaward amount (designated in the report as the "obligation" amount);
  8. The subaward date (date of award letter);
  9. The period of performance start and end dates (the date of the award letter and date of final payment to the grant recipient, respectively);
  10. Date grant award was distributed to the recipient;
  11. The address of the primary place of performance of the award; and
  12. Subaward type (designated as a "grant" or "direct payment").
- F. All supporting documentation must be maintained until December 31, 2029, or as extended by Treasury.

*Reference: ARPA Compliance and Reporting Guidance Section B(3).*