



**PARTNERSHIP  
FOR THE  
PUBLIC GOOD**

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**TO: Richard K. Delmar, Deputy Inspector General, US Treasury Department**

**CC: Congressman Brian Higgins, Senator Chuck Schumer**

**FROM: Andrea Ó Súilleabháin, Executive Director, Partnership for the Public Good**

**DATE: July 24, 2023**

**RE: City of Buffalo American Rescue Plan Funding Allocations and Process**

This morning, Partnership for the Public Good and several of our partners submitted a complaint to the Department of the Treasury Inspector General, and copied Congressman Brian Higgins and Senator Chuck Schumer, asking for an investigation into the allocation of City of Buffalo American Rescue Plan funds. **Our complaint is based on a growing body of evidence that this process was mismanaged and in violation of the federal procurement rules that the City was required to follow.**

**1. The City's process for distributing American Rescue Plan funds violates federal procurement rules.**

In August 2021, the Common Council approved Mayor Brown's recommended American Rescue Plan Act Spending Plan that outlined how the City would spend \$331 million in federal funds.<sup>1</sup> Following a lengthy process to develop Request for Proposals (RFPs) in critical project areas such as Community Food Security and Restorative Justice/Community Safety, the City launched its application process for these funds in October 2022. Many nonprofit organizations and service agencies submitted applications to project funds, with applications due by December 2, 2022.

Organizations went through this process in good faith, but **conversations with members of the Mayor's administration and Common Council have shown that determinations about the funds—about the timeline of funding and which organizations would be selected as recipients—have occurred in inappropriate settings and without the rules that normally apply to RFPs for human service agencies.**

No funding awards have been made to date, with organizations now waiting nearly eight months for the outcome of their applications. Some organizations were called for interviews following their applications. **Several have reported highly inappropriate comments during their interviews and subsequent conversations with City staff:**

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<sup>1</sup> <https://www.buffalony.gov/DocumentCenter/View/9799/ARP-Spending-Plan-2021>

- Some were told by city staff: “Don’t worry, you’re receiving funds; we just can’t tell you how much yet.”
- Others were told by city staff: “You’ll never receive this award, because the Mayor does not like you/your organization.”
- During an RFP interview for workforce training funds, Harvest House and the WNY Women’s Foundation report being told by a city employee on the interview panel, “You’re just fixing broken women.” To the religious-affiliated Harvest House, he said, “You should be doing this anyway if you have a faith-based mission, and questioned why they would seek the funds as a religious-affiliated agency. Their proposal was to create a workforce develop hub for women on the East Side of Buffalo to get re-employed post-COVID.

These types of inappropriate comments demonstrate that the City’s American Rescue Plan process violates federal procurement rules. While we are not naming these service organizations (as some are concerned about retaliation/loss of city funds for their programs), **similarly inappropriate discussion of which agencies will be funded has taken place on the record in the Common Council’s finance committee meeting.**

In the July 18, 2023, Common Council Finance Committee meeting, Buffalo Common Council Members appeared to have a list of which organizations have been selected to receive ARP Project funding, though recipients have not yet been notified and this list was not part of the meeting’s public journal documents. Referring to the list, a council member said , “As I go through this list of people who are being funded, I don’t see anything on here for Eight Days of Hope...I’m campaigning for Eight Days of Hope because he helps directly people who are struggling. That’s why I want to see more money for these folks who are directly helping out community...I want to see Eight Days of Hope on this list...I’m hopeful that we can find some money for that organization.”

Later, a council member referred to seeing an ARP disbursement to an organization called Dress for Success for \$70,000 “last week,” and then stated that they are on the list to receive another award. The council member questioned the rationale and process for an organization receiving two awards.

This type of discussion demonstrates that conversations and advocacy for ARP funding has happened outside of the RFP process and in violation of procurement rules. **Mayor Brown’s administration failed to operate a robust RFP process and did not brief the Council on how the ARP funding is regulated and how the RFP process must run (without political interference).**

**2. The Administration’s request to move an additional \$60 million of American Rescue Plan funds to Revenue Replacement, without explanation, violates the spirit of and guidelines for the funding.**

On July 18, 2023, the City’s Commissioner of Finance, Delano Dowell, brought to the Common Council Finance Committee a request to approve a new budget amendment for the American Rescue Plan Act Spending Plan. This request would cut project funds by \$63,250,000, as shown below:

American Rescue Plan Spending Plan Project Fund	Adopted, August 2021	Proposed Reduced Total, July 2023	Amount of Cut	Percent of Cut
Public Health Equity Initiative*	\$9,000,000	\$1,680,150	\$7,319,850	81%
Community Food Security*	\$1,500,000	\$750,000	\$750,000	50%
Wraparound Services Support for Job Training Program Enrollees*	\$20,000,000 <sup>2</sup>	\$5,700,000	\$14,300,000	71.5%
Skills Based Job-Training*	\$7,000,000	\$3,550,000	\$3,450,000	49%
Neighborhood Improvement Corps (Clean Up Corps)*	\$9,000,000	\$1,000,000	\$8,000,000	89%
Frontline Arts Organizations Fund*	\$2,500,000	\$550,000	\$1,950,000	78%
Neal Dobbins Restorative Justice and Public Safety Fund*	\$6,000,000	\$2,604,658	\$3,395,342	56.5%
Community Center Renovations	\$20,000,000	\$10,000,000	\$10,000,000	50%
Smart Sewer	\$40,000,000	\$25,915,192	\$14,084,808	35%
<b>Totals</b>	<b>\$115,000,000</b>	<b>\$51,750,000</b>	<b>\$63,250,000</b>	

*\*The City launched RFPs for all funds marked with an asterisk in October 2022 and accepted applications through December 2, 2022.*

The City’s adopted American Rescue Plan Spending Plan included \$100 million in revenue replacement, to cover what the city had borrowed during the first year of the pandemic, to ensure no COVID-related City layoffs, and to offset COVID-related revenue loss.

**If an additional \$60 million is moved to revenue replacement, more than half of the City’s American Rescue Plan funds will be allocated to revenue replacement.**

Yet the City has not provided a public answer to these key questions: What additional revenue replacement needs arose since the August 2021 approval of the American Rescue Plan spending plan by the Council, which includes \$100 million? **What are the specific budget gaps that add up to a new \$60 million deficit?**

In the City’s July 2022 American Rescue Plan Performance Report submitted to the US Treasury Department, the City included the table below of expenditures and projected spending for 2022, 2023 and 2024. As highlighted below, the City projected \$0 in Revenue Loss Replacement for 2022, 2023, and 2024 American Rescue Plan spending. **This reinforces the question of how an unexpected \$60 million deficit arose since the City submitted this report to the federal government one year ago in July 2022.**

<sup>2</sup> This fund total was previously reduced to \$16,000,000 in December 2021, in a previous Spending Plan Budget Amendment. No other funds listed here were reduced at that time.

Table 2. Program Allocation and Projected Obligations in Millions of Dollars (\$M)

ID	Program	Total	Life-to-Date	2022 Projected	2023 Projected	2024 Projected
1.12-01	Public Health Equity Initiative	\$9.0	\$0.03	0.97	3.5	4.5
2.1-02	Community Food Security	1.5	0.0	1.5	0.0	0.0
2.2-03	Water and Sewer Forgiveness	13.0	1.4	1.6	10.0	
2.2-04	Garbage User Fee Assistance	5.5	0.0	5.5	0.0	0.0
2.3-05	Wraparound Services Support for Job Training Program Enrollees	16.4	0.0	5.4	5.5	5.5
2.7-07	Northland Workforce Training Center Scholarship	2.0	0.0	2.0	0.0	0.0
2.7-08	Skills Based Job-Training	7.0	0.0	2.0	3.0	2.0
2.7-09	Neighborhood Improvement "Clean Up" Corps	9.0	0.0	1.0	4.0	4.0
2.9-10	Minority Owned Business Assistance	3.5	0.0	0.35	2	1.15
2.10-11	Community Center Renovations	20.0	0.0	7.0	8.0	5.0
2.10-12	Frontline Arts Organizations Fund	2.5	0.0	0.25	1.13	1.12
2.11-13	Cultural Institution Support	8.0	1.0	1.0	3.0	3.0
3.5-14	Mayor's Summer Youth	4.35	0.55	1.8	1.0	1.0
3.9-15	Park Access Equity	20.0	0.6	1.4	9.0	9.0
3.9-16	Masten Park/JBW	23.0	0.0	3.0	10.0	10.0
3.10-17	Affordable Housing Fund	16.3	0.0	11.0	4.0	1.3
3.15-18	Healthy Homes Inspections	1.0	0.13	0.87	0.0	0.0
3.16-19	Neal Dobbins Restorative Justice	6.0	0.43	0.57	2.5	2.5
5.2-20	Smart Sewer	40.0	40.0	0.0	0.0	0.0
5.12-21	ROLL Expansion	10.0	10.0	0.0	0.0	0.0
6.1-22	Revenue Loss Replacement	100.0	100.0	0.0	0.0	0.0
6.1-23	BFD SCBA upgrades	0.53	0.53	0.0	0.0	0.0
6.1-24	Cybersecurity	2.2	0.25	1.0	0.95	0.0
6.1-25	Road Maintenance Fund	7.6	0.0	7.6	0.0	0.0
6.1-26	BUDC Operating Assistance	1.2	0.0	1.2	0.0	0.0
6.1-06	BFD PCR upgrades	0.3	0.22	0.0	0.0	0.0
7.1-27	Administrative and Evaluation	0.4	0.4	0.0	0.0	0.0
	Unallocated	1.07	0.0	0.08	0.07	1.0
<b>Total</b>		<b>\$331.35</b>	<b>\$ 155.54</b>	<b>\$57.09</b>	<b>\$ 66.36</b>	<b>\$ 49.99</b>

Further, the City's July 2022 American Rescue Plan Performance Report includes the originally adopted project fund amounts for each fund now being cut. The City included a detailed summary of each project fund and why it is needed – how it would help to reduce poverty, reduce disparities, and advance equity in Buffalo.

**On the record in Buffalo Common Council meetings, several council members expressed concerns that the administration was delaying the grant process for the very purpose: so that they could eventually move more money into the general fund. In recent months, during Council meetings, several council members have repeatedly urged the Mayor's administration to move forward with the RFPs for ARP project funds and award money to recipients. They repeatedly questioned why the process was so delayed and why ARP money was not being disbursed to community needs.**

While the City is permitted under the Treasury Department's American Rescue Plan guidelines to move additional funds to revenue replacement, moving an additional \$60 million without public input or explanation demonstrates a blatant disregard for the purpose of the funding. The American Rescue Plan Act distributed funds to states and local municipalities to address the social, racial, and economic conditions that contributed to the

disproportionate spread of COVID-19 in Black and brown communities. The funds listed above, along with others in the City's Spending Plan, target many of the persistent drivers of poverty and health disparities in our city. The Treasury's guidelines encouraged municipalities to center community engagement and public input throughout the design and distribution of American Rescue Plan spending.

**3. At least \$10 million of the money requested for revenue replacement is wrongly allocated to ineligible expenses.**

When the City moves American Rescue Plan money to revenue replacement, it becomes part of the City's General Fund, and is no longer restricted by federal American Rescue Plan rules and guidelines. **This is appropriate when the City is filling a specific budget gap, but highly inappropriate if the City is using the funds for other purposes.**

In the July 18 finance committee meeting, Finance Commissioner Delano Dowell made the following statements when asked to explain the request to move \$60 million to revenue replacement:

- "We had to make some tough decisions, we had to reduce the budget amounts for those particular programs in order to cover budget shortfalls for fiscal years 2024 and 2025, and also Council Member requests for ARPA funds."
- "The revenue replacement line consists of \$59.9 million. \$50 million of that is to cover budget shortfalls in order for the city to continue with services; for fiscal year 2024, \$30 million; for fiscal year 2025, \$20 million. **The remaining \$9.9 million is for Council member requests to use ARP funds within their districts.**"
- "Each Council Member was awarded, that they requested, \$1.1 million apiece within their districts. They provided where they would like to spend that money within their districts."

**Moving \$10 million of American Rescue Plan funding to Council Member discretionary funds is not "revenue loss replacement," and it should not be allocated in this way.** This is a clear misuse of funds and an attempt to wash funds of their federal restrictions, in order to use them for ineligible activities outside of required procurement processes.

Council Members also requested items in the ARP project funds, such as road improvements, park and library improvements, and community center renovations. These projects, initiated by Council Members and focused on their districts, *are* appropriate because the work will be bid out through the ARPA fund procurement regulations. This is not the case with the \$10M moved to Council discretionary funds.

**4. Federal American Rescue Plan funding was intended to address Buffalo's most urgent needs, none of which have been alleviated since 2021.**

The Executive Summary of the City's approved ARP Spending Plan begins by summarizing the process and goals of the plan: "This preliminary draft of the City of Buffalo's American

Rescue Plan Spending Proposal is the culmination of months of research, outreach into the community, public comment and feedback, and discussions with subject matter experts in a wide array of fields. **The plan recognizes the once-in-a-generation opportunity this federal stimulus represents**, a chance for local leaders to identify...the best way to address both the immediate and long-term causes of disparate health and economic outcomes which occurred during the COVID-19 pandemic.”

The City’s allocation of \$331 million in American Rescue Plan dollars was described as a transformative, “once-in-a-lifetime” opportunity to address our most urgent needs. Working with many community partners and residents, the City adopted the Spending Plan to advance the specific list of project funds above, to address poverty, safety, health inequity, etc. None of these problems have been alleviated.

Since August 2021, nonprofits, service organizations, and residents were told repeatedly that this money would be distributed to these purposes. **Now, without a process, public input, or explanation, the Mayor’s administration is taking this money from families that suffered the deepest health and economic impacts of COVID-19.**

**At the very least, it is incumbent on the City to explain in detail why such a large additional sum is needed for revenue replacement. If they do not, then we urge the Department of the Treasury to investigate why such large sums of money are being suddenly reallocated in what should be a very public process. The City should also explain the criteria and process it used in its RFP process, given the many questions arising about the nature of the process.**

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PPG is collecting on-the-record statements from our partner organizations who directly experienced inappropriate discussions and comments during the RFP process. We will share a compilation of these statements with you in the days ahead.

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