



Vermont League of Cities & Towns

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July 7, 2021

Hon. Janet Yellin, Secretary
U.S. Department of the Treasury
Office of the Undersecretary of Domestic Finance
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Coronavirus State and Local Funds Interim Final Rule Comments

Dear Secretary Yellin:

I am writing on behalf of the 246 member cities and towns of the Vermont League of Cities and Towns to strongly urge you to revisit the determination that counties in Vermont are units of general local government and instead find that county dollars should be allocated to cities, towns, and villages based on population.

Please correct the error pursuant to the interim final rule that Vermont counties are general purpose “units of local government. This would rectify the misallocation of \$121,202,550 in federal taxpayer dollars as identified on page 65 of [this document](#).

We understand that the U. S. Treasury relied on the U. S. Census Bureau’s categorization of Vermont counties. However, Census used old information and mischaracterized Vermont county government as general government. County government in Vermont falls under the Census definition of a special district government. But Census does not have a category for counties with geographic areas and special district governments. Consequently, it mis-categorized Vermont counties as units of general local government.

Census’ information, upon which Treasury relied to make this determination, is neither current nor correct. Census incorrectly claims “The entire area of the state of Vermont is encompassed by county governments. **The county governments perform very limited functions, which consist chiefly of maintaining the courthouse.** The administrative officers of the county are two assistant judges.” (Emphasis added.) The information source is “[2017 Census of Governments](#),” page 280.

The State of Vermont’s Department of Corrections assumed the role of funding and staffing of jail facilities and operations in 1969; county jails were closed in 1972. [[Reference](#)]

The courts in Vermont counties are operated by the State of Vermont and paid for by State of Vermont taxes. The links and phone numbers for court services on the “county” webpage are State of Vermont webpages and phone numbers. The “county court” is actually the Vermont Superior Court operated and paid for by the State of Vermont. The links on [this county court website](#) will direct you to the State of Vermont.

A Vermont county does not meet the Census definition of providing general government. Counties in Vermont provide a few staff that augment the state-funded and operated Superior Court and, in some counties, pay for the upkeep of a small subset of the buildings in which the State of Vermont operates their Superior Courts. According to Vermont State Statute [24 V.S.A. § 72](#), “The expenses connected with the Superior Court, unless otherwise provided, shall be paid by the State.”

The responsibility for buildings is ultimately controlled by the court administrator and presiding judge who are state employees as noted in Vermont State Statute [24 V.S.A. § 71a](#): “The Court Administrator, in



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consultation with the presiding judge of the Superior Court, shall determine what judicial operations will occur in the county courthouse.”

Census categorizes county governments as “Organized local governments authorized in state constitutions and statutes and established to provide general government and includes those governments designed as counties, parishes in Louisiana, and boroughs in Alaska.” [[U.S. Census Glossary](#)]

Census is focused on creating stable geographic areas in which to count people. Counties in Vermont Statutes are geographic subdivisions of the State, as noted in Vermont State Statute [Title 24, Chapter 1](#).

Census understands there are geographic units called counties which are not governments, as noted on page 3 of the [“Annual Surveys of State and Local Government Finances, and Census of Governments: Finance.”](#)

On page 5 of the [“Individual State Descriptions of the 2017 Census of Governments,”](#) Census notes “While special districts perform only one or a limited number of functions, the functions can vary widely from district to district, and include many that are performed by general-purpose governments.” Census further defines a Special District as “Authorized by state law to provide only one or a limited number of designated functions, and with sufficient administrative and fiscal autonomy to qualify as separate governments.” [[Reference](#)]

General purpose county governments typically offer services such as fire, police, rescue, public works, libraries, solid waste, transit, water, sewer, stormwater, planning, parks, recreation, courts, health and human services, and schools in unincorporated areas (areas where cities/towns/villages provide those services) and some or all of these services to incorporated areas. Because Vermont lacks general county government, we instead rely on a plethora of independent legally separate special purpose entities, all with separate governing bodies and separate financials, which are not part of the county. These include but are not limited to solid waste districts, water districts, park districts, special investigative units, non-profit mental/behavioral health entities under contract with the state, public transit districts and authorities, regional planning authorities, and regional public safety authorities.

[Forty-two U.S. Code § 3022 –Definitions](#) defines a “unit of general purpose local government” as (A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or (B) an Indian tribal organization.

Congress defined “eligible grantee” in the American Rescue Plan Act (ARPA) to include the 50 States and the District of Columbia, and “unit[s] of general local government.” H.R. 1319 § 3201(f)(1)(amending 15 USCA § 9058c). Congress further defined a “unit of general local government” as a “county, city, town, village, or other general purpose political subdivision of a state.” H.R. 1319 § 5004 (amending 15 U.S.C.A. § 9013(a)(10)).

Congress set forth a procedure within ARPA to allocate funding where counties are not genuine units of local government: “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.” [[Reference](#), page 227]

If Vermont’s limited county government were to spend ARPA funds on ineligible things or spend it not according to the rules Treasury has established, our cities and towns would have to pay back Treasury with



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city and town money. That is because the county does not have its own taxation authority; it merely has the power of indirect taxation through the cities and towns, which tax residents and businesses, thereby generating revenues to be paid to the county.

Vermont's limited county government does not have state statutory authority to address two of the key uses of funding under Section 9901 of ARPA. This should also help clarify that our county governments are not general governments as they cannot:

- respond to the COVID-19 public health emergency by paying for costs related to assistance to households, small businesses, non-profits, and affected industries such as tourism, travel and hospitality; or
- make investments in water, sewer, or broadband infrastructure.

According to Census' own definition, Vermont counties are Special Districts. However, because Census' primary goal is to sort areas into neat and consistent geographical units, they have neglected to denote Vermont county government as special districts vs general governments. Attachment A includes some history about this misconception.

We appreciate your attention to this matter as it relates to the allocation of Coronavirus State and Local Funds under Section 9901 of the American Recovery Plan Act. We urge you to allocate the county dollars to the state for distribution to cities, towns, and villages.

Sincerely,

Karen Horn, Director
Public Policy and Advocacy

CC: The Honorable U.S. Senator Patrick Leahy
The Honorable U.S. Senator Bernard Sanders
The Honorable U.S. Representative Peter Welch
Vermont Governor Phil Scott
Honorable Rebecca Balint, President Pro Tempore of the Vermont Senate
Honorable Jill Krowinski, Speaker of the Vermont House of Representatives



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Attachment A Counties

Census: “Long before the Revolution, three distinct systems had developed: In much of New England, the compact pattern of settlement favored the town as the local governing body; the county, a geographic grouping of towns, tended to be a legal entity that existed for judicial rather than general governmental purposes.”–“Census Bureau Geography, Chapter 5, States, Counties, and Statistically Equivalent Entities,” page 5.

“State constitutions or other laws generally specify counties (parishes in Louisiana, boroughs in Alaska, independent cities in four States) as the divisions of each State, and assign responsibilities to them for providing various aspects of local government.”– “Census Bureau Geography, Chapter 5, States, Counties, and Statistically Equivalent Entities,” page 10.

“As such, they provide convenient units for data dissemination purposes. Of course, because most of these entities represent local governmental units, their officials, as well as the officials of State and Federal agencies and other data users, require statistics for the counties from each specific census.” This acknowledges that the counties are not always local government. “Rhode Island’s counties exist only for the purpose of judicial administration and have no associated governmental structure.” “Census Bureau Geography, Chapter 5, States, Counties, and Statistically Equivalent Entities,” page 12 .

“In New England, the towns and cities, not the county, serve as the basic units of local government. Since their establishment in the 17th century, many towns have elected their governing officials and managed their local affairs. The county was merely a grouping of towns, established primarily for judicial and penal purposes, and had minimal political significance. Connecticut abolished its county governments in 1960; the counties in Connecticut and Rhode Island serve only as administrative subdivisions of those States.”– “Census Bureau Geography, Chapter 8, County Subdivisions,” pages 20-21.

COMMENT on Census information: Counties in Vermont do not provide functions of local government. The courts are a function of state government in Vermont. Vermont is more similar to Rhode Island’s situation but for a very small sub-function of the State Superior Courts.

The State of Vermont pays the county sheriffs, prosecutors and many deputy sheriffs as part of the Department of State’s attorneys and sheriffs.

- Vermont Department of State’s Attorneys and Sheriffs
- FY 2022 Executive Budget Summary, State of Vermont (page 9)
- Vermont Sheriff’s Department Funding Sources
- FY18 Chittenden County Sheriff’s Department Funding Sources