

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Community and Human Development

AGENDA DATE: August 18, 2020

CONTACT PERSON/PHONE: Nicole Ferrini, Director, 212-1659, ferrininm@elpasotexas.gov
Abraham Gutierrez, Administrative Services Manager, 212-1658, gutierrezax@elpasotexas.gov

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

Discussion and action that the City Manager be authorized to sign a First Amendment to the Sub-Recipient Grant Agreement between the City of El Paso and the El Paso Community Foundation dated August 4, 2020, to increase the funding amount and clarify certain provisions as required by the United States Department of Treasury guidance.

BACKGROUND / DISCUSSION:

On March 13th, 2020 the Governor of the State of Texas declared a state of disaster, and Mayor signed a Local Emergency Declaration related to the COVID-19 pandemic crisis. Many individuals and families have been affected by the economic effects of COVID-19 and require direct assistance to whether this crisis. The funding for this program will be deployed from the U.S. Treasury Coronavirus Relief Fund. All of the assistance required will be subject to the Federal and Local requirements.

PRIOR COUNCIL ACTION:

On June 22nd, 2020 City Council approved the Sub-Recipient Grant Agreement with El Paso Community Foundation to deploy the Community Assistance Fund.

AMOUNT AND SOURCE OF FUNDING:

\$1,000,000.00 – 2235-G20COVIDTR-G20COVIDTR-471-71010-CPR06

BOARD / COMMISSION ACTION:

NA

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____



DEPARTMENT HEAD:

Nicole Ferrini, Community and Human Development, Director

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

RESOLUTION

WHEREAS, the City of El Paso received funds from the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”) administered by the United States Department of Treasury for the Coronavirus Relief Fund program (“**Program Funds**”); and

WHEREAS, on June 22, 2020, the City Council authorized the City Manager to execute a Subrecipient Agreement with El Paso Community Foundation (“**Subrecipient Agreement**”) to deploy the Community Fund Gap Assistance program funded using Program Funds; and

WHEREAS, on June 22, 2020, the City Council approved the Community Development Action Plan (“**Action Plan**”) describing the projects and amounts of the Program Funds that would be allocated for community assistance;

WHEREAS, the City wishes to reallocate some unexpended funds under the Action plan to the Subrecipient Agreement; and

WHEREAS, the City provides that the expenses under this amendment are necessary expenditures incurred due to the public health emergency with respect to COVID-19, that the funds used for this amendment were not accounted for in the budget most recently approved by the City of El Paso, and the expenditures under this Agreement will be incurred during the period beginning on the effective date of this amendment and ending on December 30, 2020.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT:

The City Manager, or designee, be authorized to sign a First Amendment to Subrecipient Agreement between the City of El Paso and the El Paso Community Foundation dated August 4, 2020 to increase the funding amount and clarify certain provisions as required by the United States Department of Treasury guidance. Further, that the City Manager, or designee, be authorized to sign any further amendments to the agreement without further City Council approval, including amendments that increase the funding amount of the agreement using unexpended Program Funds approved under the Action Plan. Further, that the City Manager be authorized to sign any documents and exercise any rights under the agreement as amended provided that all documents and exercise of rights be in accordance to federal requirements and following approval as to form by the City Attorney’s Office.

APPROVED this _____ day of _____, 2020

[Signatures begin on the following page]


THE CITY OF EL PASO:

Dee Margo
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Omar A. De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Nicole Ferrini
Chief Resilience Officer

THE STATE OF TEXAS) **FIRST AMENDMENT TO SUBRECIPIENT**
) **AGREEMENT**
)
COUNTY OF EL PASO)

This First Amendment to Subrecipient Agreement (“**First Amendment**”) is made on _____, 2020 (“**Effective Date**”) and is between the City of El Paso, a municipal corporation under the laws of the State of Texas (the “**City**”) and the El Paso Community Foundation, a Texas nonprofit corporation (“**Subrecipient**”).

WHEREAS, on August 4, 2020, the City and the Subrecipient entered into a Subrecipient Agreement (the “**Agreement**”); and

WHEREAS, the parties wish to amend the Agreement to increase the funding amount and clarify certain provisions to comply with the requirements of the United States Department of Treasury regarding the use of funding under the CARES Act.

The parties agree as follows:

1. Section 1 (Funding Amount) of the Agreement is amended to read as follows:
 1. Funding Amount. Payments by City. Subrecipient will receive funding in three distributions: \$750,000 payable within 10 business days of execution of the Agreement (“**First Disbursement**”); \$1,450,000 payable no later than September 1, 2020 (“**Second Disbursement**”); and \$300,000 payable no later than October 1, 2020 (“**Final Disbursement**”). Payment will be made on the basis of actual Allowable Expenses paralleling the performance target specified in the Program Scope. Subrecipient’s expenditures must be proportional to services provided. All line items reported and requested must reconcile with the corresponding line item in the Subrecipient’s general ledger accounts, on a current basis and with the year to date balances. Allowable Expenses will be approved by the City and fund disbursements may be withheld if such requests or backup materials are deemed to be inaccurate, unreasonable, or inadequate. For purposes of this Agreement, the term “**Allowable Expenses**” means any expenses eligible for reimbursement under federal, state, and local laws, such as the OMB Requirements, Program Funding Requirements, and Granting Agency Requirements (all as hereinafter defined), applicable to the Program Funding and/or requirements by the Granting Agency. Applicant acknowledges and agrees that Allowable Expenses may change over time in accordance to Granting Agency clarifications and regulations. The City agrees to provide the Subrecipient with any changes to Granting Agency requirements and regulations and the Subrecipient will verify federal regulations and consult with the City for any questions regarding what expenses constitute Allowable Expenses. The Subrecipient acknowledges and agrees that the payment by the City of any Sub-grant Amount is contingent on the City receiving funds from the Granting Agency. Subrecipient understands that nothing in this Agreement obligates the City to provide the Subrecipient any funds under this Agreement if the

City does not receive funds from the Granting Agency. The City may withhold the Second Disbursement and the Final Disbursement from the Subrecipient if the Department director reasonably believes that the Subrecipient has not complied with all obligations under this Agreement, the Subrecipient has breached any representations and warranties, the submitted expenditures are not in accordance to the approved Program Budget as provided in this Agreement, the Subrecipient has not met all Granting Agency requirements, the expenses are not considered Allowable Expenses under Granting Agency regulations, or federal, state or local laws, or that any proof of expenses provided by the Subrecipient are not adequate. The Subrecipient will repay to the City any amounts received by the Subrecipient that are not allowed under this Agreement, the OMB Requirements, the Program Funding Requirements, or the Granting Agency Requirements only as expressly provided in Section 2 hereof. Subrecipient will only use funding under this Agreement for the Program Scope in accordance to the approved Program Budget.

2. Section 3 (Term) of the Agreement is amended to read as follows:

3. **Term.** Unless terminated sooner as allowed under this Agreement, this Agreement commences on the Effective Date and terminates December 30, 2025.

3. Section 10 (Audit and Inspections) of the Agreement is amended to read as follows:

10. **Audit and Inspections.** Subrecipient will keep all records related to this Agreement for the term of this Agreement. Until termination of this Agreement, Subrecipient will allow the City, the Granting Agency, federal Inspectors General, and/or the Comptroller of the United States to inspect all records reasonably related to this Agreement within 3 calendar days from request in order to make audits, examinations, excerpts, and transcripts. The Subrecipient will provide copies to the requesting party of any records requested at the Subrecipient's expense. Further, the Subrecipient will allow timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

4. Section 12 (Compliance with Federal Regulations) of the Agreement is amended to read as follows:

12. **Compliance with Federal Regulations.** The Subrecipient will comply with all requirements of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards codified under Title 2 of the Code of Federal Regulations part 200 as may be amended, including all appendixes ("**OMB Requirements**"). The Subrecipient understands that Attachment "C" is only a portion of the OMB requirements and that the Subrecipient must refer to Title 2 of the Code of Federal Regulations part 200 for all requirements. Further, the Subrecipient understands that the City must also comply with the OMB requirements and the City depends on the Subrecipient's cooperation in order to comply with such OMB requirements. As such, the Subrecipient will perform any

obligations reasonably requested by the City that are necessary to ensure that the City complies with the OMB requirements.

- a. In addition, the Subrecipient will comply with all Program Fund requirements listed under Section 5001 of the CARES Act (“**Program Funding Requirements**”). In addition, the Subrecipient will perform any obligations reasonably requested by the City that are necessary to ensure that the City complies with Program Funding Requirements.
- b. The Subrecipient will also comply with all requirements in Attachment “D” (all documents under D-1 to D-9 referred to as the “**Granting Agency Requirements**”). Subrecipient understands that the Granting Agency updates often the Granting Agency Requirements and issues new requirements pertaining to the Program Funding. All updates to the Granting Agency Requirements made by the Granting Agency become part of this Agreement as of the date of the update. All new requirements and guidance issued by the Granting Agency pertaining to the Program Funding will also become part of Attachment “D” and this Agreement as of the date that the City provides notification to the Subrecipient of the new requirements. Notwithstanding anything to the contrary provided in this Amendment, liability of the Subrecipient for repayment of any funds distributed pursuant to the Agreement as amended hereby shall remain as provided in Section 2 of the Agreement and in the Program Scope.

5. Section 17 (Representations and Warranties) of the Agreement is amended to read as follows:

17. **Representations and Warranties.** The Subrecipient represents and warrants that all information submitted to the City, including the initial application for funds, is true and correct. Further, the Subrecipient represents and warrants that the Subrecipient is in good legal standing with the laws of the Subrecipient’s state of incorporation, the Subrecipient is legally authorized to perform business in Texas, and the person’s signing the Agreement on behalf of the Subrecipient are authorized to sign this Agreement. If Subrecipient is doing business under an assumed named, a copy of the “Assumed Name Certificate” filed with the El Paso County Clerk shall be submitted to the City prior to the execution of this agreement. The Subrecipient represents that the Subrecipient has not had any allegations or cases made against the Subrecipient related to fraud or bribery including at a criminal, civil, or administrative level. The City represents and warrants that the funds to be made available under this Agreement are to be distributed to Subrecipient as (i) necessary expenditures to address emergency individual needs i incurred due to the public health emergency with respect to COVID-19 and (ii) were not accounted for in the budget most recently approved as of March 27, 2020 by the City. The Subrecipient also represents and warrants that any requests for reimbursement submitted by the Subrecipient to the City under this Agreement will be for (i) necessary expenditures to address emergency individual needs incurred due to the public health emergency with respect to COVID-19,

and (ii) expenses that have been incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

Additional Requirements. The Attachments listed on this section and the laws and requirements referenced in the Attachments are incorporated into this Agreement in full and are considered to be an essential part of this Agreement. The Subrecipient will comply with all laws referenced in the Attachments as well as all the requirements listed in the Attachments incorporated to this Agreement. If there are any conflicts between any Attachment and this Agreement, then the most stringent requirement governs. Further, the parties may exercise any rights afforded under the laws referenced in the Attachments. All laws required under the Attachments to be included as part of this Agreement are incorporated and are considered to be part of this Agreement.

- a. Attachment “A” - Program Scope (Includes all attachments referenced in the Program Scope)
- b. Attachment “B” - Program Budget
- c. Attachment “C” - 2 CFR Part 200 Contract Requirements
- d. Attachment “D” –
 - i. D-1: Title V – Coronavirus Relief Funds (CARES Act)
 - ii. D-2: Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (4/22/2020)
 - iii. D-3: Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (06/30/2020)
 - iv. D-4: Coronavirus Relief Fund Frequently Asked Questions (05/24/2020)
 - v. D-5: Coronavirus Relief Fund Frequently Asked Questions (06/28/2020)
 - vi. D-6: Coronavirus Relief Fund Frequently Asked Questions (07/08/2020)
 - vii. D-7: Granting Agency Requirements
 - viii. D-8: Memorandum for Coronavirus Relief Fund Recipients
 - ix. D-9: Coronavirus Relief Fund Frequently Asked Questions (08/10/2020)
- e. Attachment “E” - HIPAA Business Associate Agreement

6. Attachment “B” of the Agreement is replaced with Attachment B attached to this First Amendment and Attachment “D” of the Agreement is replaced with Attachment D (D-1 to D-9) attached to this First Amendment.

7. Except as expressly amended by this First Amendment, the Agreement remains in full force and effect as written therein.

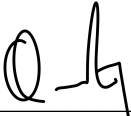
[Signatures begin on the next page]

[Signature page for the City of El Paso]

CITY OF EL PASO:

Tomás González
City Manager

APPROVED AS TO FORM:



Omar De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Nicole Ferrini, Director
Community & Human Development Dept.

Acknowledgment

THE STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on this ____ day of _____, 2020,
by **Tomás González**, as **City Manager** of the **City of El Paso, Texas**.

Notary Public, State of Texas

My commission expires:

[Signature page for Subrecipient]

SUBRECIPIENT:

Name: Richard Eric Pearson
Title: President/CEO

Acknowledgment

THE STATE OF _____ §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 2020,
by Richard Eric Pearson, as President/CEO of El Paso Community Foundation.

Notary Public, State of Texas

My commission expires:

Attachment B - Program Scope

PY 2020

*Please enter the requested information into the yellow highlighted cells
on each page and sign the Summary Page below*

Subrecipient:	El Paso Community Action Program, Project BRAVO, Inc.
Service Area:	City of El Paso
Allocation:	
	\$ 2,500,000.00

IMPORTANT! This "Summary Page" will self-populate as you complete each of the worksheets (B.1 - B.9):

BUDGET CATEGORIES	AMOUNT
B.1 Personnel	\$ 55,318.00
B.2 Fringe Benefits	\$ 17,640.00
B.3 Travel	\$ 1,104.00
B.4 Equipment	\$ 3,429.00
B.5 Supplies	\$ 1,300.00
B.6 Contractual	\$ 1,768.00
B.7 Other/B.8 Client Services	\$ 2,394,441.00
B.9 Indirect Costs <small>(If subrecipient has an approved Indirect Cost Rate Agreement from cognizant agency, enter detail on B.9).</small>	\$ 25,000.00
TOTAL BUDGET*	\$ 2,500,000.00

***TOTAL BUDGET" must equal the Allocation above.**

Diff.: \$ -

Subrecipient Approval

<i>Signature of Preparer</i>	<i>Date</i>
<i>Signature of Approver</i>	<i>Date</i>

Personnel - B.1

Subrecipient:	El Paso Community Action Program, Project BRAVO, Inc.			
Personnel				
Section 1: Administrative and Management Staff				
Identify Job Title NOT staff names	No. of Months	Annual Salary	% of Program Support	Amount Budgeted to Award
Executive Director (1 FTE)	6	\$ 97,843	5.00%	\$ 2,446.00
Chief Financial Officer (1 FTE)	6	\$ 80,954	5.00%	\$ 2,024.00
Chief Programs Officer (1 FTE)	6	\$ 63,856	5.00%	\$ 1,596.00
Human Resources Specialist (1 FTE)	6	\$ 50,398	5.00%	\$ 1,260.00
IT Coordinator (1 FTE)	6	\$ 47,778	5.00%	\$ 1,194.00
Executive Assistant (1 FTE)	6	\$ 35,298	5.00%	\$ 882.00
Accounting Technician (2 FTE)	6	\$ 71,469	5.00%	\$ 1,787.00
Custodian (2 FTE)	6	\$ 44,304	5.00%	\$ 1,108.00
Maintenance Supervisor (1 FTE)	6	\$ 53,726	0.31%	\$ 83.00
Building & WAP Techs (3 FTE)	6	\$ 105,331	0.39%	\$ 204.00
Building Maintenance (1 FTE)	6	\$ 25,064	1.55%	\$ 194.00
Community Services Manager (1 FTE)	6	\$ 58,926	0.23%	\$ 68.00
Community Services Assistant (1 FTE)	6	\$ 32,822	0.23%	\$ 38.00
Receptionist (1 FTE)	6	\$ 21,840	0.12%	\$ 13.00
				\$ -
				\$ -
Subtotal Section 1 (Program ONLY):				\$ 12,897.00
Section 2: Program Staff/Direct Client Support Staff				
Identify Job Title NOT staff names	No. of Months	Annual Salary	% of Program Support	Amount Budgeted to Award
Center Supervisor (4 FTE)	12	\$ 160,493	15%	\$ 24,074.00
Secretary (6 FTE)	6	\$ 131,040	15%	\$ 9,828.00
Community Services Manager (1 FTE)	6	\$ 58,926	15%	\$ 4,419.00
Community Services Assistant (1 FTE)	6	\$ 32,822	15%	\$ 2,462.00
Receptionist (1 FTE)	6	\$ 21,840	15%	\$ 1,638.00
				\$ -
				\$ -
Subtotal Section 2 (Program ONLY):				\$ 42,421.00
Total Section 1 and 2 (Program ONLY):				\$ 55,318.00
Total Personnel Tab				\$ 55,318.00

Fringe - B.2

Subrecipient:	El Paso Community Action Program, Project BRAVO, Inc.	
Fringe Benefits		
Section 1: Administrative & Management Staff		
Items		Amount
F.I.C.A		\$ 990.00
Unemployment		\$ 20.00
Workman's Comp. Insurance		\$ 45.00
Health Insurance		\$ 2,100.00
Dental Insurance		\$ 110.00
Life Insurance		\$ 50.00
Retirement Contribution		\$ 450.00
Others (List):	ST/LT Disability	\$ 250.00
	Vision	\$ 50.00
Subtotal Section 1 (Program ONLY):		\$ 4,065.00
Section 2: Program Staff/Direct Client Support Staff		
Items		Amount
F.I.C.A		\$ 3,250.00
Unemployment		\$ 75.00
Workman's Comp. Insurance		\$ 150.00
Health Insurance		\$ 7,000.00
Dental Insurance		\$ 400.00
Life Insurance		\$ 175.00
Retirement Contribution		\$ 1,500.00
Others (List):	ST/LT Disability	\$ 850.00
	Vision	\$ 175.00
Subtotal Section 2 (Program ONLY):		\$ 13,575.00
Total Section 1 and 2 (Program ONLY):		\$ 17,640.00
Total Fringe Benefits Tab		\$ 17,640.00

Travel - B.3

Subrecipient:	El Paso Community Action Program, Project BRAVO, Inc.		
Travel			
	Miles	x Fed. Rate*	Amount
Local Travel (*Rate cannot be higher than the Federal rate)	1,050	0.58	\$ 604.00
Per Diem			\$ 500.00
Non-Local Travel			\$ -
Board Member Reimbursement			
Total Travel Tab			\$ 1,104.00

Equipment - B.4

Subrecipient:		El Paso Community Action Program, Project BRAVO, Inc.				
Equipment						
Equipment Description	No. of Units	Brand & Model	Unit Cost	Total Cost	% Budgeted to Award	Amount Budgeted to Award
Purchases						
Anticipated hardware replacements (cpu's, printers, anti-virus, monitors, memory, etc.)	1	Various non-capital items	\$20,000.00	\$20,000.00	5.00%	\$ 1,000.00
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
Leases						
CAP60 Client software annual support renewal, licenses and modules	1	CAP60	\$31,540.00	\$31,540.00	4.60%	\$ 1,451.00
MIP accounting software annual support	1	Abila	\$4,200.00	\$4,200.00	4.00%	\$ 168.00
Telephone lease	1	Mitel/Intertel Phones	\$10,000.00	\$10,000.00	3.80%	\$ 380.00
Copier lease	2	Xerox copiers	\$5,000.00	\$10,000.00	3.80%	\$ 380.00
Postage meter lease	1	Pitney Bowes	\$1,200.00	\$1,200.00	4.20%	\$ 50.00
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
				\$0.00		\$ -
Subtotal						\$ 3,429.00
Total Equipment Tab						\$ 3,429.00

Supplies - B.5

Subrecipient:	El Paso Community Action Program, Project BRAVO, Inc.	
Supplies		
Office Supplies	\$	700.00
Maintenance Supplies	\$	350.00
Program Supplies		
Postage	\$	250.00
Others (List):		
Total Supplies Tab	\$	1,300.00

Contractual - B.6

Subrecipient:	El Paso Community Action Program, Project BRAVO, Inc.		
Contractual			
CSBG Budget Items (Categories)	Total Cost	% Budgeted to Award	Amount Budgeted to Award
Legal Services	\$4,200.00	4.50%	\$ 189.00
Audit Services	\$12,000.00	4.50%	\$ 540.00
Accounting Services			\$ -
Other Costs	ADP Payroll Services	\$12,000.00	4.50%
	Document Destruction Services	\$2,200.00	4.50%
	Contract labor charges	\$10,000.00	4.50%
			\$ -
			\$ -
Subtotal:			\$ 1,768.00
Total Contractual Tab			\$ 1,768.00

Other - B.7

Subrecipient:	El Paso Community Action Program, Project BRAVO, Inc.		
Other			
Other Items (such as copying, rent, utilities, phone, insurance, etc.) Itemize below:	Total Costs	% Budgeted to Award	Amount Budgeted to Award
Office Rent	\$121,000.00	5.0%	\$ 6,050.00
Utilities	\$80,000.00	2.8%	\$ 2,240.00
Internet	\$13,750.00	3.9%	\$ 536.00
Telephone	\$60,000.00	5.0%	\$ 3,000.00
Insurance-GL, Auto, D&O	\$56,000.00	2.1%	\$ 1,176.00
Building Repairs & Maintenance	\$43,500.00	2.9%	\$ 1,262.00
Vehicle Repairs & Maintenance	\$630.00	1.6%	\$ 10.00
Vehicle Fuel	\$4,700.00	2.0%	\$ 94.00
Board Meeting Expenses	\$7,150.00	3.5%	\$ 250.00
Equipment Repair & Maintenance	\$575.00	6.2%	\$ 36.00
Local Training/Education	\$10,700.00	2.5%	\$ 268.00
Copier supplies	\$15,500.00	5.0%	\$ 775.00
Dues and Conference Registrations	\$31,000.00	5.8%	\$ 1,798.00
Equipment Licenses & Registrations	\$810.00	2.1%	\$ 17.00
Employment Verification	\$785.00	4.5%	\$ 35.00
Client Outreach	\$3,200.00	2.5%	\$ 80.00
			\$ -
			\$ -
			\$ -
Subtotal for Other Items :			\$ 17,627.00
Total Other Tab			\$ 17,627.00

Client Services - B.7

Subrecipient:	El Paso Community Action Program, Project BRAVO, Inc.		
Client Services			
Direct Services	Total Costs	% Budgeted to Award	Amount Budgeted to Award
	\$2,500,000.00		
	95.1%		
	\$2,376,814.00	100.0%	\$ 2,376,814.00
Subtotal for Direct Services TSS & TOP (CSBG):			\$ 2,376,814.00
Total Client Services Tab			\$ 2,376,814.00

ATTACHMENT “D-1”

TITLE V—CORONAVIRUS RELIEF FUNDS

SEC. 5001. CORONAVIRUS RELIEF FUND.

(a) IN GENERAL.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by inserting after title V the following:

“TITLE VI—CORONAVIRUS RELIEF FUND

“SEC. 601. CORONAVIRUS RELIEF FUND.

“(a) APPROPRIATION.—

“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for making payments to States, Tribal governments, and units of local government under this section, \$150,000,000,000 for fiscal year 2020.

“(2) RESERVATION OF FUNDS.—Of the amount appropriated under paragraph (1), the Secretary shall reserve—

“(A) \$3,000,000,000 of such amount for making payments to the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

H. R. 748—222

“(B) \$8,000,000,000 of such amount for making payments to Tribal governments.

“(b) AUTHORITY TO MAKE PAYMENTS.—

“(1) IN GENERAL.—Subject to paragraph (2), not later than 30 days after the date of enactment of this section, the Secretary shall pay each State and Tribal government, and each unit of local government that meets the condition described in paragraph (2), the amount determined for the State, Tribal government, or unit of local government, for fiscal year 2020 under subsection (c).

“(2) DIRECT PAYMENTS TO UNITS OF LOCAL GOVERNMENT.—

If a unit of local government of a State submits the certification required by subsection (e) for purposes of receiving a direct payment from the Secretary under the authority of this paragraph, the Secretary shall reduce the amount determined for that State by the relative unit of local government population proportion amount described in subsection (c)(5) and pay such amount directly to such unit of local government.

“(c) PAYMENT AMOUNTS.—

“(1) IN GENERAL.—Subject to paragraph (2), the amount paid under this section for fiscal year 2020 to a State that is 1 of the 50 States shall be the amount equal to the relative population proportion amount determined for the State under paragraph (3) for such fiscal year.

“(2) MINIMUM PAYMENT.—

“(A) IN GENERAL.—No State that is 1 of the 50 States shall receive a payment under this section for fiscal year 2020 that is less than \$1,250,000,000.

“(B) PRO RATA ADJUSTMENTS.—The Secretary shall adjust on a pro rata basis the amount of the payments for each of the 50 States determined under this subsection

without regard to this subparagraph to the extent necessary to comply with the requirements of subparagraph (A).

“(3) RELATIVE POPULATION PROPORTION AMOUNT.—For purposes of paragraph (1), the relative population proportion amount determined under this paragraph for a State for fiscal year 2020 is the product of—

“(A) the amount appropriated under paragraph (1) of subsection (a) for fiscal year 2020 that remains after the application of paragraph (2) of that subsection; and

“(B) the relative State population proportion (as defined in paragraph (4)).

“(4) RELATIVE STATE POPULATION PROPORTION DEFINED.—

For purposes of paragraph (3)(B), the term ‘relative State population proportion’ means, with respect to a State, the quotient of—

“(A) the population of the State; and

“(B) the total population of all States (excluding the District of Columbia and territories specified in subsection (a)(2)(A)).

“(5) RELATIVE UNIT OF LOCAL GOVERNMENT POPULATION PROPORTION AMOUNT.—For purposes of subsection (b)(2), the term ‘relative unit of local government population proportion amount’ means, with respect to a unit of local government and a State, the amount equal to the product of—

H. R. 748—223

“(A) 45 percent of the amount of the payment determined for the State under this subsection (without regard to this paragraph); and

“(B) the amount equal to the quotient of—

“(i) the population of the unit of local government; and

“(ii) the total population of the State in which the unit of local government is located.

“(6) DISTRICT OF COLUMBIA AND TERRITORIES.—The amount paid under this section for fiscal year 2020 to a State that is the District of Columbia or a territory specified in subsection (a)(2)(A) shall be the amount equal to the product of—

“(A) the amount set aside under subsection (a)(2)(A) for such fiscal year; and

“(B) each such District’s and territory’s share of the combined total population of the District of Columbia and all such territories, as determined by the Secretary.

“(7) TRIBAL GOVERNMENTS.—From the amount set aside under subsection (a)(2)(B) for fiscal year 2020, the amount paid under this section for fiscal year 2020 to a Tribal government shall be the amount the Secretary shall determine, in consultation with the Secretary of the Interior and Indian Tribes, that is based on increased expenditures of each such Tribal government (or a tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019 by the Tribal government (or tribally-owned entity) and determined in such manner as the Secretary determines appropriate to ensure that all amounts available under subsection (a)(2)(B) for fiscal year 2020 are distributed to Tribal governments.

“(8) DATA.—For purposes of this subsection, the population

of States and units of local governments shall be determined based on the most recent year for which data are available from the Bureau of the Census.

“(d) USE OF FUNDS.—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—

“(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);

“(2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and

“(3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

“(e) CERTIFICATION.—In order to receive a payment under this section, a unit of local government shall provide the Secretary with a certification signed by the Chief Executive for the unit of local government that the local government’s proposed uses of the funds are consistent with subsection (d).

“(f) INSPECTOR GENERAL OVERSIGHT; RECOUPMENT.—

“(1) OVERSIGHT AUTHORITY.—The Inspector General of the Department of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under this section.

H. R. 748—224

“(2) RECOUPMENT.—If the Inspector General of the Department of the Treasury determines that a State, Tribal government, or unit of local government has failed to comply with subsection (d), the amount equal to the amount of funds used in violation of such subsection shall be booked as a debt of such entity owed to the Federal Government. Amounts recovered under this subsection shall be deposited into the general fund of the Treasury.

“(3) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of the Treasury, \$35,000,000 to carry out oversight and recoupment activities under this subsection. Amounts appropriated under the preceding sentence shall remain available until expended.

“(4) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this subsection shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

“(g) DEFINITIONS.—In this section:

“(1) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

“(2) LOCAL GOVERNMENT.—The term ‘unit of local government’ means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level with a population that exceeds 500,000.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(4) STATE.—The term ‘State’ means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

“(5) TRIBAL GOVERNMENT.—The term ‘Tribal government’ means the recognized governing body of an Indian Tribe.”.

(b) APPLICATION OF PROVISIONS.—Amounts appropriated for fiscal year 2020 under section 601(a)(1) of the Social Security Act (as added by subsection (a)) shall be subject to the requirements contained in Public Law 116–94 for funds for programs authorized under sections 330 through 340 of the Public Health Service Act (42 U.S.C. 254 through 256).

Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
April 22, 2020

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.¹

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost

¹ See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

A cost is “incurred” when the responsible unit of government has expended funds to cover the cost.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:

- COVID-19-related expenses of public hospitals, clinics, and similar facilities.
- Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
- Costs of providing COVID-19 testing, including serological testing.
- Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
- Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.

2. Public health expenses such as:

- Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
- Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
- Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
- Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
- Expenses for public safety measures undertaken in response to COVID-19.
- Expenses for quarantining individuals.

3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures²

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.³
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

² In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

³ See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

ATTACHMENT "D-3"

Coronavirus Relief Fund Frequently Asked Questions Updated as of May 28, 2020

The following answers to frequently asked questions supplement Treasury's Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, ("Guidance").¹ Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

Eligible Expenditures

Are governments required to submit proposed expenditures to Treasury for approval?

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the "substantially dedicated" condition?

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a "substantially different use" for purposes of the Fund eligibility?

Costs incurred for a "substantially different use" include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

Note that a public function does not become a "substantially different use" merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

¹ The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

May a State receiving a payment transfer funds to a local government?

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

May a unit of local government receiving a Fund payment transfer funds to another unit of government?

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

Are States permitted to use Fund payments to support state unemployment insurance funds generally?

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

May Fund payments be used for COVID-19 public health emergency recovery planning?

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

Are expenses associated with contact tracing eligible?

Yes, expenses associated with contract tracing are eligible.

To what extent may a government use Fund payments to support the operations of private hospitals?

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

May recipients create a “payroll support program” for public employees?

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a “small business,” and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

May Fund payments be used to assist impacted property owners with the payment of their property taxes?

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of “hazard pay”?

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

The Guidance provides that ineligible expenditures include “[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” Is this intended to relate only to public employees?

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers’ employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

May a State impose restrictions on transfers of funds to local governments?

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the accrued interest expense on TANs and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

May recipients use Fund payments to provide loans?

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

Questions Related to Administration of Fund Payments

Do governments have to return unspent funds to Treasury?

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

What records must be kept by governments receiving payment?

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

May recipients deposit Fund payments into interest bearing accounts?

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

May governments retain assets purchased with payments from the Fund?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

Are Fund payments to State, territorial, local, and tribal governments considered grants?

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are “other financial assistance” under 2 C.F.R. § 200.40.

Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Are Fund payments subject to other requirements of the Uniform Guidance?

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?

Yes. The CFDA number assigned to the Fund is 21.019, pending completion of registration.

If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients’ total funding received from the federal government for purposes of the Single Audit Act?

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program

or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.

**Coronavirus Relief Fund
Frequently Asked Questions
Updated as of June 24, 2020**

The following answers to frequently asked questions supplement Treasury's Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, ("Guidance").¹ Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

Eligible Expenditures

Are governments required to submit proposed expenditures to Treasury for approval?

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the "substantially dedicated" condition?

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a "substantially different use" for purposes of the Fund eligibility?

Costs incurred for a "substantially different use" include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

Note that a public function does not become a "substantially different use" merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

¹ The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

May a State receiving a payment transfer funds to a local government?

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

May a unit of local government receiving a Fund payment transfer funds to another unit of government?

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

Are States permitted to use Fund payments to support state unemployment insurance funds generally?

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

May Fund payments be used for COVID-19 public health emergency recovery planning?

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

Are expenses associated with contact tracing eligible?

Yes, expenses associated with contract tracing are eligible.

To what extent may a government use Fund payments to support the operations of private hospitals?

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

May recipients create a "payroll support program" for public employees?

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a "small business," and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

May Fund payments be used to assist impacted property owners with the payment of their property taxes?

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of "hazard pay"?

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

The Guidance provides that ineligible expenditures include "[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency." Is this intended to relate only to public employees?

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers' employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

May a State impose restrictions on transfers of funds to local governments?

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

May recipients use Fund payments to provide loans?

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

May funds be used to satisfy non-federal matching requirements under the Stafford Act?

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to

the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

Questions Related to Administration of Fund Payments

Do governments have to return unspent funds to Treasury?

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

What records must be kept by governments receiving payment?

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

May recipients deposit Fund payments into interest bearing accounts?

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

May governments retain assets purchased with payments from the Fund?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

Are Fund payments to State, territorial, local, and tribal governments considered grants?

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are "other financial assistance" under 2 C.F.R. § 200.40.

Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Are Fund payments subject to other requirements of the Uniform Guidance?

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?

Yes. The CFDA number assigned to the Fund is 21.019.

If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients' total funding received from the federal government for purposes of the Single Audit Act?

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program

or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.

Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
Updated June 30, 2020¹

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.²

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the

¹ This version updates the guidance provided under “Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020”.

² See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID-19 public health emergency during the covered period.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period, but not otherwise. Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient’s usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, *e.g.*, the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19 public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient’s control.

This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:

- COVID-19-related expenses of public hospitals, clinics, and similar facilities.
- Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
- Costs of providing COVID-19 testing, including serological testing.
- Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
- Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.

2. Public health expenses such as:

- Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
- Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
- Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
- Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
- Expenses for public safety measures undertaken in response to COVID-19.
- Expenses for quarantining individuals.

3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:

- Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.

- Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
 6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures³

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.⁴
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

³ In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

⁴ See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

Coronavirus Relief Fund
Frequently Asked Questions
Updated as of July 8, 2020

The following answers to frequently asked questions supplement Treasury’s Coronavirus Relief Fund (“Fund”) Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, (“Guidance”).¹ Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

Eligible Expenditures

Are governments required to submit proposed expenditures to Treasury for approval?

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the “substantially dedicated” condition?

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a “substantially different use” for purposes of the Fund eligibility?

Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.

Note that a public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

¹ The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

May a State receiving a payment transfer funds to a local government?

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

May a unit of local government receiving a Fund payment transfer funds to another unit of government?

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

Are States permitted to use Fund payments to support state unemployment insurance funds generally?

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers’ compensation coverage. Is the cost of this expanded workers compensation coverage eligible?

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

May Fund payments be used for COVID-19 public health emergency recovery planning?

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

Are expenses associated with contact tracing eligible?

Yes, expenses associated with contract tracing are eligible.

To what extent may a government use Fund payments to support the operations of private hospitals?

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

May recipients create a "payroll support program" for public employees?

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a "small business," and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

May Fund payments be used to assist impacted property owners with the payment of their property taxes?

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of "hazard pay"?

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

The Guidance provides that ineligible expenditures include "[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency." Is this intended to relate only to public employees?

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers' employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

May a State impose restrictions on transfers of funds to local governments?

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

May recipients use Fund payments to provide loans?

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

May funds be used to satisfy non-federal matching requirements under the Stafford Act?

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to

the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?

The statute requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As stated in the Guidance, a cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.

Questions Related to Administration of Fund Payments

Do governments have to return unspent funds to Treasury?

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

What records must be kept by governments receiving payment?

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

May recipients deposit Fund payments into interest bearing accounts?

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

May governments retain assets purchased with payments from the Fund?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

Are Fund payments to State, territorial, local, and tribal governments considered grants?

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are "other financial assistance" under 2 C.F.R. § 200.40.

Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Are Fund payments subject to other requirements of the Uniform Guidance?

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?

Yes. The CFDA number assigned to the Fund is 21.019.

If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients' total funding received from the federal government for purposes of the Single Audit Act?

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-

specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.

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ATTACHMENT "D-7"

Attachment D-7: Granting Agency Requirements

Subrecipient understands that it will be reimbursed under this Contract with CDBG Funds and agrees to comply with all applicable local, State, and Federal Laws as well as any all other applicable regulations of HUD and other federal agencies, including but not limited to:

TITLE V CORONAVIRUS RELIEF FUNDS SEC. 5001. Provides \$150 billion to states, territories, and tribal governments to cover expenditures incurred in response to COVID-19.

TITLE VI CORONAVIRUS RELIEF FUND SEC. 601. MISCELLANEOUS PROVISIONS State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that— (1) Necessary expenditures due to the public health emergency of COVID-19, (2) expenditures not already part of an approved budget of state or government, and (3) expenditure incurred during the period of March 1, 2020 through December 30, 2020.

2 CFR 200 – UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS. Provides that establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities. Federal awarding agencies must not impose additional or inconsistent requirements, except as provided in 200.210 Information contained in a Federal award, or unless specifically required by Federal statute, regulation, or Executive Order.

24 CFR 570 – COMMUNITY DEVELOPMENT BLOCK GRANTS Subrecipient agrees to comply with provisions of described policies and procedures applicable to the following programs authorized under title I of the Housing and Community Development Act of 1974, as amended:(1) Entitlement grants program (subpart D);(2) Nonentitlement Funds: HUD-administered Small Cities and Insular Area programs (subpart F);(3) State program: State-administered CDBG nonentitlement funds (subpart I);(4) Special Purpose Grants (subpart E);(5) Urban Development Action Grant program (subpart G); and(6) Loan Guarantees (subpart M).

24 CFR 5.109 – EQUAL PARTICIPATION OF FAITH-BASED ORGANIZATIONS IN HUD PROGRAMS AND ACTIVITIES - Faith-based organizations that are applying for funding must comply with HUD's Final rule that became effective October 30, 2003 as mentioned

AUTHORITY TO APPLY – Written minute action and/or Board approval documentation signed by the Board President authorizing submittal and signature of the CARES Funds application by Board President (or other authorized representative) must have submitted the application.

Jurisdiction – All programs, clients and/or improvements must be located within the city limits of El Paso, Texas.

Performance Outcomes + Units – Subrecipient must have the capability to track measurable project outcome(s) over time and accurately report the results. Projects funded will have a contractual obligation to meet projected outcomes. Applicants are required to submit a statement explaining the expected outcome(s) of their projects and are required to address in their application the outcome(s)/benefit(s) that will result from the project after completion. Outcomes describe the impact that will result from the project, and are the benefits to the individuals, families, organizations, and communities derived from construction of the project or participation in a program or service.

Race and Ethnicity – Applicants whose programs or projects qualify under the LMI national objective through the limited clientele category are required to provide race and ethnicity data for each person who is receiving direct assistance from CARES Funds.

System of Award Management (SAM) - Applicants are required to submit a current verification from System Award Management (SAM) clearing the agency of debarment from receiving federal funds. If considered for funding the City of El Paso staff will verify compliance with this requirement prior to execution of any contract.

Verification of Non-Profit Status – Non-profit agencies must submit the Internal Revenue service (IRS) letter certifying their 501(c) (3) status and the completed and signed Assurance of Applicant Eligibility for Non-Profit Organizations on page.

ATTACHMENT "D-7"

DRUG-FREE WORKPLACE ACT OF 1988. Subrecipient affirms by signing this Contract that it is implementing the Drug-Free Workplace Act of 1988.

24 CFR 58: ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES. Provides subrecipient guidance for conducting an environmental review for a particular project or activity for obtaining approval for a request for a release of grants.

LIMITED ENGLISH PROFICIENCY (LEP). Subrecipient must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to the program, which may entail providing language assistance services, including oral and written translation, where necessary, and provide program applications, forms, and educational materials in English, Spanish, and any appropriate language, based on the needs of the service area and in compliance with the requirements in Executive Order 13166 of August 11, 2000.

PROTECTED HEALTH INFORMATION. If Subrecipient collects or receives documentation for disability, medical records or any other medical information in the course of administering a program, Subrecipient shall comply with state and federal laws and regulations, as applicable, under 10 TAC §1.24, Chapter 181 of the Texas Health and Safety Code, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub.L. 104-191, 110 Stat. 1936, enacted August 21, 1996) the HIPAA Privacy Rules (45 CFR Part 160 and Subparts A and E of 45 CFR Part 164) by Executing a "HIPAA Business Associate Agreement".

TITLE VI. Subrecipient agrees to comply with the provisions of TITLE VI of the Civil Rights Act of 1964 and related statutes, ensuring that no person shall; on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. § 2000d-3), color, national origin, sex, age or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under this Program.

CONFIDENTIALITY. Subrecipient agrees to ensure the confidentiality of the name of any individuals receiving assistance in accordance with 24 CFR 570.508.

VIOLENCE AGAINST WOMEN ACT (VAWA): Subrecipient will establish written policies and procedures to ensure compliance with the Violence Against Women Reauthorization Act of 2013 ("VAWA") and all final rules implemented by HUD under VAWA. All service providers and/or approved landlords under the Program must provide tenants with all notices as published under HUD's Notice of Occupancy Rights under VAWA.

DISABILITY, FAIR HOUSING AND REHABILITATION ACT OF 1973. Subrecipient must comply with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, Fair Housing Act and other applicable laws. Subrecipient is required to make reasonable accommodations or modifications for persons with disabilities.

CONFLICT OF INTEREST. Subrecipient covenants that during the term of this Contract, the Subrecipient, its associates, officers, board or committee members, and or employees shall have no interest, direct or indirect, which will conflict in any manner with the performance of the services under this Contract and that none of its paid personnel shall be employees of the City or have any Contractual relationship with the City. Subrecipient shall comply with all federal regulations as further specified on the Applicable Local, State and Federal requirements.

This conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies, or Subrecipients, which are receiving federal funds.

HATCH ACT. Neither the funds advanced pursuant to this Contract, nor any personnel who may be employed by the Subrecipient with funds advanced pursuant to this Contract shall be in any way or to any extent engaged in any conduct or political activity in contravention of Chapter 15 of Title 5 of the United States Code.

INTEREST OF CERTAIN FEDERAL OFFICIALS. No member of or delegate to the Congress of the United States, and no Resident Commissioners, shall be entitled to any share or part of this Contract between City and Subrecipient or to any benefits arising there from.

POLITICAL AND LOBBYING ACTIVITIES PROHIBITED. Subrecipient must comply with the following:

1. None of the funds, materials, property or services provided directly or indirectly under this Contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office, or for publicity, lobbying, and/or propaganda purposes designed to support or defeat legislation pending

ATTACHMENT "D-7"

before the Congress of the United States of America, the Legislature of the State of Texas, or the City Council of the City of El Paso.

2. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a member, officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

3. Employees of Subrecipient connected with any activity which is financed in whole or in part by funds provided to Subrecipient under this Contract may not, during the term of this Contract, use their official position or influence to affect the outcome of an election or nomination, solicit contributions for political purposes, take an active part in political management or in political campaigns.

4. Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a **Certification Regarding Lobbying** (Attachment 7), asserting that the person has not made, and will not make, any payment prohibited on this Section. Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency, a **"Disclosure of Lobbying Activities," Standard Form (SF-LLL)**, set forth in Attachment 7, if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under this section if paid for with appropriated funds. Subrecipient shall require the language of the Certification and Disclosure be included in all subcontracts and that all subcontractors shall certify and disclose accordingly.

OFFICE OF
INSPECTOR GENERALDEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

July 31, 2020

OIG-CA-20-025

MEMORANDUM FOR CORONAVIRUS RELIEF FUND RECIPIENTS**FROM:** Richard K. Delmar /s/
Deputy Inspector General**SUBJECT:** Coronavirus Relief Fund Reporting Requirements Update

On July 2, 2020, my office issued memorandum OIG-CA-20-021, *Coronavirus Relief Fund Recipient Reporting and Record Retention Requirements* informing you of the Department of the Treasury (Treasury) Office of Inspector General's (OIG) monitoring and oversight responsibilities related to the Coronavirus Relief Fund, among other things. Specifically, Title VI of the Social Security Act, as amended by Title V of Division A of the *Coronavirus Aid, Relief, and Economic Security Act* (Public Law 116-136), provides that Treasury OIG is responsible for monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund payments. Treasury OIG also has authority to recover funds in the event that it is determined a recipient of a Coronavirus Relief Fund payment failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). Recipient reporting and record retention requirements are essential for the exercise of these responsibilities, including our conduct of audits and investigations.

This memorandum augments and clarifies the prime recipient's quarterly reporting requirements contained in memorandum OIG-CA-20-021. We plan to use reported data to support our office's Coronavirus Relief Fund compliance monitoring and oversight efforts and for audit and investigative purposes. In addition, reported data will be provided to the Pandemic Response Accountability Committee (PRAC), which will report the data on its website in accordance with Section 15010 of the CARES Act.¹

¹ P. L. 116-136 (March 27, 2020), Section 15010, established the PRAC within the Council of Inspectors General on Integrity and Efficiency to promote transparency and conduct and support oversight of covered funds and the coronavirus response to (1) prevent and detect fraud, waste, abuse, and mismanagement; and (2) mitigate major risks that cut across program and agency boundaries. The PRAC's website will provide data on relevant operational, economic, financial, grant, subgrant, contract, and subcontract information in user-friendly visual presentations to enhance public awareness of the use of covered funds and the Coronavirus response.

Reporting Requirements

The Treasury OIG has engaged GrantSolutions, a grant and program management Federal shared service provider under the U.S. Department of Health and Human Services, to develop a customized and user-friendly reporting solution to capture the use of Coronavirus Relief Fund payments. In this regard, the GrantSolutions portal will be prepopulated with prime recipient data to include the Coronavirus Relief Fund payment amount, date, recipient Dun & Bradstreet unique identification number (DUNS number), and contact information. It is the responsibility of the prime recipients² to report on uses of Coronavirus Relief Fund payments. Accordingly, each prime recipient shall report Coronavirus Disease 2019 (COVID-19) related costs incurred³ during the covered period (the period beginning on March 1, 2020, and ending on December 30, 2020), as follows.

Projects

List all projects⁴ the prime recipient plans to complete with Coronavirus Relief payments. For each project, the prime recipient will be required to enter the project name, identification number (created by the prime recipient), description, and status of completion. Once a project is entered into the GrantSolutions portal, the prime recipient will be able to report on the project's obligations and expenditures.

Expenditure Categories

Once expenditures are entered against obligations, the prime recipient will need to select the specific expenditure category from the available options from a dropdown menu:

- a. Administrative Expenses
- b. Budgeted Personnel and Services Diverted to a Substantially Different Use
- c. COVID-19 Testing and Contact Tracing
- d. Economic Support (Other than Small Business, Housing, and Food Assistance)
- e. Expenses Associated with the Issuance of Tax Anticipation Notes
- f. Facilitating Distance Learning
- g. Food Programs
- h. Housing Support
- i. Improve Telework Capabilities of Public Employees
- j. Medical Expenses

² Prime recipients include all 50 States, units of local governments, the District of Columbia, U.S. Territories, and Tribal Governments that received a direct Coronavirus Relief Fund payment from Treasury in accordance with the CARES Act.

³ Refer to Treasury's *Guidance for State, Territorial, Local, and Tribal Governments* updated June 30, 2020, at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>, for more information on costs incurred and the covered period.

⁴ Projects are a grouping of related activities that together are intended to achieve a specific goal.

- k. Nursing Home Assistance
- l. Payroll for Public Health and Safety Employees
- m. Personal Protective Equipment
- n. Public Health Expenses
- o. Small Business Assistance
- p. Unemployment Benefits
- q. Workers' Compensation
- r. Items Not Listed Above - to include other eligible expenses that are not captured in the available expenditure categories

Each prime recipient shall also provide detailed obligation and expenditure information for any contracts and grants awarded, loans issued, transfers made to other government entities, and direct payments made by the prime recipient that are greater than or equal to \$50,000 as follows.

Contracts Greater Than or Equal to \$50,000

- a. Contractor identifying and demographic information (e.g. DUNS number and location)
- b. Contract number
- c. Contract date, type, amount, and description
- d. Primary place of contract performance
- e. Related project name(s)
- f. Period of performance start date
- g. Period of performance end date
- h. Quarterly obligation amount
- i. Quarterly expenditure amount
- j. Expenditure categories (listed above)

Grants Greater Than or Equal to \$50,000

- a. Grantee identifying and demographic information (e.g. DUNS number and location)
- b. Award number
- c. Award date, amount, and description
- d. Award payment method (reimbursable or lump sum payment(s))
- e. Related project name(s)
- f. Period of performance start date
- g. Period of performance end date
- h. Primary place of performance
- i. Quarterly obligation amount
- j. Quarterly expenditure amount
- k. Expenditure categories (listed above)

Loans Greater Than or Equal to \$50,000

- a. Borrower identifying and demographic information (e.g. DUNS number and location)
- b. Loan number
- c. Loan amount, date (date when loan signed by prime recipient and borrower), and description
- d. Loan expiration date (date when loan expected to be paid in full)
- e. Purpose of loan
- f. Primary place of performance
- g. Related project(s)
- h. Quarterly obligation amount
- i. Quarterly payments on outstanding loans
- j. Recipient plans for reuse of Coronavirus Relief Fund loan repayments
- k. Loan/expenditure categories

Transfers to Other Government Entities Greater Than or Equal to \$50,000

- a. Transferee/government unit identifying and demographic information (e.g. DUNS number and location)
- b. Transfer date, amount, and description
- c. Related project(s)
- d. Quarterly obligation amount
- e. Quarterly expenditure information
- f. Expenditure categories (listed above)

Direct Payments Greater Than or Equal to \$50,000

- a. Payee identifying and demographic information (e.g. DUNS number and location)
- b. Direct Payments amount and date
- c. Related project(s)
- d. Quarterly obligation amount
- e. Quarterly expenditure amount
- f. Expenditure categories (listed above)

Aggregate reporting below \$50,000

Aggregate reporting is allowed on contracts, grants, transfers made to other government entities, loans, direct payments, and payments to individuals that are below \$50,000.

Certification and Submission

As noted in our July 2, 2020 memorandum, each prime recipient was required to designate two preparers to enter data into GrantSolutions and an authorizing official, who is responsible for certification and submission of the recipient's quarterly report. Preparers are only permitted to enter data into the required fields and validate entries once completed. Authorizing officials are responsible for reviewing and certifying the information prior to submission within the portal. Accordingly, these individuals will be granted user permissions in the GrantSolutions portal.

Once a report submission is complete, the Treasury OIG will review the submission to ensure that the prime recipient has reported all required information and accounted for the current period's obligations, expenditures, and loan payments, among other information. The Treasury OIG will approve final submissions that are determined to be complete. After approval of the prime recipient's report, certain data fields that do not change will be carried forward to reduce reporting burden in future quarters. All prime recipient data will be captured on a quarterly and cumulative basis.

Reporting Timeline

By no later than September 21, 2020, the prime recipient's authorizing official shall certify and submit via the GrantSolutions portal the first detailed quarterly report, which shall cover the period of March 1 through June 30, 2020. Thereafter, quarterly reporting will be due no later than 10 calendar days after the end of each calendar quarter. If the 10th calendar day falls on a weekend or a Federal holiday, the due date will be the next working day. For example, the period July 1 through September 30, 2020, must be reported no later than Tuesday, October 13, 2020 (considers that the 10th calendar is on a weekend and the following Monday is a Federal Holiday). The table below summarizes the quarterly reporting timeline for prime recipients of Coronavirus Relief Fund payments.

Reporting Cycle	Reporting Period	Reporting Due Date	OIG Review Period	Data Extract to PRAC
Cycle 1	3/1-6/30/2020	9/21/2020	9/22-29/2020	9/30/2020
Cycle 2	7/1-9/30/2020	10/13/2020	10/14-20/2020	10/21/2020
Cycle 3	10/1-12/31/2020	1/11/2021	1/12-20/2021	1/21/2021
Cycle 4	1/1-3/31/2021	4/12/2021	4/13-20/2021	4/21/2021
Cycle 5	4/1-6/30/2021	7/12/2021	7/13-20/2021	7/21/2021
Cycle 6	7/1-9/30/2021	10/12/2021	10/13-20/2021	10/21/2021

Reporting Preparation and Training

To prepare for the initial reporting cycle, each prime recipient should ensure that any current or potential sub-recipients are registered in SAM.gov.⁵ While each prime recipient is responsible for reporting on its sub-recipients, sub-recipient registration in SAM.gov will enable detailed sub-recipient data to be imported into the GrantSolutions portal. Therefore, the prime recipient should require that sub-recipients register with SAM.gov prior to September 1, 2020.

In anticipation of GrantSolutions portal becoming operational on September 1, 2020, training will be provided on portal access and use during the last week of August 2020.

Reporting Questions

For questions regarding eligible uses of Coronavirus Relief Fund payments, please first consult Treasury's *Guidance for State, Territorial, Local, and Tribal Governments* and Treasury's *Coronavirus Relief Fund Frequently Asked Questions* documents which are located at <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>. You may also contact Treasury OIG with questions about reporting requirements at CARES@oig.treas.gov or Monday through Friday from 8:00 a.m. to 5:00 p.m. EST, at 1 (855)-584-4853.

Thank you and we appreciate your compliance with these reporting requirements.

⁵ The System for Award Management (SAM) is an official website of the U.S. government. Entities are required to register at SAM.gov to do business with the U.S. government.

**Coronavirus Relief Fund
Frequently Asked Questions
Updated as of August 10, 2020¹**

The following answers to frequently asked questions supplement Treasury's Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, ("Guidance").² Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

A. Eligible Expenditures

1. *Are governments required to submit proposed expenditures to Treasury for approval?*

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

2. *The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the "substantially dedicated" condition?*

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

3. *The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a "substantially different use" for purposes of the Fund eligibility?*

Costs incurred for a "substantially different use" include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

¹ On August 10, 2020, these Frequently Asked Questions were revised to add Questions 49–52. The previous revision was made on July 8.

² The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

Note that a public function does not become a “substantially different use” merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

4. *May a State receiving a payment transfer funds to a local government?*

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

5. *May a unit of local government receiving a Fund payment transfer funds to another unit of government?*

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

6. *Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?*

No. For example, a county recipient is not required to transfer funds to smaller cities within the county’s borders.

7. *Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?*

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

8. *Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?*

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

9. *Are States permitted to use Fund payments to support state unemployment insurance funds generally?*

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

10. *Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?*

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

11. *The Guidance states that the Fund may support a "broad range of uses" including payroll expenses for several classes of employees whose services are "substantially dedicated to mitigating or responding to the COVID-19 public health emergency." What are some examples of types of covered employees?*

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

12. *In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers' compensation coverage. Is the cost of this expanded workers compensation coverage eligible?*

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

13. *If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?*

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

14. *May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?*

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

15. *May Fund payments be used for COVID-19 public health emergency recovery planning?*

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

16. *Are expenses associated with contact tracing eligible?*

Yes, expenses associated with contact tracing are eligible.

17. *To what extent may a government use Fund payments to support the operations of private hospitals?*

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

18. *May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?*

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

19. *May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?*

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

20. *Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?*

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

21. *May recipients create a “payroll support program” for public employees?*

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

22. *May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?*

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

23. *May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?*

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

24. *The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a “small business,” and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?*

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

25. *The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?*

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

26. *May Fund payments be used to assist impacted property owners with the payment of their property taxes?*

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

27. *May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?*

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

28. *Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?*

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

29. *The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of “hazard pay”?*

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

30. *The Guidance provides that ineligible expenditures include “[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” Is this intended to relate only to public employees?*

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers’ employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

31. *May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?*

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

32. *Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?*

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

33. *Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?*

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

34. *May a State impose restrictions on transfers of funds to local governments?*

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

35. *If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?*

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

36. *May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?*

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

37. *Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?*

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

38. *May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?*

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

39. *May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?*

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

40. *May recipients use Fund payments to provide loans?*

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

41. *May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?*

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

42. *May funds be used to satisfy non-federal matching requirements under the Stafford Act?*

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

43. *Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?*

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

44. *May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?*

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

45. *May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?*

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

46. *May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?*

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

47. *The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?*

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

48. *May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?*

The statute requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As stated in the Guidance, a cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.

49. *Are States permitted to use Coronavirus Relief Fund payments to satisfy non-federal matching requirements under the Stafford Act, including “lost wages assistance” authorized by the Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (August 8, 2020)?*

Yes. As previous guidance has stated, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund’s eligibility criteria and the Stafford Act. States are fully permitted to use payments from the Fund to satisfy 100% of their cost share for lost wages assistance recently made available under the Stafford Act.

50. *At what point would costs be considered to be incurred in the case of a grant made by a State, local, or tribal government to cover interest and principal amounts of a loan, such as might be provided as part of a small business assistance program in which the loan is made by a private institution?*

A grant made to cover interest and principal costs of a loan, including interest and principal due after the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”), will be considered to be incurred during the covered period if (i) the full amount of the loan is advanced to the borrower within the covered period and (ii) the proceeds of the loan are used by the borrower to cover expenses incurred during the covered period. In addition, if these conditions are met, the amount of the grant will be considered to have been used during the covered period for purposes of the requirement that expenses be incurred within the covered period. Such a grant would be analogous to a loan provided by the Fund recipient itself that incorporates similar loan forgiveness provisions. As with any other assistance provided by a Fund recipient, such a grant would need to be determined by the recipient to be necessary due to the public health emergency.

51. *If governments use Fund payments as described in the Guidance to establish a grant program to support businesses, would those funds be considered gross income taxable to a business receiving the grant under the Internal Revenue Code (Code)?*

Please see the answer provided by the Internal Revenue Service (IRS) available at <https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions>.

52. *If governments use Fund payments as described in the Guidance to establish a loan program to support businesses, would those funds be considered gross income taxable to a business receiving the loan under the Code?*

Please see the answer provided by the IRS available at <https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions>.

B. Questions Related to Administration of Fund Payments

1. *Do governments have to return unspent funds to Treasury?*

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

2. *What records must be kept by governments receiving payment?*

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

3. *May recipients deposit Fund payments into interest bearing accounts?*

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

4. *May governments retain assets purchased with payments from the Fund?*

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

5. *What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?*

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

6. *Are Fund payments to State, territorial, local, and tribal governments considered grants?*

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are "other financial assistance" under 2 C.F.R. § 200.40.

7. *Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?*

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

8. *Are Fund payments subject to other requirements of the Uniform Guidance?*

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

9. *Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?*

Yes. The CFDA number assigned to the Fund is 21.019.

10. *If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients' total funding received from the federal government for purposes of the Single Audit Act?*

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

11. *Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?*

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

12. *If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?*

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance.