

## OCCARESGrant Agreement

This OCCARESGrant Program Agreement dated this 4th day of August, 2020 between the County of Ocean (County) located at Administration Building, 101 Hooper Avenue, Toms River, New Jersey 08753 and Barnegat Township (Municipality) located at 900 W. Bay Avenue, Barnegat, NJ 08005 New Jersey.

WHEREAS, the United States of America, the State of New Jersey, County and the Municipality have become victims of the COVID-19 Virus and the Pandemic (the "Coronavirus"); and

WHEREAS, the Coronavirus has caused economic damage and hardship to states, counties, and municipalities throughout the United States of America; and

WHEREAS, on March 27, 2020 the Coronavirus Aid Relief and Economic Security Act (the "CARES Act") was signed by President Donald J. Trump; and

WHEREAS, the CARES Act was enacted, among other purposes, in order to combat the economic damage caused to states, counties, and municipalities because of the Coronavirus; and

WHEREAS, the County has received CARES Act funds from the United States Treasury (the "Stimulus Funds") to be used to reimburse the County, County Agencies, and Municipalities located within the County due to economic damage caused to them by the Coronavirus; and

WHEREAS, as the recipient of the Stimulus Funds it will be the responsibility of the County to disburse the Stimulus Funds to eligible recipients in accordance with the terms and provisions of the CARES Act and any guidelines or regulations issued by the United States government or any of its agencies and/or departments.

WHEREAS, the Board of Chosen Freeholders have determined that it is in the best interest of the citizens of the County to dedicate a portion of the funding to reimburse municipalities for COVID-19 related costs and expenses through the OCCARESGrant program.

NOW THEREFORE, it is stipulated and agreed as follows:

**1. Purpose of Stimulus Funds.** The Municipality understands and agrees that its eligibility for the receipt of any Stimulus Funds shall be determined by the terms of the

“Coronavirus Relief Fund – Guidance for State, Territorial, Local and Tribal Governments in the attachments listed below:

Attachment A – Coronavirus Relief Fund Guidance 4/22/2020

Attachment B – Coronavirus Relief Fund Guidance Updated 6/30/2020

Attachment C – Coronavirus Relief Fund/U.S. Treasury Reporting and Record Retention Requirements 7/2/2020

Attachment D – Coronavirus Relief Fund FAQ 7/8/2020

Attachment E – Coronavirus Relief Fund OCCAREsgrant Ineligible Costs & Excluded Costs

**2. Role of County.** As the recipient of the Stimulus Funds, it shall be the responsibility of the County to act as an intermediary and establish a reasonable process for the Municipality to submit an eligible reimbursement from the Stimulus Funds. The Municipality agrees and understands that the decision as to the eligibility for reimbursement sought by the Municipality is within the sole discretion of the County.

**3. Use of Stimulus Funds.** The Municipality understands that the Stimulus Funds represent an amount of funds which the County has received from the Federal Government for response and mitigation for COVID-19 related expenses. The Board of Chosen Freeholders have determined that it is in the best interest of the citizens of the County that municipalities be permitted to request reimbursement which meets the eligibility requirements established by the CARES Act and the Federal Guidelines.

**4. Processing of Claims.** The County shall accept and process claims for reimbursement. Municipalities are required to submit to FEMA initially for Category B Emergency Protective Measures Eligible Costs, such as personal protection equipment, PPE, sanitizing supplies, and overtime to name a few. The County will reimburse the municipality for the 25% non-federal costs as approved by FEMA. Costs **NOT** approved by FEMA can be resubmitted to OCCAREsgrant for consideration. All requests for expenditure reimbursement must be submitted to the County (using the forms and process as prescribed by the County) on a cost reimbursement basis.

**5. Non-Liability of the County.** The Municipality understands that the County cannot guarantee that a claim for reimbursement is eligible for payment nor that any claims for reimbursements beyond the amount of the Stimulus Funds can be paid.

**6. Indemnification by Municipality.** The Municipality acknowledges that the role of the County as to the distribution of the Stimulus Funds shall be as an intermediary. Consequently, if as the result of any audit performed by the United States Treasury Office of Inspector General and/or any other auditing agency, department or office of the United States Government, State of New Jersey, or County determines that any reimbursement made to the Municipality by the

County from the Stimulus Funds was not eligible for reimbursement, then the Municipality shall repay any ineligible reimbursement within the time mandated by the United States Treasury or the agency, department or office of the United States Government for the return of any Stimulus Funds. The Municipality shall indemnify and hold harmless the County from any claim made by the United States Office of Inspector General and/or any agency, department or office of the Government of the United States for the return of any payment received by the Municipality from the Stimulus Funds. Included in the claim for reimbursement shall be any legal fees, court costs or professional fees incurred by the County in defense of any claim made for return of any Stimulus Funds received by the Municipality.

**7. Documents Required and Preservation of Records.** Any application for reimbursement must be sufficiently documented so that the County can determine the eligibility of the claim for reimbursement. A provision is included whereby the Municipality certifies that it has not applied to the State or Federal governments or any insurer for the reimbursement of the same claim submitted to the County. The Municipality agrees that it will not destroy or discard any documents or records maintained and/or relied upon by the Municipality until December 31, 2025. The County shall have the right to make copies of any documents or records pertinent to the claim for Stimulus Funds and the Municipality shall provide the County with reasonable access to the documents and records.

**8. Funding Reimbursement and Schedule.** As the County is obligated to expend funds on or before December 30, 2020, the County will provide reimbursement for eligible expenditures incurred by participating municipalities for the period that begins March 1, 2020 and ends on November 20, 2020 using the following schedule. County anticipates disbursement funds in three phases. Fully executed agreement must be on file prior to funds being distributed.

- Phase 1.  
Expenditures: March 1, 2020 – May 31, 2020  
Due: On or before September 1, 2020
- Phase 2.  
Expenditures: June 1, 2020 – August 31, 2020  
Due: On or before October 1, 2020
- Phase 3.  
Expenditures: September 1, 2020 – November 20, 2020  
Due: On or before December 1, 2020
- Supplemental Report.



The County will permit Municipality to submit prior period expenditures not included in Phase 1 & 2 as a supplemental report. Due November 1, 2020. Ineligible FEMA costs should be resubmitted with this report.

- Participating municipalities shall ensure that all eligible expenditures are processed and paid no later than November 20, 2020.
- Final Report.  
Final report will be submitted for all expenditures. The final report must equal all submission from Phase 1, 2, 3 and the supplemental report.

The County shall review the claims for reimbursement and may make adjustments to the reimbursement based upon a determination of eligible expenditures.

Municipality understands that availability of funds is contingent upon appropriations made by funding sources external to the County, such as Federal funds, and appropriations by the County Board of Chosen Freeholders. If, at any time, the County determines that federal, state or local funds are insufficient to sustain existing or anticipated spending levels, the County may reduce, suspend, or terminate any cash, reimbursements, other payments, or allocations of funds provided by the County to Municipality, or other form of financial assistance as the County determines appropriate. If funding sources external to the County such as Federal funds, or the County Board of Chosen Freeholders fail, at any time, to continue funding the County for the payments due under this Agreement, the Agreement will be terminated as of the date funding expires, without further obligation of the County.

Because there is only a finite amount of Federal funding, a pro rata allocation may be required. Municipality understands that the availability of funds is based on the total County-wide apportionment of funds resulting from cost based reimbursement claims reported by each municipality participating in this program as well as cost based reimbursement claims incurred by the County. Depending on the total amount of cost based reimbursement claims, the County may find it necessary to reapportion funds to each participating Municipality to ensure that the total cost based reimbursement does not exceed the total amount of funds available under this program.

**9. Subsequent Funds.** Should the County be in receipt of any additional funds provided by the United States Government and/or the State of New Jersey to combat the Coronavirus for which the Municipality may be eligible to receive payment, at the discretion of the County, the terms and provisions of this Agreement shall apply to the disposition and processing of those claims.



**10. Compliance with Federal Law and New Jersey Law.** The Municipality acknowledges that the Stimulus Funds are subject to the oversight of the United States government and its agencies. Consequently, in incurring expenses for which reimbursements will be sought from the Stimulus Funds, the Municipality shall adhere to the procedures established by the Federal government. Additionally, the Municipality shall, when incurring any expenses for which reimbursement is sought, adhere to all New Jersey purchasing and procurement laws and regulations.

As a sub-recipient of federal funds, Municipality hereby specifically acknowledges its obligations relative to the expenditure reimbursement provided under this Agreement and pursuant to Federal cost principles, 2 CFR Part 200, "Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards", as applicable under other federal, state and local laws, including, but not limited to:

- a. Fiscal and account procedures;
- b. Accounting records;
- c. Internal control cover cash, real and personal property, and other assets;
- d. Budgetary control to compare actual expenditures or outlays to budgeted amounts;
- e. Source documentation; and
- f. Cash management.

**11. Applicable Law and Attorney Fees.** Any action for the enforcement of any term or provision of this Agreement shall be governed by the law of the State of New Jersey and shall be filed in the Superior Court of the State of New Jersey, Ocean County Vicinage.

**12. Duration of Agreement.** This Agreement shall begin on the date first written and shall continue until either party terminates it upon thirty (30) days written notice, the depletion of the Stimulus Funds, or the end of the program period, whichever event occurs sooner.

**13. Approval.** By signing below the individual signing this Agreement represents that this Agreement has been approved and ratified by the governing body of the party signing it.

**14. Counterparts.** This Agreement may be fully executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one agreement binding upon all parties, notwithstanding that all parties have not signed the

same counterpart. Such executions may be transmitted to the parties electronically or by facsimile, and such electronic or facsimile execution shall have the same force and effect as an original signature.

**15. Notices.** Any notices that are provided pursuant to this Contract shall be in writing (including facsimile and electronic transmissions) and mailed or transmitted or delivered as follows:

**To the County:**

County of Ocean  
101 Hooper Avenue  
PO Box 2191  
Toms River, NJ 08754  
ATTN: Julie N. Tarrant  
Email: [OCCARESGrant@co.ocean.nj.us](mailto:OCCARESGrant@co.ocean.nj.us)  
Fax: 732-506-5129

**To the Municipality:**

Municipality: Township of Barnegat  
Name: Thomas Lombarski, CFO  
Address: 900 W. Bay Avenue, Barnegat NJ 08005  
Email: [TomL@barnegat.net](mailto:TomL@barnegat.net)  
Fax: 609-698-3806

**16. Severability.** If any part of this Agreement is declared unenforceable or invalid, the remainder of the Agreement will continue in full force and effect.

**17. Force Majeure.** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached the Agreement, for the delay in performance of this Agreement when and to the extent such failure or delay is caused by acts beyond the parties' control.

**18. Amendment.** This Agreement cannot be modified in any way except in writing signed by both parties to the Agreement.

**19. Assignment.** This Agreement will not be assignable by "Municipality" in whole or in part without the prior written consent of the "County."

IN WITNESS WHEREOF, the parties have signed and sealed this Agreement on the date set forth above.

ATTEST:

COUNTY OF OCEAN

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ATTEST:

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Municipal Clerk

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Pat Pipi, Barnegat Township Deputy Mayor



# Attachment A

## Coronavirus Relief Fund

### Guidance 4/22/2020

**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.<sup>1</sup>

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

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<sup>1</sup> 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 expenditures<sup>2</sup>*

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.<sup>3</sup>
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.

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<sup>2</sup> 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.

<sup>3</sup> 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 B

Coronavirus Relief Fund

Guidance Updated 6/30/2020



**Coronavirus Relief Fund**  
**Guidance for State, Territorial, Local, and Tribal Governments**  
**Updated June 30, 2020<sup>1</sup>**

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.<sup>2</sup>

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

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

<sup>2</sup> 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 expenditures<sup>3</sup>*

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.<sup>4</sup>
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.

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<sup>3</sup> 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.

<sup>4</sup> See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

# Attachment C

## Coronavirus Relief Fund

U.S. Treasury Reporting and Record  
Retention Requirements 7/2/2020



OFFICE OF  
INSPECTOR GENERAL

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

July 2, 2020

OIG-CA-20-021

**MEMORANDUM FOR      CORONAVIRUS RELIEF FUND RECIPIENTS**

FROM:                      Richard K. Delmar /s/  
Deputy Inspector General

SUBJECT:                Coronavirus Relief Fund Reporting and Record Retention  
Requirements

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 115-136), provides that the Department of the Treasury (Treasury) Office of Inspector General (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)). Accordingly, we are providing recipient reporting and record retention requirements that are essential for the exercise of these responsibilities, including our conduct of audits and investigations.

**Reporting Requirements and Timelines**

Each prime recipient of Coronavirus Relief Fund payments<sup>1</sup> shall report Coronavirus Disease 2019 (COVID-19) related "costs incurred" during the "covered period"<sup>2</sup> (the period beginning on March 1, 2020 and ending on December 30, 2020), in the manner of and according to the timelines outlined in this memorandum. As described below, each prime recipient shall report interim and quarterly data and other recipient data according to these requirements. Treasury OIG is working on development of a portal with GrantSolutions<sup>3</sup> that is expected to be operational on

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<sup>1</sup> Prime recipients include all 50 States, Units of Local Governments, the District of Columbia, U.S. Territories, and Tribal Governments that received a direct payment from Treasury in accordance with Title V.

<sup>2</sup> Refer to Treasury's guidance dated June 30, 2020 for more information on costs incurred and the covered period.

<sup>3</sup> A grant management service provider under the U.S. Department of Health and Human Services.

September 1, 2020, for recipients to report data on a quarterly basis. Until the GrantSolutions portal is operational, each prime recipient shall follow the interim reporting requirements. Treasury OIG will notify each prime recipient when GrantSolutions is operational or of any changes to the expected September 1, 2020 start date.

#### Interim Reporting for the period March 1 through June 30, 2020

**By no later than July 17, 2020**, each prime recipient is responsible for reporting costs incurred during the period March 1 through June 30, 2020. For this interim report, prime recipients need only report totals by the following broad categories:

- a. Amount transferred to other governments;
- b. Amount spent on payroll for public health and safety employees;
- c. Amount spent on budgeted personnel and services diverted to a substantially different use;
- d. Amount spent to improve telework capabilities of public employees;
- e. Amount spent on medical expenses;
- f. Amount spent on public health expenses;
- g. Amount spent to facilitate distance learning;
- h. Amount spent providing economic support;
- i. Amount spent on expenses associated with the issuance of tax anticipation notes; and
- j. Amount spent on items not listed above.

Recipients should consult Treasury's guidance and Frequently Asked Questions in reporting costs incurred during the period March 1 through June 30, 2020. The total of all categories must equal the total of all costs incurred during that period. A spreadsheet is attached for your use in providing the data. As discussed below, the prime recipient will be required to report information for the period March 1 through June 30, 2020 into GrantSolutions once it is operational.

Interim reporting information should be submitted to [CARES@oig.treas.gov](mailto:CARES@oig.treas.gov)

#### Quarterly Reporting

Each prime recipient of Coronavirus Relief Fund payments shall report COVID-19 related costs into the GrantSolutions portal. Data required to be reported includes, but is not limited to, the following:

1. the total amount of payments from the Coronavirus Relief Fund received from Treasury;
2. the amount of funds received that were expended or obligated for each project or activity;



3. a detailed list of all projects or activities for which funds were expended or obligated, including:
  - a. the name of the project or activity;
  - b. a description of the project or activity; and
4. detailed information on any loans issued; contracts and grants awarded; transfers made to other government entities; and direct payments made by the recipient that are greater than \$50,000.

The prime recipient is responsible for reporting into the GrantSolutions portal information on uses of Coronavirus Relief Fund payments.

**Recipient Portal Access:** For future quarterly reporting, each prime recipient will have GrantSolutions portal access for three (3) individuals: two (2) designees (preparers) to input quarterly data and one (1) official authorized to certify that the data is true, accurate, and complete.<sup>4</sup> **By no later than July 17, 2020**, please provide the name, title, email address, phone number, and postal address of these individuals via email to [CARES@oig.treas.gov](mailto:CARES@oig.treas.gov), so that portal access can be granted. After this information is received, guidance on the GrantSolutions portal access and data submission instructions will be issued separately.

#### Reporting timeline

**By no later than September 21, 2020**, recipients shall submit via the portal the first detailed quarterly report, which shall cover the period March 1 through June 30, 2020. Thereafter, quarterly reporting will be due no later than 10 days after each calendar quarter. For example, the period July 1 through September 30, 2020, must be reported no later than October 13, 2020 (Tuesday after the 10<sup>th</sup> day of October and the Columbus Day Holiday). Reporting shall end with either the calendar quarter after the COVID-19 related costs and expenditures have been liquidated and paid or the calendar quarter ending September 30, 2021, whichever comes first.

#### Record Retention Requirements

Recipients of Coronavirus Relief Fund payments shall maintain and make available to the Treasury OIG upon request all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)), which provides:

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<sup>4</sup> The certifying official is an authorized representative of the recipient organization with the legal authority to give assurances, make commitments, enter into contracts, and execute such documents on behalf of the recipient.

(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 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<sup>5</sup> during the period that begins on March 1, 2020, and ends on December 30, 2020.

Records to support compliance with subsection 601(d) may include, but are not limited to, copies of the following:

1. general ledger and subsidiary ledgers used to account for (a) the receipt of Coronavirus Relief Fund payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
2. budget records for 2019 and 2020;
3. payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
4. receipts of purchases made related to addressing the public health emergency due to COVID-19;
5. contracts and subcontracts entered into using Coronavirus Relief Fund payments and all documents related to such contracts;
6. grant agreements and grant subaward agreements entered into using Coronavirus Relief Fund payments and all documents related to such awards;
7. all documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
8. all documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
9. all internal and external email/electronic communications related to use of Coronavirus Relief Fund payments; and

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<sup>5</sup> Refer to Treasury's guidance dated June 30, 2020 for more information on the definition of costs incurred.

# Interim Report on Costs Incurred Through Coronavirus Relief Fund Proceeds

Period beginning March 1, 2020, and ending June 30, 2020

Amounts in dollars

Recipient Name

Recipient City

Recipient State

Contact person name

Contact person title

Contact person phone

Contact person email

Please provide costs incurred during this period for the following categories. Recipients should consult Treasury's guidance and Frequently Asked Questions in determining which category to place a cost incurred during the period March 1 through June 30, 2020. The total of all categories must equal the total of all costs incurred during that period.

<u>Category of spending</u>	<u>Amount</u>
Transferred to other governments	
Payroll for public health and safety employees	
Budgeted personnel and services diverted to a substantially different use	
Improvements to telework capabilities of public employees	
Medical expenses	
Public health expenses	
Distance learning	
Economic support	
Expenses associated with the issuance of tax anticipation notes	
All items not listed above	
Total	

# Attachment D

## Coronavirus Relief Fund

### FAQ 7/8/2020



**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").<sup>1</sup> 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.

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<sup>1</sup> 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.

# Attachment E

## OCCARESgrant

### Ineligible Costs & Excluded Costs

# **OC CARES Grant Act**

## **Ineligible Costs:**

- Damages covered by insurance
- Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency
- 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 States unemployment funds
- Workforce bonus other than hazard pay or overtime
- Reimbursement to donors for donated items or services
- Severance pay
- Legal settlements
- Budgetary Revenue Replacement

## **Excluded from OC CARES Grant:**

- 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
- Expenses of providing paid sick and paid family and medical leave to public employees 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