



**CITY OF NOVI CITY COUNCIL
JUNE 15, 2020**

SUBJECT: Consideration to conditionally approve, subject to finalization by City Manager and City Attorney's office, the draft inter-governmental agreement entitled "Agreement for CARES Act Allocation between Oakland County and the City of Novi."

SUBMITTING DEPARTMENT: City Manager

BACKGROUND INFORMATION:

Oakland County is charged with distributing the aid from the federal government under the CARES Act for cities, villages, and townships within the County. The expected amount is approximately \$30 million dollars, and it is expected to cover things like technology costs (i.e. laptops and server), PPE supplies, City's 25% match for FEMA's 75% coverage of the Suburban Mobile Field Hospital Security OT and those additional qualifying expenditures outlined in the attached guidance

The draft document is being submitted to Council for review and approval before it is completely finalized because the Council will not be meeting again until July 6, but we have been told by the County that time is of the essence and we do not want to delay in our administrative efforts to begin assembling the materials to submit to the County. The motion for approval does contemplate some minor edits to the document, which would need to be reviewed and approved by the City Manager and City Attorney's office.

RECOMMENDED ACTION: Approval of draft inter-governmental agreement entitled "Agreement for CARES Act Allocation between Oakland County and the City of Novi," subject to and conditioned upon receipt of a substantially similar final version from the County and final approval as to form by the City Manager and City Attorney.

**AGREEMENT FOR CARES ACT ALLOCATION BETWEEN
OAKLAND COUNTY AND
City of Novi**

This Agreement (the "Agreement") is made between Oakland County, a Municipal and Constitutional Corporation, 1200 North Telegraph Road, Pontiac, Michigan 48341 ("County"), and the City of Novi ("Public Body") 45175 10 Mile, Novi, MI 48375. County and Public Body may be referred to individually as a "Party" and jointly as "Parties".

PURPOSE OF AGREEMENT. County and Public Body enter into this Agreement pursuant to the Urban Cooperation Act of 1967, 1967 Public Act 7, MCL 124.501 *et seq.*, for the purpose of County allocating and distributing a portion of its CARES Act funds to Public Body. County has allocated a total of \$30,000,000.00 (thirty million dollars) of its CARES Act funds to be distributed to CVTs within Oakland County, which will be used to assist CVTs in meeting certain areas of need caused by the COVID-19 pandemic.

In consideration of the mutual promises, obligations, representations, and assurances in this Agreement, the Parties agree to the following:

1. **DEFINITIONS.** The following words and expressions used throughout this Agreement, whether used in the singular or plural, shall be defined, read, and interpreted as follows:
 - 1.1. **Agreement** means the terms and conditions of this Agreement and any other mutually agreed to written and executed modification, amendment, Exhibit and attachment.
 - 1.2. **Claims** mean any alleged losses, claims, complaints, demands for relief or damages, lawsuits, causes of action, proceedings, judgments, deficiencies, liabilities, penalties, litigation, costs, and expenses, including, but not limited to, reimbursement for reasonable attorney fees, witness fees, court costs, investigation expenses, litigation expenses, amounts paid in settlement, and/or other amounts or liabilities of any kind which are incurred by or asserted against County or Public Body, or for which County or Public Body may become legally and/or contractually obligated to pay or defend against, whether direct, indirect or consequential, whether based upon any alleged violation of the federal or the state constitution, any federal or state statute, rule, regulation, or any alleged violation of federal or state common law, whether any such claims are brought in law or equity, tort, contract, or otherwise, and/or whether commenced or threatened.
 - 1.3. **Confidential Information** means all information and data that County is required or permitted by law to keep confidential, including records of County' security measures, including security plans, security codes and combinations, passwords, keys, and security procedures, to the extent that the records relate to ongoing security of County as well as records or information to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs relating to ongoing security measures, capabilities and plans for responding to violations of the Michigan Anti-terrorism Act, emergency response plans, risk planning documents, threat assessments and domestic preparedness strategies.
 - 1.4. **County** means Oakland County, a Municipal and Constitutional Corporation, including, but not limited to, all of its departments, divisions, the County Board of Commissioners, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, volunteers, and/or any such persons' successors.

- 1.5. **Day** means any calendar day beginning at 12:00 a.m. and ending at 11:59 p.m.
- 1.6. **Public Body** means the City of Novi including, but not limited to, its council, its Board, its departments, its divisions, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, agents, subcontractors, attorneys, volunteers, and/or any such persons' successors.
- 1.7. **Public Body Employee** means any employees, officers, directors, members, managers, trustees, volunteers, attorneys, representatives of Public Body, licensees, concessionaires, contractors, subcontractors, independent contractors, agents, and/or any such persons' successors or predecessors (whether such persons act or acted in their personal, representative or official capacities), and/or any persons acting by, through, under, or in concert with any of the above who use or have access to the Oakland Together CVT funds provided under this Agreement. "Public Body Employee" shall also include any person who was a Public Body Employee at any time during the term of this Agreement but, for any reason, is no longer employed, appointed, or elected in that capacity. "Public Body Employee" does not include an individual resident of Public Body who receives an authorized distribution of Oakland Together CVT funds.
- 1.8. **CARES Act funds** means the money distributed to the County by the United States Department of Treasury pursuant to section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act.
- 1.9. **CVTs** means Cities, Villages, and Townships.
- 1.10. **Oakland Together CVT funds** means that portion of the CARES Act funds which the County has allocated to CVTs within Oakland County.
- 1.11. **Expenditure Submission Form** means the form which Public Body must complete and submit to the Office of the County Executive (OCE) prior to any disbursement of Oakland Together CVT funds to Public Body. A copy of the form is attached to this Agreement as Exhibit 1.
- 1.12. **OCE** means the Office of the Oakland County Executive, which includes the Chief Deputy and other Deputy County Executives.
2. **COUNTY RESPONSIBILITIES.**
 - 2.1. OCE will review Public Body's Expenditure Submission Form(s) to determine whether Public Body is eligible to receive a distribution of Oakland Together CVT funds. This determination will be in the OCE's discretion pursuant to the "Coronavirus Relief Fund Guidance for State, Territorial, Local and Tribal Government" or other guidance issued by the Federal Government. OCE may request any supporting documentation it deems necessary to fully evaluate Public Body's eligibility.
 - 2.2. If OCE determines that Public Body is eligible to receive a distribution, County will distribute the eligible amount to Public Body.
 - 2.3. County is not obligated or required to distribute any Oakland Together CVT funds to Public Body if OCE determines that Public Body is not eligible to receive the funds, or if the amount of Oakland Together CVT funds available to Public Body are not sufficient to fulfill Public Body's Expenditure Submission Form.
 - 2.4. After September 30, 2020, County will not accept any further Expenditure Submission Forms from Public Body, and County will retain the balance of any Oakland Together CVT funds for which Public Body was originally eligible, but which are not covered by an approved Expenditure Submission Form.

- 2.5. If County retains the balance of Oakland Together CVT funds not covered by an approved Expenditure Submission Form under Section 2.4, County may redistribute any or all of that amount to other eligible CVTs or as otherwise deemed appropriate by OCE.

3. **PUBLIC BODY RESPONSIBILITIES.**

- 3.1. Public Body may be eligible to receive a portion of Oakland Together CVT funds. Public Body shall complete and submit an Expenditure Submission Form to OCE and receive OCE approval prior to the receipt of any Oakland Together CVT funds.
- 3.2. Expenditure Submission Forms may be submitted on a rolling basis, and Public Body may submit more than one Expenditure Submission Form. Public Body shall submit its first Expenditure Submission Form by June 30, 2020, and any second or subsequent Expenditure Submission Form by September 30, 2020.
- 3.3. In its first Expenditure Submission Form, Public Body may only apply for Oakland Together CVT funds to pay for expenditures or programs already made by Public Body (Category One on the form), or for funds to pay Public Body's required 25% "cost share" or "local match" required to obtain a FEMA grant.
- 3.4. In a second or subsequent Expenditure Submission Form, Public Body may apply for Oakland Together CVT funds to pay for expenditures or programs to be made by Public Body (Category Two on the form).
- 3.5. Public Body shall follow all guidance established by the United States Treasury Department, and the County, when expending Oakland Together CVT funds, including, but not limited to, Section 601(d) of the Social Security Act and the "Coronavirus Relief Fund Guidance for State, Territorial, Local and Tribal Governments."¹
- 3.6. Public Body shall not submit an Expenditure Submission Form for any expense which is eligible to be covered by a FEMA (Federal Emergency Management Agency) Public Assistance Reimbursement. Public Body may use Oakland Together CVT funds to pay the required 25% "cost share" or "local match" required to obtain a FEMA grant.
- 3.7. Public Body shall only expend Oakland Together CVT funds to pay for expenses incurred due to the COVID-19 public health emergency, and which expenses were not accounted for in Public Body's most recently approved budget as of March 27, 2020.
- 3.8. Public Body shall only expend Oakland Together CVT funds for expenses incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.
- 3.9. Public Body shall not use Oakland Together CVT funds as revenue replacement.
- 3.10. Public body shall not redistribute Oakland Together CVT funds, except Public Body shall be allowed to provide direct assistance to individual residents of Public Body, and pay vendors and service providers, as permitted by the CARES Act.
- 3.11. Public Body shall not expend Oakland Together CVT funds in any manner that Public Body did not include in a submitted and approved Expenditure Submission Form.
- 3.12. If Public Body receives an amount of funding from the federal or state government to cover expenses for which Public Body received Oakland Together CVT funds, Public Body shall return that amount of Oakland Together CVT funds to County.

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

- 3.13. Public Body shall keep records of all expenditures of Oakland Together CVT funds sufficient to demonstrate that said expenditures were in accordance with the guidance documents included in Section 3.2 for a period of 10 (ten) years, at a minimum.
- 3.14. Public Body shall produce said records of expenditures upon request by County or OCE, or as required by any future audit of the CARES Act program.
- 3.15. Public Body shall submit records to OCE within 30 (thirty) days after expenditure of Oakland Together CVT funds with a detailed description of how the funds were expended and how the expenditure of funds complied with the CARES Act guidance.
- 3.16. If Public Body intends to use the Oakland Together CVT funds on a project which will require more than 30 (thirty) days to implement, Public Body shall submit a detailed progress report to OCE every 30 (thirty) days until the funds are fully expended.
- 3.17. In the event it is determined by OCE, or any other audit under the CARES Act program, that Public Body expended an amount of Oakland Together CVT funds in violation of the CARES Act requirements or this Agreement, Public Body shall be required to return that amount of money to County.
- 3.18. In any case where Public Body is required to return an amount of money to County under this Agreement, Public Body agrees that unless expressly prohibited by law, County or the Oakland County Treasurer, at their sole option, shall be entitled to set off from any other Public Body funds that are in County's possession for any reason, including but not limited to, the Oakland County Delinquent Tax Revolving Fund ("DTRF"), if applicable. Any setoff or retention of funds by County shall be deemed a voluntary assignment of the amount by Public Body to County. Public Body waives any Claims against County or its Officials for any acts related specifically to County's offsetting or retaining of such amounts. This paragraph shall not limit Public Body's legal right to dispute whether the underlying amount retained by County was actually due and owing under this Agreement.
- 3.19. Nothing in this Section shall operate to limit County's right to pursue or exercise any other legal rights or remedies under this Agreement or at law against Public Body to secure payment of amounts due to County under this Agreement. The remedies in this Section shall be available to County on an ongoing and successive basis if Public Body becomes delinquent in its payment. Notwithstanding any other term and condition in this Agreement, if County pursues any legal action in any court to secure its payment under this Agreement, Public Body agrees to pay all costs and expenses, including attorney fees and court costs, incurred by County in the collection of any amount owed by Public Body.
- 3.20. Public Body shall respond to and be responsible for Freedom of Information Act requests relating to Public Body's records, data, or other information.

4. **DURATION OF INTERLOCAL AGREEMENT.**

- 4.1. This Agreement shall be effective when executed by both Parties with resolutions passed by the governing bodies of each Party. The approval and terms of this Agreement shall be entered in the official minutes of the governing bodies of each Party. An executed copy of this Agreement and any amendments shall be filed by the County Clerk with the Secretary of State.
- 4.2. This Agreement shall remain in effect until January 31, 2021, or until cancelled or terminated by any of the Parties pursuant to the terms of the Agreement. Public Body shall comply with the record keeping, reporting, audit response, and fund return requirements of Section 3 after the termination of this Agreement if necessary.

5. **ASSURANCES.**

- 5.1. **Responsibility for Claims.** Each Party shall be responsible for any Claims made against that Party by a third party, and for the acts of its employees arising under or related to this Agreement.
- 5.2. **Responsibility for Attorney Fees and Costs.** Except as provided for in Section 3.19, in any Claim that may arise from the performance of this Agreement, each Party shall seek its own legal representation and bear the costs associated with such representation, including judgments and attorney fees.
- 5.3. **No Indemnification.** Except as otherwise provided for in this Agreement, neither Party shall have any right under this Agreement or under any other legal principle to be indemnified or reimbursed by the other Party or any of its agents in connection with any Claim.
- 5.4. **Costs, Fines, and Fees for Noncompliance.** Public Body shall be solely responsible for all costs, fines and fees associated with any misuse of the Oakland Together CVT funds and/or for noncompliance with this Agreement by Public Body Employees.
- 5.5. **Reservation of Rights.** This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity for either Party.
- 5.6. **Authorization and Completion of Agreement.** The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.
- 5.7. **Compliance with Laws.** Each Party shall comply with all federal, state, and local ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this Agreement.

6. **TERMINATION OR CANCELLATION OF AGREEMENT.**

- 6.1. County may terminate or cancel this Agreement at any time if it determines that Public Body has expended Oakland Together CVT funds in violation of CARES Act requirements or this Agreement. Either OCE or the Board of Commissioners is authorized to terminate this Agreement under this provision. If County terminates or cancels this Agreement, Public Body shall be liable to repay County the amount of money expended in violation of CARES Act requirements or this Agreement. County may utilize the provisions in Sections 3.17 – 3.19 to recoup the amount of money owed to County by Public Body.
- 6.2. Public Body may terminate or cancel this Agreement at any time if it determines that it does not wish to receive any Oakland Together CVT funds. If Public Body terminates or cancels this Agreement, it shall immediately return to County any and all Oakland Together CVT funds it has already received.
- 6.3. If either Party terminates or cancels this agreement they shall provide written notice to the other Party in the manner described in Section 13.

7. **DELEGATION OR ASSIGNMENT.** Neither Party shall delegate or assign any obligations or rights under this Agreement without the prior written consent of the other Party.

8. **NO THIRD-PARTY BENEFICIARIES.** Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or

benefit, right to indemnification, right to subrogation, and/or any other right in favor of any other person or entity.

9. **NO IMPLIED WAIVER.** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.
10. **SEVERABILITY.** If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.
11. **PRECEDENCE OF DOCUMENTS.** In the event of a conflict between the terms and conditions of any of the documents that comprise this Agreement, the terms in the Agreement shall prevail and take precedence over any allegedly conflicting terms and conditions.
12. **CAPTIONS.** The section and subsection numbers, captions, and any index to such sections and subsections contained in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning. The numbers, captions, and indexes shall not be interpreted or be considered as part of this Agreement. Any use of the singular or plural, any reference to gender, and any use of the nominative, objective or possessive case in this Agreement shall be deemed the appropriate plurality, gender or possession as the context requires.
13. **NOTICES.** Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (i) the date of actual receipt; (ii) the next business day when notice is sent express delivery service or personal delivery; or (iii) three days after mailing first class or certified U.S. mail.
 - 13.1. If Notice is sent to County, it shall be addressed and sent to: Oakland County Executive, 2100 Pontiac Lake Rd., Waterford, MI, 48328, and the Chairperson of the Oakland County Board of Commissioners, 1200 North Telegraph Road, Pontiac, MI, 48341.
 - 13.2. If Notice is sent to Public Body, it shall be addressed to: City of Novi, 45175 10 Mile, Novi, MI 48375
14. **GOVERNING LAW/CONSENT TO JURISDICTION AND VENUE.** This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.
15. **SURVIVAL OF TERMS.** The following terms and conditions shall survive and continue in full force beyond the termination or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their nature: Definitions (Section 1); Assurances (Section 5); No Third-Party Beneficiaries (Section 8); No Implied Waiver (Section 9); Severability (Section 10); Precedence of Documents (Section 11); Governing Law/Consent to Jurisdiction and Venue

(Section 14); Survival of Terms (Section 15); Entire Agreement (Section 16), and the record keeping, reporting, audit compliance, and fund return provisions of Section 3.

16. **ENTIRE AGREEMENT.**

- 16.1. This Agreement represents the entire agreement and understanding between the Parties regarding the Oakland Together CVT funds. With regard to the Oakland Together CVT funds, this Agreement supersedes all other oral or written agreements between the Parties.
- 16.2. The language of this Agreement shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

IN WITNESS WHEREOF, Robert Gatt, Mayor, City of Novi hereby acknowledges that he/she has been authorized by a resolution of the City of Novi, a certified copy of which is attached, to execute this Agreement on behalf of Public Body and hereby accepts and binds Public Body to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
Robert Gatt, Mayor, City of Novi

WITNESSED: _____ DATE: _____
Cortney Hanson, Clerk, City of Novi

IN WITNESS WHEREOF, David Woodward, Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners to execute this Agreement on behalf of Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Agreement.

EXECUTED: _____ DATE: _____
David Woodward, Chairperson
Oakland County Board of Commissioners

WITNESSED: _____ DATE: _____
Oakland County Board of Commissioners
County of Oakland



To: Peter Auger – City Manager Novi

From: Marcus Pearson, Community Development Manager, Oakland County

Re: CARES Act Coronavirus Relief Fund – CVT Expenditure Submission Form

Oakland County Executive David Coulter, and the Oakland County Board of Commission, are pleased to make available \$30 million of the county's CARES Act allocation to local cities, villages and townships to remediate the impact of the COVID-19 pandemic in your community.

Guidelines

These funds are made available under the following guidelines:

- All expenditures must meet the guidance established by the U.S. Treasury Department, and Oakland County. (Highlight copies are attached to this memo as a pdf. The documents are also available at the following links:
[Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments](#)
[Coronavirus Relief Fund Frequently Asked Questions](#)
- All expenditures must be supported by records sufficient to demonstrate that the amount of payments from the Fund have been in accordance with section 601 (d) of the Social Security Act. The CVT must provide existing documentation and agree to participate in the production of documents required by any future audit of the CARES Act program, and funds not spent in accordance with the Act must be returned to the County.
- The CVT must agree that shall they receive direct funding from the federal or state government to cover these expenses, the county money will be returned.
- Each CVT must submit an expenditure form to the County to ensure compliance.
- These funds may be used to pay the 25% “cost share” or “local match” required to obtain FEMA Public Assistance reimbursement. The CVT shall not submit an expenditure submission form for any expense which is eligible to be covered through FEMA Public Assistance Reimbursement.
- These funds may not be re-distributed unless to assist individual residents as permitted by the CARES Act or pay for vendors or services as permitted by the CARES Act.

- The CVT and Oakland County will enter an interlocal agreement prior to disbursement of the funds.

Process for Submission and Reporting

Information Guidelines on Eligible Expenses

Attached to this memo are the U.S. Treasury guidelines and FAQs with some areas of particular interest highlighted. In addition, we have started to put together a list of questions below that we have received from local units of government that may be useful as you review your qualifying expenditures.

Zoom Meetings to Review Guidelines on Eligible Expenses.

We have scheduled a Zoom Meeting to review general guidelines and to answer specific questions. Please RSVP to me and provide questions in advance.

9:30a – 10:30p on June 11th <https://zoom.us/j/2614207143>

Phase 1: Next Steps and Timeline

Step 1 – Review materials, participate in Zoom meeting, ask your questions about eligible expenses

Step 2 - Complete Expenditure Submission Form. The form will be available online starting Thursday, June 11. I will send you a link as soon as it is live. Attached to this memo is an expenditure submission form to give you a sense of the information requested. We understand that these may need to be submitted to the County on a rolling basis, but we are setting June 30 as the first deadline. Monthly deadlines will follow.

Step 2 – County review to confirm eligibility

Step 3 – County and CVT sign interlocal agreement; Board of Commission approves

Step 4 – County disburses funds

Funding Cap Per Community

We hope to be able to accommodate all the eligible expenses within the \$30 million. Should a cap become necessary it will be based on a formula set by the Oversight Committee.

Future Phases

We understand that the process with FEMA may evolve over the next months. We also anticipate that CVTs may have future expenses that meet the eligibility requirements. We will open additional phases of the program to accommodate both areas should funding remain available.

Local FAQs (We will continue to add to this as we receive questions)

Q: May the funds be used to cover the increased cost of workers compensation.

A: Yes. I Yes. From the CARES FAQs, "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."

Q: May the funds be used to cover the cost of staff staying at home, but required to be on call for work?

A: Based on this description, there is no connection to COVID-19, and these are budgeted employees, so these costs would not be eligible. If there is additional background, please send it over for review.

Q: May the funds be used to cover the two-thirds FMLA Child Care or COVID 80 leave hours?

A: The Families First Act stipulates additional FMLA for this type of leave.

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

There is no funding for governments, however the CARES FAQs states, eligible expenditure includes, "Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions."

Q: May the funds be used for retirement incentives for employees that were subject to layoff as a result of COVID.

A: Making the case that the cost of retirement incentives are related to COVID-19 is likely to be very difficult.

Q: May the funds be used to cover IT costs, including staff, necessary to provide for teleworking?

A: Yes, the CARES Guidance states, an eligible expenses include, "Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions."

Q: May the funds be used for attorney fees to ensure compliance with health and executive orders?

A: Yes, the CARES Act includes, "Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety."

Q: May the funds be used to cover the increased cost of construction projects because of COVID?

A: Unlikely. May depend on the COVID related rationale provided by the contractor.

**Oakland Together CVT COVID Support Fund
Expenditure Submission Form**

NOTE: This is a template. Submissions will be done online.

Fund Guidelines

- Funds are only made available if the CVT has expenses that meet the requirements of the CVT COVID Fund.
- All expenditures must meet the guidance established by the U.S. Treasury Department, and Oakland County.
- The CVT shall not submit an Expenditure Submission Form for any expense which is eligible to be covered by FEMA (Federal Emergency Management Agency) Public Assistance reimbursement grant. Public body may use funds to pay the 25% “cost share” or “local match” required with FEMA reimbursement.
- These funds may not be re-distributed by the CVT unless to assist individual residents as permitted by the CARES Act or to pay vendors or service providers as permitted by the CARES Act.

Submission Information

Public Body (CVT):

Contact Name:

Contact Email:

Contact Phone:

Expenditures/Programs already made by Public Body (CVT)

Description of Expenditure/Program:

Date:

Amount:

How does the expenditure/program comply with the U.S. Treasury Guidance on CARES Act funds?

Description of financial records that will demonstrate compliance (Existing Documents may be uploaded with Submission Form)

Compliance Requirements

By submitting this Form the Public Body (CVT) affirms that it will abide by each of the following requirements when using Oakland Together CVT funds. Please check the box next to each requirement to confirm your intent to abide by these requirements:

- [] The expenditure of the funds is necessary due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); and
- [] The expenditures were not accounted for in the budget most recently approved as of March 27, 2020; and
- [] The expenditures were or will be incurred during the period that begins on March 1, 2020 and ends on December 30, 2020; and
- [] The expenditures are not being used as revenue replacement for the Public Body (CVT) to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the CARES Act Coronavirus Relief Fund.

Upon approval of this Form, the Public Body (CVT) will be provided with an Interlocal Agreement, which must be executed prior to the release of any funds, and which lists further requirements including but not limited to:

- All expenditures must be supported by records sufficient to demonstrate that the amount of payments from the Fund have been in accordance with section 601 (d) of the Social Security Act.
- The CVT must agree to participate in the production of documents required by any future audit of the CARES Act program, and funds not spend in accordance with the Act must be returned to the County.
- The CVT must agree that in the event they receive direct funding from the federal or state government to cover these expenses, the county money will be returned.

Signature of Public Body (CVT) Authorized Official

Printed Name:

Title:

Date Signed:

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.

**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.