

## Local Government FAQs

### Coronavirus Relief Fund

Section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief and Economic Security Act (“CARES Act”), appropriated \$150 billion to the Coronavirus Relief Fund (“Fund”) to cover certain costs incurred by states and local governments due to the COVID-19 pandemic. West Virginia received an allotment of \$1.25 billion from the Fund. The State intends to distribute a portion of such allotment to local governments in West Virginia in reimbursement of eligible costs. The following answers to frequently asked questions are intended to provide guidance to units of local government in West Virginia who may be eligible to receive Funds.

This document may be updated from time to time. Check back regularly for the latest information. The questions and answers contained herein are for general informational purposes only and should not be relied upon for any other purpose. This is not a legal document and has not been approved for publication by the United States Treasury (“Treasury”) or any federal agency with jurisdiction or oversight over the Fund.

Applicants should refer to the CARES Act, Treasury’s Coronavirus Relief Fund Guidance for State, Territorial, Local and Tribal Governments, dated April 22, 2020 (“Guidance”), and Treasury’s Coronavirus Relief Fund Frequently Asked Questions Updated as of May 28, 2020 (“FAQs”), as may be amended or supplemented from time to time, for legal authority.

1. Can money from the Fund be used to replace lost revenue?

No. Monies received from the Fund may only be used to cover eligible expenses related to the COVID-19 pandemic, as defined in Section 601(d) of the Social Security Act. Local governments may be reimbursed for such expenses by submitting an application and related supporting documentation to the State for review. Decisions regarding which costs will be approved for reimbursement are the responsibility of the State.

2. Will amounts received from other relief packages or other federal agencies impact the amount of Funds a local government may be eligible to receive?

Yes. Expenses that have been reimbursed or are subject to reimbursement under any federal program, including programs enacted under the CARES Act, are not eligible for reimbursement through the Fund.

3. Will Funds be made available prospectively to cover expenses a unit of local government anticipates it will incur?

Requests for disbursements of Funds for prospective expenses will be considered on a case-by-case basis. Disbursements in reimbursement of expenses already incurred are preferable to ensure as much as possible that funds are used to cover only eligible expenses and are likely to be processed more quickly.

4. Does the phrase “the budget most recently approved as of March 27, 2020” apply if the budget is later amended?

No. According to the Guidelines, 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 the government in response to the COVID-19 public health emergency.

5. Does the phrase “the budget most recently approved as of March 27, 2020” apply if the budget for the relevant fiscal period (e.g., July 1, 2020 – June 30, 2021) is enacted after March 27, 2020?

No. Neither the CARES Act, nor the Guidance or FAQs squarely address application of the CARES Act’s budget restrictions to local government budgets enacted after March 27, 2020. Until more detailed guidance is available, the State will presume such budget restrictions **do apply** to local government budgets enacted after March 27, 2020. In other words, an expense incurred under a local government budget adopted after March 27, 2020 must have been incurred in excess of a budgeted line item or for a substantially different purpose than what was intended when the budget was adopted to be eligible for reimbursement. Copies of budgets adopted in prior fiscal years may be requested to ensure no unfair budget manipulation occurs.

6. The Guidance says that funding can be used for 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.”

- a. What classes of employees can a unit of local government receive relief funds to cover payroll expenses?

Treasury’s FAQs permit the State and units of local government to presume public safety and public health employees are performing necessary functions substantially dedicated to mitigating or responding to the COVID-19 pandemic in the absence of specific information to the contrary. Therefore, unless otherwise determined by the requesting unit of local government or the State, all payroll expenses for police, fire, and EMS personnel are presumed to be expenses covered by the CARES Act and a unit of local government is permitted to receive relief funds for that expense upon submission of appropriate supporting documentation. Requests for relief funds to cover payroll expenses for other employees, or classes of employees, claimed by a unit of local government to have performed services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, shall be reviewed and determined on a case-by-case basis by the State.

- b. Do payroll expenses include salary and benefits or only salary paid to eligible employees?

Payroll expenses include all reasonable and necessary costs incurred by the unit of local government related to its payment of eligible employees for salary and benefits, including, but not limited to, insurance, retirement, and applicable tax obligations.

- c. If employees could have been furloughed but are instead repurposed to assist with duties related to response to the COVID-19 public health emergency, are those payroll expenses covered by relief funds?

Yes. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform services substantially dedicated to mitigating or responding to the COVID-19 public health emergency are eligible for reimbursement from the Fund, provided all other requirements of the CARES Act are met.

7. Can local governments use relief funds to cover unemployment and/or workers' compensation costs during/arising from the COVID-19 emergency?

Fund payments may be used to reimburse local governments for increased workers' compensation expenses incurred due to the pandemic. Unemployment insurance expenses, like payroll expenses, may be compensable from the Fund, provided all relevant criteria in the CARES Act are met.

8. Can Funds be used to assist underserved areas with necessary medical treatment or to aid in transportation to/from hospitals, nursing homes, large residential living areas, essential government buildings/services, etc.?

Treasury's Guidance provides a non-exclusive list of categories of eligible expenditures that includes expenses related to public hospitals, clinics and similar facilities, payment for emergency medical transportation, expenses related to operating public telemedicine facilities and expenses related to caring for vulnerable populations such as the elderly and homeless. Applicants should refer to the Guidance and FAQs for more detailed examples of possible eligible expenses related to providing care and treatment to the public.

9. In addition to being able to use relief funds for PPE, can a unit of local government purchase additional PPE beyond its current need to cover its projected need?

Yes. A local government may seek reimbursement of expenses incurred for increasing PPE stockpiles. Requests for disbursements of Funds in advance to acquire PPE shall be considered on a case-by-case basis. Local governments should take caution not to stockpile any equipment beyond what is reasonably necessary for responding to COVID-19.

10. To what extent may a unit of local government use Funds to make infrastructure changes to public facilities?

Expenses related to enhancing safety in public buildings are compensable so long as they are determined by the local government and the State to be reasonably necessary for responding to COVID-19. Examples of eligible expenses include costs related to enhanced sanitation and changes to enforce social distancing policies. Other categories of expenses will be reviewed on a case-by-case basis.

11. May a unit of local government purchase equipment and receive reimbursement from the Fund?

Yes, provided the expense is necessary and due to COVID-19 and otherwise meets the spending criteria under the CARES Act.

12. May a unit of local government keep equipment it purchases with Funds?

Yes, provided the expense associated with acquiring the equipment was an eligible expense. If, however, a local government disposes of such equipment prior to December 30, 2020, the proceeds from the sale may be subject to recoupment by Treasury.

13. To what extent may Funds be used to satisfy delinquent public utility bills?

Funds may not be paid directly to a public utility to provide revenue replacement resulting from shortfalls in collections. Funds may be used, however, to provide relief to fee payers, provided such relief is necessary and due to COVID-19 and the other spending rules of the CARES Act are met. Under certain circumstances, the State may make Funds available to a public utility to be disbursed at the request of and on behalf of fee payers if providing such Funds to fee payers is determined to be a necessary expenditure due to COVID-19. The State will evaluate applications for such Funds on a case-by-case basis.

14. Can Funds be used for costs associated with outside professional and consulting services?

Yes, so long as such costs are reasonable and reasonably necessary for responding to the COVID-19 pandemic. Requests for reimbursement of professional and consulting fees shall be reviewed on a case-by-case basis.