Coronavirus Relief Fund (CRF): Guide for State Sub-Recipients

DEPARTMENT OF THE ATTORNEY GENERAL
DEPARTMENT OF BUDGET & FINANCE
FRIDAY, OCTOBER 16, 2020
Overview

Eligibility

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OVERVIEW
CARES Act (116 P.L. 136) [March 27, 2020]

Coronavirus Aid, Relief, and Economic Security Act (Sec. 1)
Keeping Workers Paid and Employed Act (Title I)
Relief for Workers Affected by Coronavirus Act (Sec. 2101)
Coronavirus Aid, Relief, and Economic Security Act (Sec. 3001)
COVID-19 Pandemic Education Relief Act of 2020 (Sec. 3501)
Coronavirus Economic Stabilization Act of 2020 (Sec. 4001)

Coronavirus Relief Fund (Sec. 5001)
CARES Act Funding (millions)

- Individuals, $560.0
- Businesses (mid-size+), $500.0
- State & local governments, $339.8
- Small businesses, $377.0
- Public health, $153.5
- Education/other, $43.7
- Safety net, $26.0
Coronavirus Relief Fund (CRF)

$1.25 billion to State of Hawaii

$860M to State – Office of the Governor

$390M to Honolulu City/County
ELIGIBILITY
CRF Eligibility Requirements

CRF payments may only be used to cover costs that:

- are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
- were not accounted for in the budget most recently approved as of March 27, 2020 for the State; and
- were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.
| necessary expenditures incurred due to the public health emergency with respect to COVID-19; |
| • “Necessary”; AND |
| • “Incurred due to” COVID-19: clear connection between expenditure and COVID-19 |

| not accounted for in budget approved as of March 27, 2020 State |
| • Not funded using a line item, allotment, or allocation; OR |
| • For a “substantially different use” |

| incurred between March 1, 2020 and December 30, 2020 |
| • Fund has been expended to cover the cost, OR |
| • performance or delivery occurred but payment did not (payment expected within 90 days of the performance or delivery likely “ok”). |
Necessary Expenditures Incurred Due to COVID-19

“Incurred due to” COVID-19:

• There needs to be a *connection* between the expenditure and COVID-19: the expenditure must be for actions taken in response to COVID 19
• **Direct Costs**: expenditures for medical or public health needs related to COVID-19.
• **Indirect Costs**: economic support for COVID-19-related business closures caused by the COVID-19 pandemic.

“Necessary” Expenditures:

• The State may use reasonable judgment to determine what expenditures are necessary
Not Accounted for in Budget as of 3/27/2020

Not funded using a line item, allotment, or allocation in the approved budget as of March 27, 2020; OR

It is for a substantially different use, which may include:

- Redeployment of educational staff to develop online teaching capability, but not for online teaching
- Redeployment of correctional officers for enhanced tasks necessitated by COVID-19
- Redeployment of law enforcement for quarantine enforcement
Cost Incurred Between 3/1/2020 – 12/30/2020

- Funds expended during this period; OR
- Performance or delivery occurred during this period but payment did not
  - No prepayments on contracts “to the extent that doing so would not be consistent with its ordinary course policies and procedures.” (FAQ #31)
  - Payment expected within 90 days of the performance or delivery likely “ok” (Guidance p.2)
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 and appropriated $150 billion to the Fund. Under the CARES Act, the Fund is to be used for payments specified for States and certain local governments; the District of Columbia; Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, 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 caused by 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.

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

A. Eligible Expenditures

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

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

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

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

Yes
Necessary?
Yes
A line item, allotment or allocation in budget as of 3/27/2020?
Yes
Substantially different use?
Yes
Goods/services Received by 12/30?
Yes
Paid for or to be paid in 90 day?
Yes
ELIGIBLE

No

No

Not permitted unless prepayment is “consistent with...ordinary course policies and procedures.”

No

No

No

No
Return of Ineligible & Unspent Funds

Funds used on ineligible expenditures are to be return to US Treasury

- Amount of CRF funds that have not been used in a manner consistent with section 601(d) of the Social Security Act maybe recouped by the Inspector General of the Department of the Treasury. (Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act)

Funds not spent by 12/30/2020 are to be returned

- If a government has not used the CRF funds it has received to cover costs that were incurred by December 30, 2020, those funds must be returned to the Department of the Treasury.
ELIGIBILITY DETERMINATION

Eligibility analysis are highly
• Fact-Specific
• Detail-Dependent

Get Advice from
• Your department’s deputy AGs
• B&F OFAM

Who is the “final arbiter” on eligibility questions?
Q&A re: Necessary Expenditures Incurred Due to COVID-19

Would a broadband telehealth project that could and would be delivered before 12/30/20 and was for COVID treatment (along with other illness) and would last and be used and useful well after 12/30/20 be eligible for CRF?

Will technology type purchases such as laptops for teleworking or equipment used for security operations such as tasers possibly be eligible through CRF?

Indirect Costs:
- Are there guidelines to determine/calculate indirect cost?
- Are indirect costs allowed to be paid from CRF monies? There appears to be some inconsistencies among various states in addressing indirect costs. Even in Hawaii, there are inconsistencies regarding whether indirect costs can be covered by CRF funds. What is the State's position on whether indirect costs can be paid from CRF funds?
- If indirect costs can be covered by CRF funds, can the 10% de minimis approach be utilized?
- Are a contractor's indirect expenses allowable under CRF? If so, is 10% of direct expenses an acceptable amount (as it is acceptable in other federal grants).
- If indirect costs can be covered by CRF funds, can the 10% de minimis approach be utilized?
Q&A re: Not Accounted for in Budget as of 3/27/2020

What kind of support is needed to charge current employee time that are not substantially dedicated but are substantially different?

Is the employee in a unit that can be presumed to be “substantially dedicated” to COVID?  
Yes  
No

Has the employee spent more than 50% time on COVID?  
Yes  
No

Has the employee spent more than 50% time on COVID?  
Yes  
No

Entire payroll from March to September 2020 covered

Hours spent on COVID may be covered

No coverage
Q&A re: Cost Incurred Between 3/1/2020 – 12/30/2020

Stockpiling/Pre-Payment

◦ Can agency use CRF to "stockpile" items, e.g., testing kits specifically designed for COVID-19: Agency receives the items, and pays for the items prior to Dec. 15, but does not administer the test until 2021.

◦ A contractor's contract expires 12/15/20. Can he pre-pay for expenses up to 12/30/20 beyond the contract expiration date?

Audit Costs:

◦ Are cost for the audit services, which are usually performed after fiscal yearend, meet the 12/30/2020 cut-off requirements? The audit services would be rendered after 12/30/2020 so it would not meet the "goods and services delivered by 12/30/2020." However on page 7 of the 9/2/2020 Treasury guidance to States and Territories, monies from CRF can be used to "cover a reasonably proportionate share of the cost of audits attributable to the Fund." So are funds to cover the cost of audits resulting from CRF meet the definition of incurred even though the services will be provided and paid for after 12/30/2020?

◦ May we accrue (charge) compliance audit fees directly related to the CRF funded program completed as of 12/30/20 however the audit fieldwork will be conducted in Jan 2021 and billed in March 2021?
Fund Allocation & Spending
Fund Allocation Process

Executive Memorandum 20-04: Applies to state departments

- Department heads complete CRF Forms #1 and #2
- Authorized State Official (ASO) reviews makes recommendation
- ASO consults with Chief of Staff and other stakeholders
- Governor reviews and approves by signature
- ASO notifies department head and issues sub-award letter
- Account established for sub-award
- Fund transfer
- Fund disbursed according to plan detailed in Form CRF #1

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Form CRF-1: Request for Use of Coronavirus Relief Funds

In this form, department heads provide the following information:

- **Purpose**
- **Intended outcome**
- **Cost breakdown of the request**
- **Whether special project authorization and approval to establish and fill exempt temporary special project positions will be requested**
In this form, department heads

• Certify that they understand the eligible uses of CRF
• Designate the eligible category for their request
• Certifies that expenditures are reasonably necessary in their judgment as the official representative (‘responsible government official”) for the expenditure of CRF funds.
Reporting
# Reporting Requirements

CRF-related expenditure information required by Treasury OIG data portal

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Reference: [OIG Treasury website](https://www.oig.treas.gov)
Prime Recipients and Sub-Recipients

**Prime Recipients**

A prime recipient is an entity that received a CRF payment directly from Treasury in accordance with the CARES Act, including:

- All 50 states
- Units of local governments with populations over 500,000 that submitted required certifications to Treasury
- The District of Columbia
- U.S. Territories
- Tribal Governments

**Sub-Recipients**

For purposes of *reporting* in the GrantSolutions portal, a sub-recipient is any entity to which a prime recipient issues a contract, grant, loan, direct payment, or transfer to another government entity of $50,000 or more.
## Reporting Timeline

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Reporting Process

Departments receiving CRF
- enter required data into an Excel template

B&F’s OFAM
- reviews data for accuracy
- enters data into Treasury OIG reporting portal

DAGS
- reviews the data B&F submits
- certifies the accuracy of the data
- submits the final cycle report to OIG Treasury

OIG Treasury
- reviews the submitted information
- accepts the report
- makes data available to the public
OFAM Monthly Reports

In addition to the quarterly OIG report, the Office of Federal Awards Management produces a monthly report entitled “Coronavirus Relief Fund – Allocations and Expenditures”. This report shows all CRF allocations by department subaward, amount allocated, cash transferred, expenditure (cumulative), encumbrance, and transfer balance.

Accountability
Accountability Measures

- Department Heads required to review and understand CRF guidance.
- Attestation by Department Head that department written plans confirm with available CRF guidance, that CRF funds will only be used for CRF eligible expenditures.
- Establishment of separate appropriation account for each CRF sub-award to allow tracking of all expenditures.
- Public reporting of expenditure data through partnership with Hawai‘i Data Collaborative, posting of detailed grant-by-grant reports on www.federalawards.hawaii.gov
- Monthly report to Hawai‘i State Legislature and weekly Legislative oversight committee meetings.
- Review by Department of Attorney General of contracts to implement department CRF expenditure plans.
- Establishment of working committee in the Department of Attorney General to ensure consistency of legal advice regarding CARES fund – including CRF – expenditures.
- Establishment of fraud, waste, and reporting hotline through partnership between the State Ethics Commission and the Department of the Attorney General at antifraud.hawaii.gov (https://ethics.hawaii.gov/anti-fraud/)
Q&A re: Audit Requirements

Are a contractor's subcontractor who may receive more than $750,000 to carry out the services of the contract liable for a single audit?

If a contractor (sub-recipient) is using a subcontractor, who is responsible to determine if the subcontractor meets the Sing Audit Act?

A contractor's FY ends 6/30/20. How long are they given to conduct a single audit?
How are you monitoring for fraud/waste/abuse?
Fraud/Waste/Abuse HOTLINE

http://antifraud.hawaii.gov/
anti-fraud@hawaii.gov
587-0000

Highlight in your program!