

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

DEPARTMENT OF THE ATTORNEY GENERAL

DEPARTMENT OF BUDGET & FINANCE

FRIDAY, OCTOBER 16, 2020





Overview

Eligibility

Funding Allocation & Spending

Reporting

Accountability

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)

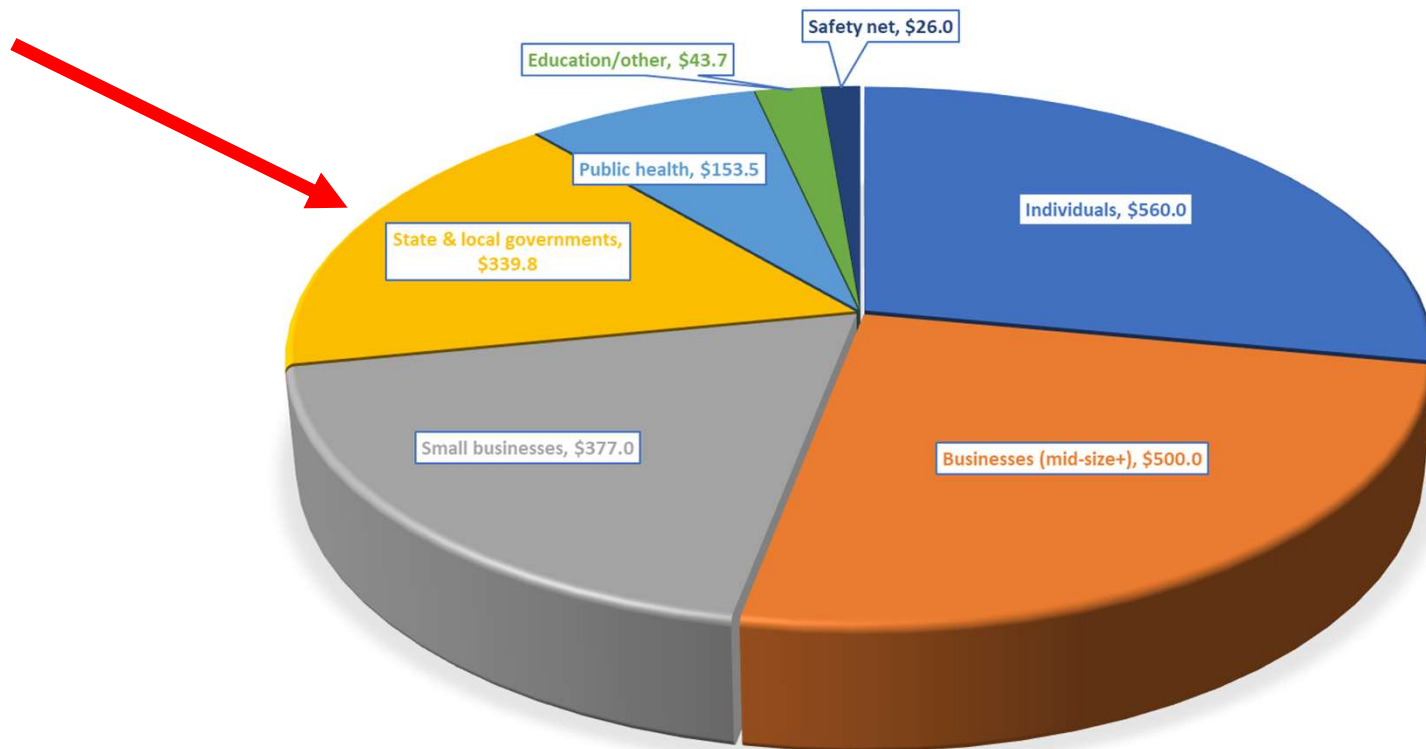
Coronavirus Aid, Relief, and Economic Security Act (Sec. 3001)

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)



Coronavirus Relief Fund (CRF)

\$1.25
billion to
State of
Hawaii

\$860M to State – Office of the
Governor

\$390M to Honolulu City/County

PROTECT
PUBLIC HEALTH

REVIVE
THE ECONOMY

STRENGTHEN
OUR COMMUNITY

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.

CARES Act Sec. 5001 under Title VI, Sec. 601 (d) Use of Funds

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*)

US TREASURY GUIDANCE & FAQ

Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments Updated September 2, 2020¹

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used for payments for specified uses to States and certain local governments; the District of Columbia; the 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 declared by the President on January 31, 2020, the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of 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 September 30, 2020.²

Coronavirus Relief Fund Frequently Asked Questions Updated as of September 2, 2020¹

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

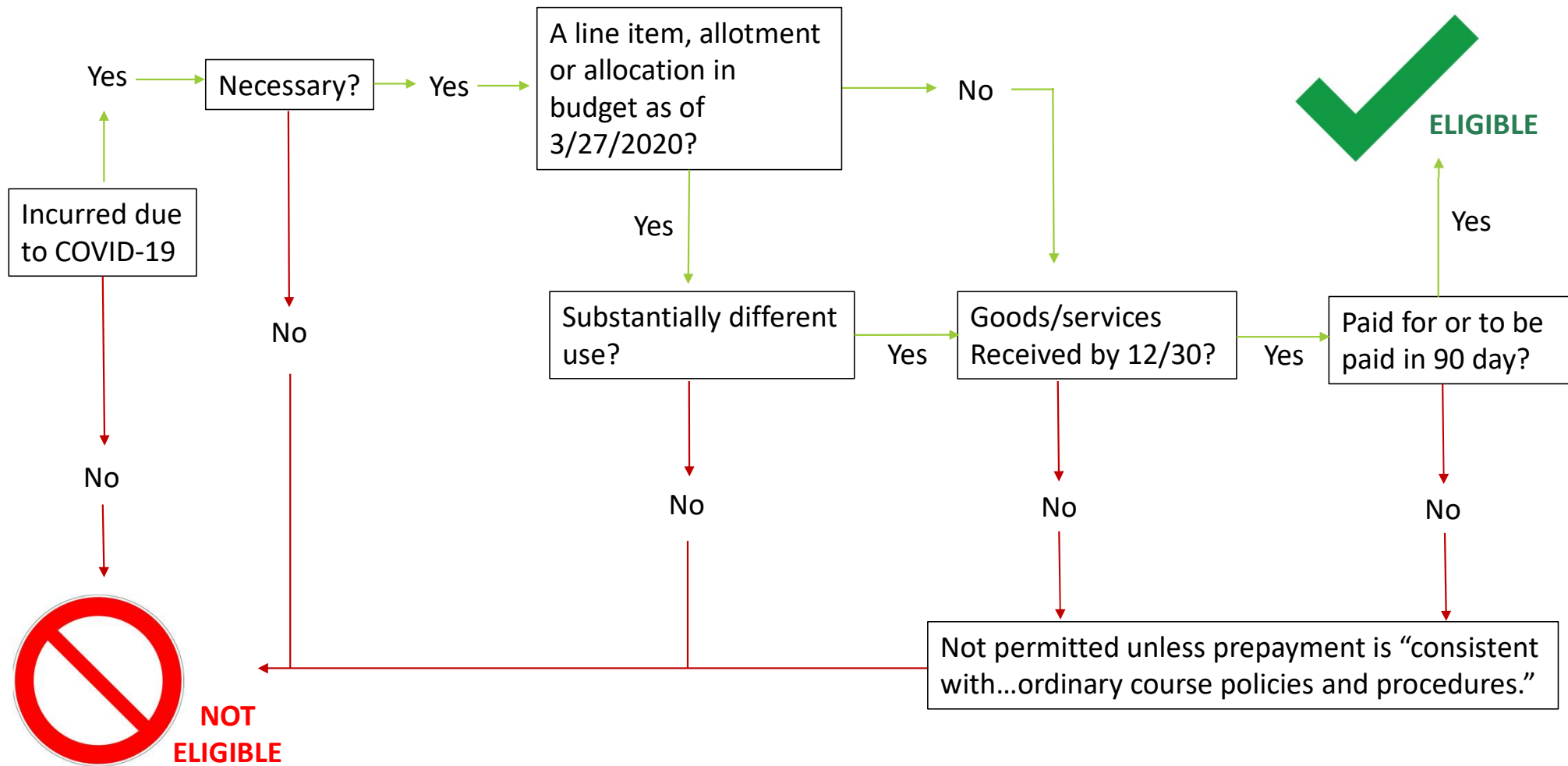
A. Eligible Expenditures

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

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

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

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



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 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?

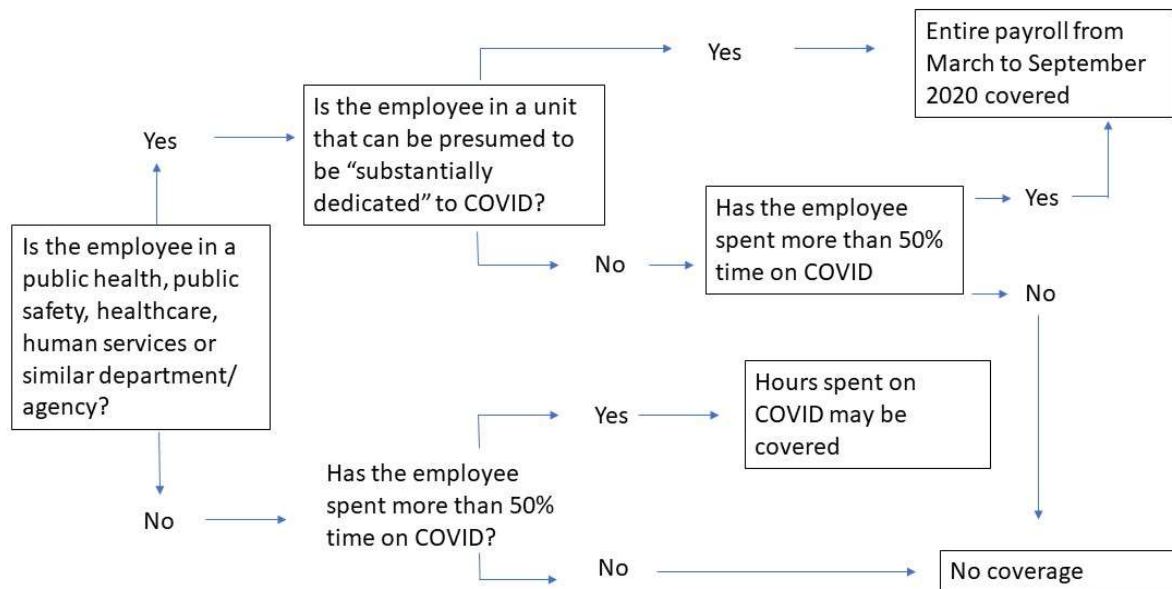
Will technology type purchases such as laptops for teleworking or equipment used for security operations such as tasers possibly be eligible through CRF?

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?



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?
-

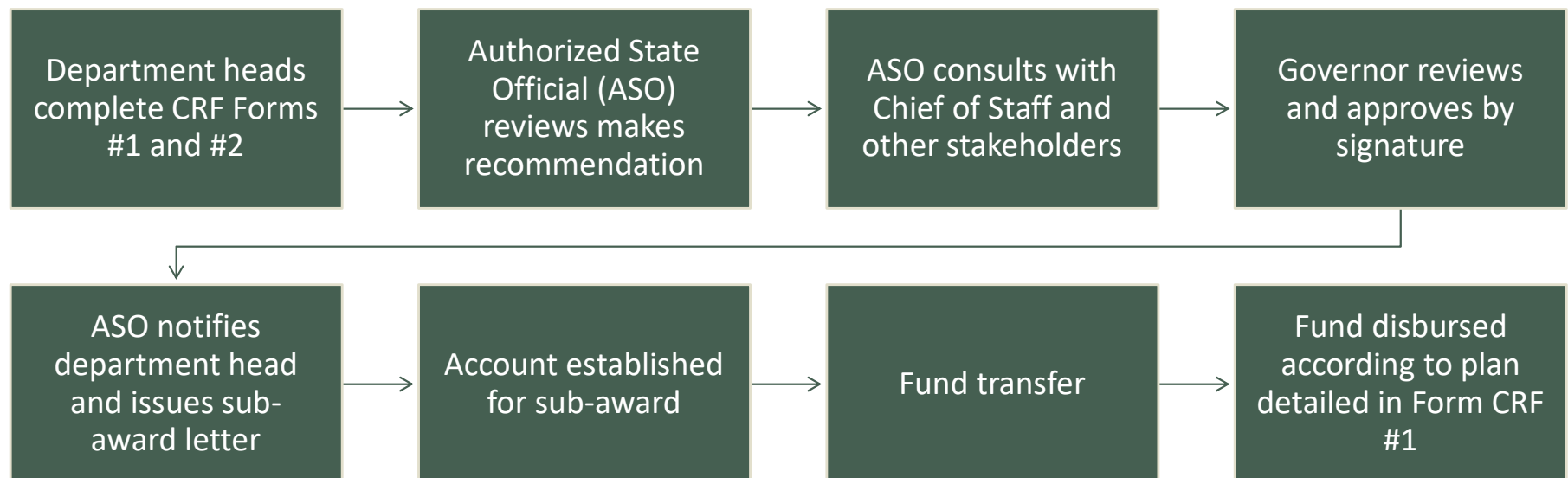
Audit Costs:

- 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**



(Date)

TO: The Honorable David Y. Ige
Governor, State of Hawai'i

FROM: (Name, Title)
(Department OR State Agency)

SUBJECT: Request for Use of Coronavirus Relief Funds

Consistent with the requirements of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), (DEPARTMENT OR AGENCY NAME) requests a \$(AMOUNT) sub-award from the Coronavirus Relief Fund (CRF).

This request qualifies as an allowable use of the CRF because the funds will be used for allowable Coronavirus Disease 2019 (COVID-19) related expenditures, as indicated on the attached "Attestation of Qualifying Coronavirus Relief Fund Expenditures" (Form CRF-2). The (DEPARTMENT OR AGENCY NAME) understands that these funds must be expended by December 30, 2020, and that any funds that are not expected to be expended by that date shall be returned by December 11, 2020.

This request is for:

(Provide request details. Indicate purpose, intended outcome, and cost breakdown of the request. If applicable, indicate if special project authorization and approval to establish and fill exempt temporary special project positions is requested.)

We will comply with the CARES Act reporting requirements as issued by the federal government.

RECOMMENDATION:

☐ APPROVAL ☐ DISAPPROVAL

AUTHORIZED REPRESENTATIVE

DATE

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

Form CRF-2: Attestation of Qualifying Coronavirus Relief Fund Expenditure

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.

Form CRF-2

ATTESTATION OF QUALIFYING CORONAVIRUS RELIEF FUND EXPENDITURES

I understand and certify the following:

I understand the Coronavirus Relief Fund (CRF) may only be used to cover expenditures that:

1. Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19).
2. Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.
3. Were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the Coronavirus Aid, Relief, and Economic Security Act), for the State.

This request qualifies as an eligible use of the CRF because the funds will be used for:

- ☐ Medical expenses.
- ☐ Public health expenses.
- ☐ Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are sustainably dedicated to mitigating or responding to the COVID-19 public health emergency.
- ☐ Actions to facilitate compliance with COVID-19-related public health measures.
- ☐ Expenses associated with the provision of economic support in connection with COVID-19.
- ☐ Other COVID-19 related expenses reasonably necessary to the function of government.

Request Details:

(Indicate purpose and intended outcome and provide a cost breakdown. If applicable, indicate if a special project and list any exempt temporary special project positions that may need to be established.)

I further certify that the expenditures are reasonably necessary for its intended use in my judgement as the official representative for the expenditure of CRF funds.

NAME _____

Reporting

Reporting Requirements

CRF-related expenditure information required by Treasury OIG data portal

Reference: [OIG Treasury website](#)

Description of Projects

Obligations and expenditures

Contracts \geq \$50,000

Grants \geq \$50,000

Loans \geq \$50,000

Transfers \geq \$50,000

Direct payments \geq \$50,000

Aggregate reporting of expenditures below \$50,000

Aggregate reporting on payments to individuals

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

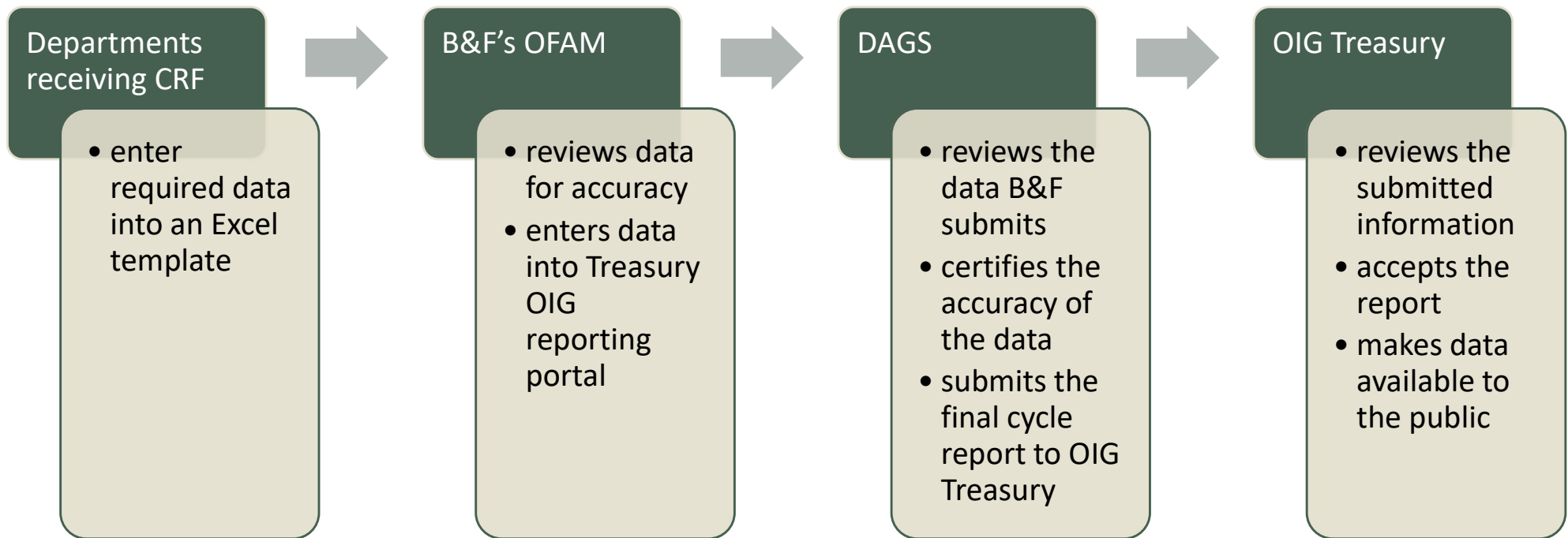
SUB-RECIPIENTS

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

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

Reporting Process



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.



<https://federalawards.hawaii.gov/featured/managing-coronavirus-federal-aid/>

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?

Lamborghinis, Strip Clubs, Bogus Companies, and Lies

The First 56 Paycheck Protection Program Fraud Cases

BY RYAN SUMMERS & NICK SCHWELLENBACH |

Small Business Stimulus Funds Are Not For Gucci And Gambling

Patrice Onwuka | September 14, 2020

3
Min



An ex-NFL player defrauded the federal small business coronavirus program of \$24 million, which he blew

Hawaii

Prominent Hawaii Defense Contractor Arrested For CARES Act Fraud

is a prolific political donor whose company,
C, has received millions of dollars in federal

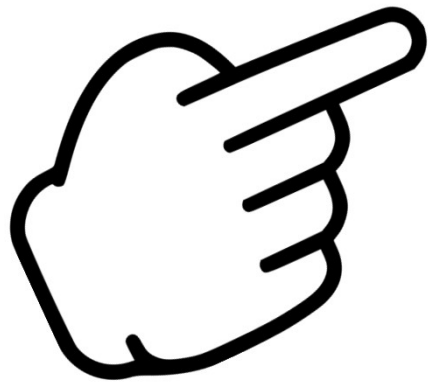


✉ / September 30, 2020



How are you monitoring
for fraud/waste/abuse?

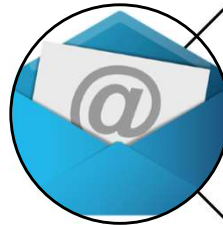
Fraud/Waste/Abuse HOTLINE



Highlight in your program!



<http://antifraud.hawaii.gov/>



anti-fraud@hawaii.gov



587-0000

<https://ag.hawaii.gov/crf-sub-recipient-guide/>

State of Hawaii
Department of the Attorney General

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Hawaii's
**FRAUD PREVENTION
AND RESOURCE GUIDE**
3rd Edition

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- CRF Sub-Recipient Guide**
- REPORT Government Fraud, Waste, Abuse
- Governor's COVID-19 Proclamations and Executive Order
- Stimulus Payment & Unemployment

AG.HAWAII.GOV