



EXECUTIVE CHAMBERS

HONOLULU

DAVID Y. IGE
GOVERNOR

May 22, 2020

EXECUTIVE MEMORANDUM

MEMO NO. 20-04

TO: All Department Heads

SUBJECT: Management of the Coronavirus Relief Fund

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136, which was signed into law on March 27, 2020, included \$150 billion for the Coronavirus Relief Fund (CRF) to provide direct assistance to state and local governments. The State of Hawai'i was allocated \$862,823,978, which has been drawn down from the U.S. Treasury.

These funds are an important resource for Hawai'i's response to the Coronavirus Disease 2019 (COVID-19) public health emergency. This memorandum provides a framework for the expenditure of these funds.

Strategy for the Use of the CRF

The Office of the Governor (GOV) will determine the overall strategy for the use of the CRF and identify priority uses of the funds based on public need and allowable uses as provided in the CRF Guidance issued by the U.S. Treasury.

Allowable Uses of the CRF

The CARES Act requires that funds from the CRF be used to cover expenditures that:

1. Are necessary expenditures incurred due to the public health emergency with respect to COVID-19.
2. Were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act), for the State or government.
3. Are incurred during the period beginning on March 1, 2020, and ending on December 30, 2020.

The U.S. Treasury guidance on eligible uses of the CRF and Frequently Asked Questions are attached.

Roles and Responsibilities

- The Governor is responsible for the management of the CRF as the prime recipient of the funds.
- Ms. Rona Suzuki, Director of the Department of Taxation, has been designated by the Governor as the “Authorized State Official” for the award.
- The Department of Budget and Finance (B&F) will work with the Department of Accounting and General Services (DAGS) to handle the accounting and fiscal transactions to disburse the funds for approved requests. Deputy Director Robert Yu is the B&F contact for the CRF.
- B&F will assist GOV to meet federal reporting requirements for the CRF as provided in the CARES Act.
- Heads of departments that receive funds from the CRF are responsible for the management and appropriate expenditure of allocated sub-awards.

Request for Use of the CRF

Departments may request the use of the CRF using Form CRF-1 and shall attest to the proper use of the funds using Form CRF-2. Both forms shall be sent directly to GOV, Attn: Ms. Rona Suzuki. The request shall be subject to the approval of the Governor or Authorized State Official.

Disbursement of CRF Funds

Upon approval, both forms shall be sent to the Director of Finance. The approved Form CRF-1 shall authorize the disbursement of CRF funds to the respective department. A unique CRF appropriation account will be established by B&F, in coordination with DAGS, from which the authorized department shall expend.

- Disbursement of CRF funds to a State department:

The authorized department must use the assigned CRF appropriation account to manage the funds. If a department receives more than one allocation for unique purposes, the department shall assign a project number to each allocation to track expenditures from the department’s CRF appropriation account.

Reporting Requirements

B&F and DAGS will issue guidance to State departments to meet the CARES Act reporting requirements after the requirements are issued by the federal government.

Due Date

All requests for use of the CRF shall be submitted to GOV by June 5, 2020.

Your continued efforts towards our State's response to COVID-19 are very much appreciated. This is a huge challenge, but we can get through this by being innovative and continuing to work together.

/s/

David Y. Ige
Governor, State of Hawai'i

Attachments

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
April 22, 2020**

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 Inspector General of the Department of the Treasury of amounts received from the Coronavirus Relief Fund (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.

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 Inspector General if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

May governments retain assets purchased with these funds?

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 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.

(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

Request for Coronavirus Relief Funds
(Department OR State Agency)
(Date)
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APPROVED

DISAPPROVED

DAVID Y. IGE
Governor, State of Hawai'i

DATE

Attachment (Form CRF-2)

c: Craig K. Hirai, Director
Curt T. Otaguro, Comptroller

**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

TITLE

DEPARTMENT OR AGENCY NAME

SIGNATURE

DATE