



**CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010443 FOR
SKILLED NURSING FACILITIES (SNF) ELIGIBLE MEDICAL EXPENSES**

This Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant Agreement for Acute Skilled Nursing Facilities (SNF) Eligible Medical Expenses (Agreement) is made and entered into on October 20, 2020 (Effective Date) between «Legal_Name» (Subrecipient), with a place of business at «Address», and the County of Orange, a political subdivision of the State of California (County), through its Health Care Agency (Administrator), with a place of business at 405 W. 5th St., Ste. 600, Santa Ana, CA 92701. Subrecipient and County may hereinafter sometimes be referred to individually as “Party” or collectively as “Parties”.

ATTACHMENTS

This Agreement is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Agreement:

Attachment A – Scope of Work

Attachment B – Funding Allocation and Payment Methodology

Attachment C – Additional Funding Regulations

Attachment 1 to Attachment C – Byrd Anti-Lobbying Certification

Attachment D – Guidance for State, Territorial, Local, and Tribal Governments updated September 2, 2020

Attachment E – Coronavirus Relief Fund Frequently Asked Questions Updated as of September 2, 2020

Attachment F - County of Orange CARES Act Certification – 4.13.20

Attachment G – Coronavirus Relief Fund Reporting and Record Retention Requirements dated July 2, 2020

Attachment H – Department of the Treasury Office of Inspector General Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping

RECITALS

WHEREAS, on February 26, 2020, County’s Health Officer declared a Local Health Emergency in response to the novel coronavirus (named “COVID-19”) emergency and outbreak threat in Orange County, as necessary for the preservation of public health and safety; and

WHEREAS, on March 2, 2020, the Board of Supervisors adopted Resolution No. 2020-11 ratifying the local health emergency declared by the County’s Health Officer; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in the State of California as a result of the COVID-19 emergency and outbreak; and

WHEREAS, on March 12, 2020, the Governor of the State of California issued Executive Order N-25-20, ordering all California residents to heed any orders and guidance of State and local public health officials, including but not limited to imposition of social distancing measures, to control the spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak; and

WHEREAS, on March 22, 2020, the President of United States declared a major disaster exists in the State of California and ordered Federal assistance to supplement State and local recovery efforts in the areas affected by the COVID-19 pandemic; and

WHEREAS, the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) has issued the Public Assistance Program and Policy Guide, Version 4 (Guide) that provides guidance on the availability of federal funding to states and local governments during emergencies pursuant to Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act); and

WHEREAS, the Guide identifies the services described herein as an eligible cost during emergencies; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by Congress and signed into law by the President of the United States on March 27th, 2020; and

WHEREAS, the CARES Act established the Coronavirus Relief Fund and the County received an allocation of funds from the Coronavirus Relief Fund under section 601(a) of the Social Security Act, as added by section 5001 of the CARES Act; and

WHEREAS, Section 601(a) and 601(d) of the Social Security Act, as added by Section 5001 of the CARES Act, provides that payments from the CARES Act funds may only be used to cover costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the 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 local government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; and

WHEREAS, County is in need of the services/commodities described herein in order to support its efforts to respond to the COVID-19 pandemic in a manner consistent with the above declarations and authorities, including the CARES Act, and any continuing executive orders and declarations as part of the on-going emergencies; and

WHEREAS, the County and Subrecipient desire to enter into this Agreement for the County to provide CARES Act Grant Assistance to Subrecipient to use said Grant Assistance for CARES Act eligible medical expenditures such as staffing, commodities, services, and supplies necessary to respond to the COVID-19 pandemic during the period beginning on March 1, 2020 and ending on December 30, 2020, as set forth in more detail in this Agreement.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein, County and Subrecipient do hereby agree as follows:

A. REFERENCED AGREEMENT PROVISIONS

Term: October 20, 2020 through December 30, 2020

Basis for Payment: Formulated Amount

Payment Method: Lump sum, in advance

Aggregate Grant Assistance Amount: \$2,500,000

Subrecipient DUNS Number: «DUNS»

Subrecipient TAX ID Number: «TAX_ID»

Notices to County and Subrecipient:

County: County of Orange
Health Care Agency
Procurement and Contract Services
405 West 5th Street, Suite 600
Santa Ana, CA 92701-4637

Subrecipient: «Lname»
«dba»
«Street»
«City», CA «Zip»
«Contact_Name», «Contact_Title»
«Contact_Email»

B. ALTERATION OF TERMS

1. This Agreement, together with Attachment(s) A, B, C, Attachment 1 to Attachment C, D, E, F, G, and H attached hereto and incorporated herein, fully expresses the complete understanding of County and Subrecipient with respect to the subject matter of this Agreement.
2. Unless otherwise expressly stated in this Agreement, no addition to, or alteration of the terms of this Agreement or any Exhibits and Attachments, whether written or verbal, made by the Parties, their officers, employees or agents shall be valid unless made in the form of a written amendment to this Agreement, which has been formally approved and executed by both Parties.

C. CONFLICT OF INTEREST

Subrecipient shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to Subrecipient, this obligation shall apply to Subrecipient's employees, agents, and sub-subrecipients pursuant to the terms

and conditions of this Agreement. Subrecipient's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and sub-subrecipients from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

D. DELEGATION, ASSIGNMENT, AND SUBCONTRACTS

1. Subrecipient may not delegate the obligations hereunder, either in whole or in part, without prior written consent of County. Subrecipient shall provide written notification of Subrecipient's intent to delegate the obligations hereunder, either in whole or part, to Administrator not less than thirty (30) days prior to the effective date of the delegation. Any attempted delegation in derogation of this subparagraph shall be void.
2. Subrecipient may not assign the rights hereunder, either in whole or in part, without the written consent of County. Assignment is defined for purposes of this Agreement in Subparagraphs a, b, and c, below. Subrecipient shall provide written notification of the assignment, either in whole or part, to Administrator not less than thirty (30) calendar days, or such other reasonable advance notice as may be appropriate to the situation, prior to the effective date of the assignment. For notification regarding a change in the composition of the Subrecipient's governing body, see Subparagraphs a, b, and c, below. Subrecipient agrees that if there is an assignment of this Agreement by Subrecipient, as defined below, prior to completion of this Agreement, and County agrees to such assignment, the new assignee (including a changed governing body) shall be required to assume Subrecipient's duties and obligations contained in this Agreement and complete them to the satisfaction of County. Where the assignment is completed by means of a sale or transfer document, such document shall include that the new assignee shall comply with Subrecipient's duties and obligations contained in this Agreement and complete them to the satisfaction of County. County reserves the right to immediately terminate the Agreement in the event County determines, in its sole discretion, that the assignee (including the changed governing body) is not qualified or is otherwise unacceptable to County for the provision of services under the Agreement. Any attempted assignment, as defined below, in derogation of this subparagraph shall be void.
 - a. Nonprofit Entity Assignment. If Subrecipient is a nonprofit organization, any change from a nonprofit corporation to any other corporate structure of Subrecipient shall be deemed an assignment. Assignment also includes changes in more than fifty percent (50%) of the composition of the board of directors within a two (2) month period of time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the board of director's composition.
 - b. For-Profit Entity Assignment. If Subrecipient is a for-profit organization, any change in the business structure, including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of Subrecipient, change to another corporate structure, including a change to a sole proprietorship, shall be deemed an assignment. Assignment also includes a change in fifty percent (50%) or more of board of directors or any governing body of Subrecipient at one time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change

in more than fifty percent (50%) of the board of director's composition.

- c. Governmental Entity Assignment. If Subrecipient is a governmental organization, any change to another structure shall be deemed an assignment. Assignment also includes a change in more than fifty percent (50%) of the composition of its governing body (e.g. board of supervisors, city council, school board, commission, etc.) within a two (2) month period of time. In said case, Subrecipient shall notify the County within fifteen (15) calendar days after the change in more than fifty percent (50%) of the governing body's composition.
 - d. Whether Subrecipient is a nonprofit, for-profit, or a governmental organization, Subrecipient shall provide written notification within thirty (30) calendar days to Administrator when there is change of less than fifty percent (50%) of Board of Directors or any governing body of Subrecipient at one time.
3. Subrecipient's obligations undertaken pursuant to this Agreement may be carried out by means of subcontracts, provided such sub-subrecipients meet the requirements of this Agreement as they relate to the service or activity under subcontract.
 - a. No subcontract shall terminate or alter the responsibilities of Subrecipient to County pursuant to this Agreement.
 4. Subrecipient shall notify County in writing of any change in the Subrecipient's status with respect to a mere name change. Subrecipient is also obligated to notify County in writing if the Subrecipient becomes a party to any litigation against County, or a party to litigation that may reasonably affect the Subrecipient's performance under the Agreement, as well as any potential conflicts of interest between Subrecipient and County that may arise prior to or during the period of Agreement performance.

E. DISPUTE RESOLUTION

1. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute is concerning a question of fact arising under the terms of this Agreement, and it is not disposed of in a reasonable period of time by the Subrecipient and the Administrator, such matter shall be resolved by the County Purchasing Agency by way of the following process:
 - a. Subrecipient shall submit to the County Purchasing Agency a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this Agreement, unless County, on its own initiative, has already rendered such a final decision.
 - b. Subrecipient's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Agreement, Subrecipient shall include with the demand a written statement signed by an authorized representative indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Agreement adjustment for which Subrecipient believes County is liable.

- c. Any final decision of the County Purchasing Agency shall be expressly identified as such, shall be in writing, and shall be signed by a County Deputy Purchasing Agent or designee. If the County Purchasing Agency fails to render a decision within ninety (90) calendar days after receipt of Subrecipient's demand, it shall be deemed a final decision adverse to Subrecipient's contentions.
2. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Subrecipient agrees to proceed diligently with the performance of services secured via this Agreement, including the delivery of goods and/or provision of services. Subrecipient's failure to proceed diligently shall be considered a material breach of this Agreement.
3. This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

F. EMPLOYEE ELIGIBILITY VERIFICATION

Subrecipient attests that it shall fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees meet the citizenship or alien status requirements set forth in federal statutes and regulations. Subrecipient shall obtain from all employees, verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 USC §1324 et seq., as they currently exist and as they may be hereafter amended. Subrecipient shall retain all such documentation for all covered employees for the period prescribed by the law.

G. FACILITIES, PAYMENTS, AND SERVICES

1. Subrecipient shall operate continuously throughout the term of this Agreement with the appropriate facilities for its licensure and with at least the minimum number and type of staff which meet applicable federal and state requirements.
2. Subrecipient shall, at its own expense, provide and maintain the organizational and administrative capabilities required to carry out its duties and responsibilities under this Agreement and in accordance with all the applicable statutes and regulations pertaining to Medi-Cal Providers.

H. INDEMNIFICATION AND INSURANCE

1. Subrecipient agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage,

arising from or related to the services, products or other performance provided by Subrecipient pursuant to this Agreement. If judgment is entered against Subrecipient and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Subrecipient and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

2. Throughout the term of this Agreement, Subrecipient shall have and maintain such insurance as is necessary and sufficient to provide coverage for any and all associated claims and liabilities arising from Subrecipient's acceptance and use of CARES Act grant funding allocated to Subrecipient under this Agreement.
3. It is the obligation of Subrecipient to provide notice of insurance requirements to sub-subrecipients and to receive proof of insurance. Such proof of insurance must be maintained by Subrecipient.

I. INSPECTIONS AND AUDITS

1. Administrator, any authorized representative of County, any authorized representative of the State of California, the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States, or any other of their authorized representatives, shall to the extent permissible under applicable law have access to any books, documents, and records, including but not limited to, financial statements, general ledgers, relevant accounting systems, medical and Client records, of Subrecipient that are directly pertinent to this Agreement, for the purpose of conducting an audit, review, evaluation, or examination, or making transcripts during the periods of retention set forth in the Records Management and Maintenance Paragraph of this Agreement. Such persons may at all reasonable times inspect or otherwise evaluate Subrecipient pursuant to this Agreement, and Subrecipient's premises.
2. Subrecipient shall actively participate and cooperate with any person specified in Subparagraph I.1. above in any evaluation or monitoring pursuant to this Agreement, and shall provide the above-mentioned persons adequate office space to conduct such evaluation or monitoring.
3. Audit Response
 - a. Following an audit report, in the event of non-compliance with applicable laws and regulations governing funds provided through this Agreement, County may terminate this Agreement as provided for in the Termination Paragraph or direct Subrecipient to immediately implement appropriate corrective action. A CAP shall be submitted to Administrator in writing within thirty (30) calendar days after receiving notice from Administrator.
 - b. If the audit reveals that money is payable from one Party to the other, that is, reimbursement by Subrecipient to County, or payment of sums due from County to Subrecipient, said funds shall be due and payable from one Party to the other within sixty (60) calendar days of receipt of the audit results. If reimbursement is due from Subrecipient to County, and such reimbursement is not received within said sixty (60)

calendar days, County may, in addition to any other remedies provided by law, reduce any amount owed Subrecipient by an amount not to exceed the reimbursement due County.

4. Subrecipient shall forward to Administrator a copy of any audit report within fourteen (14) calendar days of receipt. Such audit shall include, but not be limited to, management, financial, programmatic or any other type of audit of Subrecipient's operations, whether or not the cost of such operation or audit is reimbursed in whole or in part through this Agreement.

J. LICENSES AND LAWS

1. Subrecipient, its officers, agents, employees, affiliates, and sub-subrecipients shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, certificates, accreditations, waivers, and exemptions necessary pursuant to the terms and conditions of this Agreement and required by the laws, regulations and requirements of the United States, the State of California, County, and all other applicable governmental agencies.
2. Subrecipient shall comply with all applicable governmental laws, regulations, and requirements as they exist now or may be hereafter amended or changed.
3. The Parties acknowledge that each is a Covered Entity, as defined by the Health Insurance Portability and Accountability Act (HIPAA) and is responsible for complying with said regulations for purposes of safeguarding any Protected Health Information (PHI) generated by each party for its own purposes. Except as otherwise limited by said regulation or law, Subrecipient shall provide to County, and County may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Subrecipient as specified in this Agreement, provided such use or disclosure would not violate the Privacy Rule if done by Subrecipient or the Minimum Necessary policies and procedures of Subrecipient as required and/or defined by HIPAA.
4. Subrecipient attests, to the best of its knowledge, that all skilled nursing facility-based medical/professional staff providing services at Subrecipient's facility(ies), under this Agreement, are and will continue to be as long as this Agreement remains in effect, the holders of currently valid licenses and/or certifications in the State of California required to perform the services for which they have been hired by SNF to provide and are members in "good standing" of the medical/professional staff of Subrecipient's facility(ies).
5. Subrecipient shall:
 - a. fully comply with all applicable federal and state reporting requirements regarding its employees; and
 - b. fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment.
6. Failure of Subrecipient to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage

and Earnings Assignment Orders and Notices of Assignment, shall constitute a material breach of this Agreement; and failure to cure such breach within sixty (60) calendar days shall constitute grounds for termination of this Agreement.

7. It is expressly understood that County may transmit information regarding Subrecipient's noncompliance to governmental agencies charged with the establishment and enforcement of child support orders or Wage and Earnings Assignment Orders and Notices of Assignment, or as permitted by federal and/or state statute.

K. PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS

Subrecipient shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any work under this Agreement. Subrecipient shall be responsible for observing and complying with any applicable Federal, State, or local laws, or rules or regulations affecting any such work. Subrecipient shall provide copies of permits and approvals to the County upon request.

L. STATUTES AND REGULATIONS APPLICABLE TO GRANT

Subrecipient must comply with all applicable requirements of State, Federal, and County of Orange laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Subrecipient must comply with applicable State and Federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Subrecipient must comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Office of Management and Budget (OMB) Circulars. Subrecipient must comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations).
2. Single Audit Act. Since Federal funds are used in the performance of this Agreement, Subrecipient must, as applicable, adhere to the rules and regulations of the Single Audit Act (31 USC Sec. 7501 et seq.), OMB Circular A-133 and any administrative regulation or field memoranda implementing the Act.
3. Political Activity Prohibited. None of the funds, materials, property or services provided directly or indirectly under this Agreement may be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Funds provided under this Agreement may not be used for any purpose designed to support or defeat any pending legislation or administrative regulation.

M. COMPLIANCE WITH GRANT REQUIREMENTS

To obtain the Grant funds, the Department of the Treasury required an authorized representative of the County to agree to certain promises regarding the way the grant funds would be spent. This certification is attached hereto as Attachment E. By signing this certification, the County made material representations to the Department of Treasury in order to receive payments from the Department of Treasury pursuant to section 601(b) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020). In accordance with Paragraph H, above, Subrecipient agrees to indemnify, defend, and hold harmless the County of Orange for any sums the State or Federal government contends or determines Subrecipient used in violation of the certification. Subrecipient shall immediately return to the County any funds the County or any responsible State or Federal agency, including the Department of Treasury, determines the Subrecipient has used in a manner that is inconsistent with Paragraph 2, above, of this Agreement. Coronavirus Relief Fund Frequently Asked Questions can be found at <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>. The provisions of this Paragraph shall survive termination of this Agreement.

Subrecipient shall adhere to the Federal Government issued reporting requirements (July 31, 2020) for states and local governments that receive direct funds from the Coronavirus Relief Fund (CRF) established by the CARES Act. Subrecipient shall be responsible for meeting and completing County's reporting responsibility for CARES Act funding received by Subrecipient under this Agreement. Subrecipient of CRF monies must register at the System for Award Management (SAM) website <https://sam.gov/SAM/> within ten (10) business days of Agreement execution, and be prepared to be monitored by County or other regulatory body with auspices over CARES Act funding in accordance with Uniform Guidance.

N. AGGREGATE GRANT ASSISTANCE AMOUNT

1. The Aggregate Grant Assistance Amount of County to be distributed in accordance with all Agreements for Coronavirus Aid, Relief, and Economic Security (CARES) Act Grant for Skilled Nursing Facilities Eligible Medical Expenses is two and a half million dollars (\$2,500,000), as specified in the Referenced Agreement Provisions of this Agreement. This specific Agreement with Subrecipient is only one of several Agreements to which this Grant Amount applies. It therefore is understood by the parties that amount distributed to Subrecipient will be only a fraction of the Aggregate Grant Amount.
2. CFDA Information - This Agreement includes federal funds paid to Subrecipient. The CFDA number(s) and associated information for federal funds paid through this Agreement are as specified below:

<u>CFDA#</u>	<u>FAIN#</u>	<u>Program/ Service Title</u>	<u>Federal Funding Agency</u>	<u>Federal Award Date</u>	<u>Federal Award Indirect Rate</u>	<u>Amount</u>	<u>R&D Award (Y/N)</u>
21.019	SLT012	Coronavirus Relief Fund (CRF)	US Department of Treasury	4/22/20	10% de minimus rate	\$554,133,765	N

- a. Subrecipient may be required to have an audit conducted in accordance with federal regulations. Subrecipient shall be responsible for complying with any federal audit requirements within the reporting period.
- b. Administrator may revise the CFDA information listed above, and shall notify Subrecipient in writing of said revisions.

O. NOTICES

1. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements authorized or required by this Agreement shall be effective:
 - a. When written and deposited in the United States mail, first class postage prepaid and addressed as specified in the Referenced Agreement Provisions of this Agreement or as otherwise directed by Administrator;
 - b. When faxed, transmission confirmed;
 - c. When sent by Email; or
 - d. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or any other expedited delivery service.
2. Formal Notices, such as Termination Notices or notices modifying terms and conditions of this Agreement, as allowed pursuant to this Agreement, shall be effective:
 - a. When written and deposited in the United States mail, first class postage prepaid, certified mail, return receipt requested, and addressed as specified in the Referenced Agreement Provisions of this Agreement or as otherwise directed by Administrator; or
 - b. When delivered by U.S. Postal Service Express Mail, Federal Express, United Parcel Service or any other expedited delivery service.
3. Subrecipient shall notify Administrator, in writing, within twenty-four (24) hours of becoming aware of any occurrence of a serious nature, which may expose County to liability. Such occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any County property in possession of Subrecipient.

4. For purposes of this Agreement, any notice to be provided by County may be given by Administrator.

P. USE OF GRANT AMOUNT

1. Subrecipient shall use the Grant amount provided under this Agreement to pay for Eligible Expenses, as described in more detail in Attachment A of this Agreement, 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 by Subrecipient as of March 27, 2020; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.
2. Subrecipient must utilize the Grant amount in accordance with all Federal and State laws, including but not limited to 42 U.S.C. § 801, subsection (d), and all applicable regulations and guidelines, including guidance issued by the Department of Treasury regarding costs that are payable from Coronavirus Relief Funds, which includes but is not limited to Guidance for State, Territorial, Local, and Tribal Governments dated April 22, 2020 (Attachment D) and Coronavirus Relief Fund Frequently Asked Questions as listed at <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>.

Q. PAYMENT OF GRANT AMOUNT

1. The County shall pay Subrecipient an advanced Grant amount of «Grant_Amount» upon full execution of this Agreement. All of Subrecipient's expenditures of the Grant amount must be for Eligible Expense, as described in more detail in Paragraph B and C of Attachment A to this Agreement.
2. It is understood that the County makes no commitment to fund this Agreement beyond the terms set forth herein.
3. If Subrecipient has not spent any portion of the Grant amount it has received under this Agreement to cover Eligible Expenses by December 30, 2020, Subrecipient shall return to the County by February 1, 2021 the amount remaining unspent as of December 30, 2020.

R. RECORDS MAINTENANCE

Records, in their original form, must be maintained in accordance with requirements prescribed by the County with respect to all matters specified in this Agreement. Original forms are to be maintained on file for all documents specified in this Agreement. Such records must be retained for a period of four (4) years after termination of this Agreement and after final disposition of all pending matters unless otherwise specified herein. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. Records, in their original form pertaining to matters covered by this Agreement, must at all times be retained within the County of Orange unless authorization to remove them is granted in writing by the County.

S. RECORDS MANAGEMENT AND MAINTENANCE

1. Subrecipient, its officers, agents, employees and sub-subrecipients shall, throughout the

term of this Agreement, prepare, maintain and manage such records as appropriate to the services provided and in accordance with this Agreement and all applicable requirements. This obligation includes maintaining all records needed to support claims submitted by Subrecipient or County for purposes of receiving or spending CARES Act funds.

2. Subrecipient shall ensure appropriate financial records related to cost reporting, expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately, shall retain all such financial records for a minimum of seven (7) years from the commencement of the Agreement, unless a longer period is required due to legal proceedings such as litigation and/or settlement of claims.
3. Subrecipient shall make records pertaining to the costs of services, patient fees, charges, billings, and revenues available at one (1) location within the limits of the County of Orange.
4. If Subrecipient is unable to meet the record location criteria above, Administrator may provide written approval to Subrecipient to maintain records in a single location, identified by Subrecipient.
5. Subrecipient may be required to retain all records involving litigation proceedings and settlement of claims for a longer term as reasonably directed by Administrator.
6. Subrecipient, unless Subrecipient is a public institution, shall notify Administrator of any PRA requests related to, or arising out of, this Agreement, within forty-eight (48) hours. Subrecipient shall provide Administrator all information that is requested by the PRA request.
7. If Subrecipient is a public institution, County understands and agrees that Subrecipient is subject to the provisions of the California Public Records Act. In the event Subrecipient receives a request to produce this Agreement, or identify any term, condition, or aspect of this Agreement, Subrecipient shall notify County. Subrecipient shall make its best efforts to notify County no less than three (3) business days prior to releasing such information.

T. SEVERABILITY

If a court of competent jurisdiction declares any provision of this Agreement or application thereof to any person or circumstances to be invalid or if any provision of this Agreement contravenes any federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain in full force and effect, and to that extent the provisions of this Agreement are severable.

U. STATUS OF PARTIES

1. Each party is, and shall at all times be deemed to be, an independent Subrecipient and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. Each party is entirely responsible for compensating staff

and consultants employed by that party. This Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between County and Subrecipient or of either party's employees, agents, consultants, or Subrecipients. Each party assumes exclusively the responsibility for the acts of its employees, agents, consultants, or Subrecipients as they relate to the services to be provided during the course and scope of their employment or respective contracts.

2. County shall neither have, nor exercise, any control or direction over the methods by which Subrecipient shall perform its obligations under this Agreement. The standards of medical care and professional duties of Subrecipient's employees performing medical services under this Agreement shall be determined, as applicable, by Subrecipient's Board of Directors and the standards of care in the community in which Subrecipient is located, and all applicable provisions of law and other rules and regulations of any and all governmental authorities relating to licensure and regulation of Subrecipient.

V. TERM

1. The term of this Agreement shall commence as specified in the Referenced Agreement Provisions of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified in the Referenced Agreement Provisions of this Agreement unless otherwise sooner terminated as provided in this Agreement; provided, however, Subrecipient shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.
2. Any administrative duty or obligation to be performed pursuant to this Agreement on a weekend or holiday may be performed on the next regular business day.

W. TERMINATION

1. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from Acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or suppliers, vandalism, strikes or other work interruptions by a party's officers, agents, employees, affiliates, or Subrecipients, or any similar cause beyond the reasonable control of any party to this Agreement. However, all parties shall make good faith efforts to perform under this Agreement in the event of any such circumstance.
2. County may terminate this Agreement immediately, upon written notice, on the occurrence of any of the following events:
 - a. The loss by Subrecipient of legal capacity.
 - b. Failure of Subrecipient to meet any of its obligations under this Agreement.
 - c. The loss of accreditation or any license required by the Licenses and Law Paragraph of this Agreement.

- d. The delegation or assignment by Subrecipient of obligations hereunder to another entity without the prior written consent of County.

3. Contingent Funding

- a. Any obligation of County under this Agreement shall be contingent upon the following:
 - 1) The continued availability of federal, state and county funds for reimbursement of County's expenditures, and
 - 2) Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.
 - 3) In the event the Grant Assistance under this Agreement is not available or limited pursuant to Subparagraph 3.a, above, County may at its sole discretion terminate the Agreement upon thirty (30) calendar days prior written notice to Subrecipient or reduce the Grant Assistance to an amount as deemed appropriate by County.

4. After receiving a notice of termination, Subrecipient shall do the following:

- a. Comply with termination instructions provided by Administrator in a manner that is consistent with prudent business practices.
- b. Obtain immediate clarification from Administrator of any unsettled issues of the Agreement during the remaining allocation period.
- c. Until the date of termination, continue to adhere all contractual obligations required by this Agreement.

5. The rights and remedies of County and Subrecipient provided in this Termination Paragraph shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

X. THIRD PARTY BENEFICIARY

Neither party hereto intends that this Agreement shall create rights hereunder in third parties including, but not limited to, any sub-subrecipients or any clients provided services pursuant to this Agreement.

Y. WAIVER OF DEFAULT OR BREACH

Waiver by either party of any default by the other party shall not be considered a waiver of any other or subsequent default. Waiver by either party of any breach by the other party of any provision of this Agreement shall not be considered a waiver of any other or subsequent breach. Waiver by the other party of any default or any breach by the other party shall not be considered a modification of the terms of this Agreement.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have executed this Agreement. If the company is a corporation, Subrecipient shall provide two signatures as follows: 1) the first signature must be either the Chairman of the Board, President, or any Vice President; 2) the second signature must be that of the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution or by-laws demonstrating the legal authority of the signature to bind the company.

Subrecipient: «Legal_Name»

_____	_____
Print Name	Title
_____	_____
Signature	Date
_____	_____
Print Name	Title
_____	_____
Signature	Date

County of Orange, a political subdivision of the State of California

Purchasing Agent/Designee Authorized Signature:

_____	_____
Print Name	Title
_____	_____
Signature	Date

APPROVED AS TO FORM
Office of the County Counsel
Orange County, California

Massoud Shame1	Deputy County Counsel
_____	_____
Print Name	Title
<small>DocuSigned by:</small> <i>Massoud Shame1</i>	10/14/2020
_____	_____
Signature	Date

**ATTACHMENT A
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES
ELIGIBLE MEDICAL EXPENSES**

SCOPE OF WORK

A. BACKGROUND

Orange County relies on public-private partnership to ensure access and treatment for County's acute and skilled care medical needs. In order to maintain this vital asset at current levels during the current emergency caused by the Coronavirus pandemic (COVID-19) pandemic/outbreak, continued access to a high quality medical system and the ability of the County's private partners, e.g. hospitals, clinics, skilled nursing facilities, etc., to handle COVID-19 impending surges are critical County interests. These facilities require continued funding support to prepare for and respond to COVID-19 pandemic/outbreak.

Therefore, County is providing grant assistance using CARES Act Fund to County's private partners, such as skilled nursing facilities, to respond to County's skilled nursing facilities needs during the period beginning on March 1, 2020 and ending on December 30, 2020.

B. PURPOSE

This Agreement proposes to utilize CARES Act funds distributed to the County of Orange Health Care Agency to provide grant assistance to sixty-six (66) Skilled Nursing Facilities for such expenditures as are eligible under the CARES Act in the amount of two and a half million dollars (\$2,500,000) during the period of March 1, 2020 through December 30, 2020 in the following three (3) primary objectives:

1. Equipment and Supplies Inventory - Increase inventory and regulate rotation of near-expired items with new inventory to ensure fresh, usable medical supplies and equipment, PPE, and ventilators.
2. Disaster Resource Centers - Support Health Care Coalition (up to 66 skilled nursing facilities) to secure Technical, Medical, Infection Control Experts dedicated to COVID-19 Pandemic response and planning.
3. Support skilled nursing facilities in providing COVID-19 Pandemic training(s) and exercises.

C. ELIGIBLE EXPENSES – Eligible costs shall be such expenditures made on the items listed in Paragraph B of this Attachment A, and must (i) be necessary expenditures incurred due to the public health emergency with respect to COVID-19; (ii) 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 (iii) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. Examples of eligible cost categories include, but are not limited to, financial assistance to other private skilled nursing facilities.

D. ALLOCATION METHODOLOGY

1. Each participating SNF will receive a proportionate share of the available funds based on the facility's percentage of total licensed beds for participating SNFs in the county.
2. In Administrator's sole discretion, the distribution calculations may be amended by Administrator under one or more of the following circumstances, and for each occurrence, Administrator will prepare an amended Subparagraph A of Attachment B to the Agreement:
 - a. Deletion of a SNF participant in this Agreement;
 - b. Any change in corporate ownership of a participating SNF;
 - c. Any change in Subrecipient eligibility for funding; and
 - d. Any correction to the distribution amount as a result of calculation error.
3. Subrecipient agrees that, should revised distribution calculations be necessary pursuant to Subparagraph 2 above, an amended Subparagraph A of Attachment B to the Agreement may be provided via E-Mail notification to each participating Subrecipient, along with explanation for the change within fifteen (15) days of Administrator becoming aware of the need for such modification.

E. SUBRECIPIENT'S OBLIGATIONS

1. Subrecipient shall incur and pay out (expend) costs for CARES Act Eligible Expenses, in accordance with Paragraph B and C of this Attachment A, within the term of this Agreement.
2. Subrecipient shall make best effort to maintain, throughout the term of this Agreement, for each facility included under this Agreement, a minimum of a fourteen (14) calendar day supply of PPE.
 - a. Resource Requests of Subrecipient to County shall be given lower priority through the end of calendar year 2020 as the funding under this Agreement should cover Subrecipient's PPE needs.
3. Subrecipient shall maintain the licensed bed capacity utilized for the Allocation Methodology referenced in Subparagraph D.1. of this Attachment A, throughout the term of this Agreement.
4. Subrecipient shall maintain the resources necessary to meet the COVID-19 SNF licensed bed number for the Allocation Methodology referenced in Paragraph D of this Attachment A, throughout the term of this Agreement.
5. Subrecipient shall not claim costs for any ineligible expenditure, for Eligible Expenditures incurred and paid out (expended) after December 30, 2020, or for any Eligible Expenditures not reported to County on or before December 30, 2020, except as otherwise provided under the Agreement.

6. Subrecipient shall submit reports, in the fashion and form, as specified under Paragraph F of this Attachment A to the Agreement.
7. Subrecipient shall collect and maintain all source documentation in support of all Eligible Expenses.
8. Subrecipient shall return any and all unexpended CARES Act funding, to County to the attention of the Administrator Contract Manager, referenced below in Paragraph G. of this Attachment A, within thirty (30) calendar days of termination or expiration of this Agreement, whichever is earlier.
9. Subrecipient shall make key staff and all source documentation available to County and/or other regulatory body with auspices over CARES Act funding, upon written notice by Administrator and/or other regulatory body with auspices over CARES Act funding, within seven (7) days for the purposes of review, auditing, or other purpose as appropriate for proper oversight of this Agreement.

F. REPORTS

1. Progress Report. Within ten (10) business days of Subrecipient's receipt of funds, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from or charged against the grant amount; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraphs B and C above as well as Paragraph P of the main Agreement; and (3) identify the balance of the grant amount that Subrecipient has not spent.
2. Final Report. Upon the earlier of Subrecipient's expenditure of the balance of the grant amount or January 15, 2021, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from the grant amount as of December 30, 2020; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraphs B and C above as well as Paragraph P of the main Agreement; and (3) identify the balance of the grant amount that Subrecipient has not spent, if any.
3. The Subrecipient shall provide a certification signed by its chief executive officer with each report required under this Paragraph F that the statements contained in the report are true and that the expenditures described in the report comply with the uses permitted under Paragraphs B and C above as well as Paragraph P of the main Agreement.
4. Subrecipient shall maintain supporting documentation for the reports required by this Paragraph F consistent with the requirements of Paragraphs R and S of the main Agreement.
5. FISCAL
 - a. Expenditure and Revenue Report. Subrecipient shall submit monthly Expenditure and Revenue Reports to Administrator. These reports will be on a form approved by Administrator and will report year-to-date actual costs and revenues for Subrecipient as described in this Agreement.

- b. Year-End Projections. In conjunction with the Expenditure and Revenue Report, Subrecipient shall provide monthly year-end projections that shall include year-to-date actual costs and revenues and anticipated year-end actual costs and revenues for Subrecipient as described in this Agreement.
 - c. The Expenditure and Revenue and Year-End Projection report shall be received by Administrator no later than the twentieth (20th) day following the end of the month being reported.
7. PROGRAMMATIC - Subrecipient shall submit, on forms provided or approved by County, fiscal and/or programmatic reports as requested by County concerning Subrecipient's activities as they relate to this Agreement. County will be specific as to the nature of the information requested and allow fifteen (15) calendar days for Subrecipient to respond.
8. ADDITIONAL REPORTS – Subrecipient shall submit, on forms provided or approved by Administrator, any additional programmatic reports, as requested by Administrator or other regulatory body with auspices over CARES Act funding, concerning Subrecipient's activities as they relate to this Agreement. Administrator will be specific as to the nature of the information requested and allow fifteen (15) calendar days for Subrecipient to respond, unless deadlines imposed by regulatory bodies dictate otherwise.
9. Subrecipient must request in writing any extensions to the due date of the monthly required report(s). If an extension is approved by Administrator, the total extension will not exceed more than five (5) calendar days.
- G. County Contact Information: To direct communications to the above referenced County staff, Subrecipient shall initiate contact as indicated herein. County reserves the right to make changes to the contact information below by verbal or written notice to Subrecipient. Said changes shall not require an amendment to this Attachment or the Agreement to which it is incorporated.

Administrator Program Manager
County of Orange
Health Care Agency
405 W. Santa Ana Boulevard, Suite 458
Santa Ana, California 92701
Attention: Cheryl Meronk
E-mail: cmeronk@ochca.com
Telephone: (714) 834-4099

Administrator Contract Manager
County of Orange
Health Care Agency
405 W. 5th Street, Suite 600
Santa Ana, California 92701
Attention: Brian Greene
E-mail: bgreene@ochca.com
Telephone: (714) 834-3019

Administrator Privacy Officer
County of Orange
Orange County Information Technology (OCIT)
1055 N. Main Street
Santa Ana, California 92701
Attention: Linda Le
E-mail: linda.le@ocit.ocgov.com
Telephone: (714) 834-4082

Administrator Information Security Officer
County of Orange
Health Care Agency
200 W. 5th Street
Santa Ana, California 92701
Attention: David Castellanos
E-mail: dcastellanos@ochca.com
Telephone: (714) 834-3433

- H. Subrecipient and Administrator may mutually agree, in writing, to modify any and all Paragraphs of this Attachment A to the Agreement.

ATTACHMENT B
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES ELIGIBLE
MEDICAL EXPENSES

FUNDING ALLOCATION AND PAYMENT METHODOLOGY

- A. Funding Allocation Table – funding shall be allocated to Subrecipient in accordance with the Allocation Methodology described in Paragraph D. of Attachment A to this Agreement, and as formulated in the table below:

Skilled Nursing Facility	Licensed Beds	% of Total	Allocation
Advanced Rehab Center Of Tustin	99	1.44%	\$36,031.45
Alamitos West Health And Rehabilitation	150	2.18%	\$54,593.10
Alta Gardens Care Center	129	1.88%	\$46,950.07
Anaheim Crest Nursing Center	83	1.21%	\$30,208.18
Anaheim Healthcare Center Llc	250	3.64%	\$90,988.49
Anaheim Terrace Care Center	99	1.44%	\$36,031.45
Beachside Nursing Center	59	0.86%	\$21,473.29
Brookdale San Juan Capistrano	45	0.66%	\$16,377.93
Brookdale Yorba Linda	45	0.66%	\$16,377.93
Buena Park Nursing Center	143	2.08%	\$52,045.42
Buena Vista Care Center	99	1.44%	\$36,031.45
Capistrano Beach Care Center	93	1.35%	\$33,847.72
Chapman Care Center	99	1.44%	\$36,031.45
Chapman Global Medical Center Dp Snf	27	0.39%	\$9,826.76
Country Villa Plaza Convalescent Center	145	2.11%	\$52,773.33
Coventry Court Health Center	97	1.41%	\$35,303.54
Crystal Cove Care Center	96	1.40%	\$34,939.58
Extended Care Hospital Of Westminster	99	1.44%	\$36,031.45
Flagship Healthcare Center	167	2.43%	\$60,780.32
Foothill Regional Medical Center Dp Snf	42	0.61%	\$15,286.07
Freedom Village Healthcare Center	52	0.76%	\$18,925.61
French Park Care Center	202	2.94%	\$73,518.71
Garden Grove Post Acute	99	1.44%	\$36,031.45
Garden Park Care Center	124	1.81%	\$45,130.30
Gordon Lane Care Center	99	1.44%	\$36,031.45
Greenfield Care Center Of Fullerton Llc	99	1.44%	\$36,031.45
Harbor Villa Care Center	99	1.44%	\$36,031.45
Healthbridge Childrens Hospital Orange Dp Snf	18	0.26%	\$6,551.17
Healthcare Center Of Orange County	99	1.44%	\$36,031.45

Skilled Nursing Facility	Licensed Beds	% of Total	Allocation
Huntington Valley Healthcare Center	144	2.10%	\$52,409.38
Kindred Hospital Brea Dp Snf	38	0.55%	\$13,830.25
La Habra Convalescent Hospital	86	1.25%	\$31,300.04
La Palma Nursing Center	72	1.05%	\$26,204.69
Laguna Hills Health And Rehabilitation Center	208	3.03%	\$75,702.42
Lake Forest Nursing Center	175	2.55%	\$63,691.95
Leisure Court Nursing Center	115	1.67%	\$41,854.71
Manorcare Health Services Fountain Valley	151	2.20%	\$54,957.05
Mesa Verde Post Acute Care Center	80	1.16%	\$29,116.32
Mission Palms Healthcare Center	99	1.44%	\$36,031.45
New Orange Hills	145	2.11%	\$52,773.33
Newport Subacute Healthcare Center	137	1.99%	\$49,861.70
Orange Healthcare And Wellness Centre Llc	102	1.48%	\$37,123.31
Orangetrove Rehabilitation Hospital	97	1.41%	\$35,303.54
Pacific Haven Subacute And Healthcare Center	99	1.44%	\$36,031.45
Park Anaheim Healthcare Center	115	1.67%	\$41,854.71
Park Regency Care Center	99	1.44%	\$36,031.45
Park Vista At Morningside	73	1.06%	\$26,568.64
Parkview Healthcare Center	41	0.60%	\$14,922.11
Regents Point Windcrest	59	0.86%	\$21,473.29
Rowntree Gardens	58	0.84%	\$21,109.33
Seal Beach Health And Rehabilitation Center	198	2.88%	\$72,062.89
South Coast Global Medical Center Inc Dp Snf	46	0.67%	\$16,741.88
South Coast Post Acute	255	3.71%	\$92,808.26
St Edna Subacute And Rehabilitation Center	144	2.10%	\$52,409.38
Stanley Healthcare Center	30	0.44%	\$10,918.62
Sun Mar Nursing Center	69	1.00%	\$25,112.83
Terrace View Care Center	59	0.86%	\$21,473.29
The Covington Care Center	24	0.35%	\$8,734.90
The Pavilion At Sunny Hills	228	3.32%	\$82,981.50
Town And Country Manor	95	1.38%	\$34,575.62
Villa Valencia	59	0.86%	\$21,473.28
Walnut Village Rehabilitation And Care Center	99	1.44%	\$36,031.44
West Anaheim Extended Care	138	2.01%	\$50,225.64
West Anaheim Medical Center Dp Snf	22	0.32%	\$8,006.98
Windsor Gardens Care Center Of Fullerton	99	1.44%	\$36,031.44
Windsor Gardens Convalescent Center Of Anaheim	154	2.24%	\$56,048.91
TOTAL	6,869	100.00%	\$ 2,500,000.00

B. PAYMENTS

1. Subrecipient shall incur and pay out (expend) costs for CARES Act Eligible Expenses, in accordance with Paragraph B and C. of Attachment A, within the term of this Agreement.
2. Subrecipient's Eligible Expenses shall not exceed Subrecipient's allocation in accordance with Paragraph D. of Attachment A, and as formulated in the Funding Allocation Table referenced above in Paragraph A of this Attachment B.

C. PAYMENT METHOD

1. County shall pay without Subrecipient invoicing, such as County shall pay Subrecipient a lump sum, within sixty (60) business days of Agreement execution in accordance with Funding Allocation Table in Paragraph A of this Attachment B.
2. Subrecipient understands and agrees that the total of all payments to Subrecipient shall not exceed Subrecipient's allocation in accordance with the Allocation Methodology described in Paragraph D. of Attachment A to this Agreement, and as formulated in the Funding Allocation Table referenced above in Paragraph A of this Attachment B. Subrecipient accepts further that the total of all payments to all Subrecipients shall not exceed the Aggregate Grant Assistance Amount as specified in the Referenced Agreement Provisions of this Agreement.
3. Subrecipient agrees that all payments are interim payments only, and subject to auditing by County and/or other regulatory body with auspices over CARES Act funding and maybe subject to recoupment in the event said expenditures:
 - a. are not in accordance with Paragraphs B and C of Attachment A; and
 - b. cannot be substantiated by source documentation collected and maintain by Subrecipient, to include but not be limited to receipts, purchase orders, ledgers, books, check stubs, invoices, records, etc. confirming expenses incurred and paid out (expended). Lack of supporting source documentation of any expenditure claimed to County and granted to Subrecipient under this Agreement shall be immediately subject to recoupment by County.
4. County may withhold any or all of the funds specified in this Attachment B of the Agreement, consistent with the regulations pertaining to the specific funding source, in order to recover any overpayments made of said funds to Subrecipient in previous agreements or to recover funds due County from Subrecipient pursuant, but not limited, to the following:
 - a. Subrecipient's failure to comply with the provisions of this Agreement.
 - b. Subrecipient is found to be non-compliant with the conditions for receiving funds including, but not limited to, inability to document eligible expenditures.
 - c. Audit exceptions and/or fiscal disallowances by the state and/or County for funds received by Subrecipient pursuant to this this Agreement.

- d. Recovery of any overpayments made in previous agreements between Subrecipient and County for other contracted services.
- 5. County shall not reimburse Subrecipient for expenditures under this Agreement incurred and paid out (expended) after December 30, 2020.
- D. Subrecipient and Administrator may mutually agree, in writing, to modify any and all Paragraphs of this Attachment B to the Agreement.

ATTACHMENT C
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES ELIGIBLE
MEDICAL EXPENSES

ADDITIONAL FUNDING REGULATIONS

A. Contract Work Hours and Safety Standards Act

1. Overtime requirements. No Subrecipient or sub-subrecipient contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Subrecipient and any sub-subrecipient responsible therefor shall be liable for the unpaid wages. In addition, such Subrecipient and sub-subrecipient shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Subrecipient or sub-subrecipient under any such contract or any other Federal contract with the same prime Subrecipient, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Subrecipient, such sums as may be determined to be necessary to satisfy any liabilities of such Subrecipient or sub-subrecipient for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontracts. The Subrecipient or sub-subrecipient shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the sub-subrecipients to include these clauses in any lower tier subcontracts. The prime Subrecipient shall be responsible for compliance by any sub-subrecipient or lower tier sub-subrecipient with the clauses set forth in paragraphs (1) through (4) of this section.

B. Clean Air Act and The Federal Water Pollution Control Act

1. Clean Air Act

- a. The Subrecipient agrees to comply with all applicable standards, orders or regulations

issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

- b. The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

2. Federal Water Pollution Control Act

- a. The Subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- b. The Subrecipient agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c. The Subrecipient agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

C. Suspension and Debarment

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Subrecipient is required to verify that none of the Subrecipient's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. The Subrecipient must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by County. If it is later determined that the Subrecipient did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

D. Byrd Anti-Lobbying Amendment - 31 U.S.C. § 1352 (as amended) Subrecipients who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency. Subrecipient must execute the certification, as provided in Attachment C.

E. Procurement of Recovered Materials

1. In the performance of this contract, the Subrecipient shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired
2. Competitively within a timeframe providing for compliance with the contract performance schedule;
3. Meeting contract performance requirements; or
4. At a reasonable price.
 - a. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - b. The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

F. Access To Records

1. The Subrecipient agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Subrecipient which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Subrecipient agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Subrecipient agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
4. In compliance with the Disaster Recovery Act of 2018, the County and the Subrecipient acknowledge and agree that no language in this contract is intended to prohibit audits or

internal reviews by the FEMA Administrator or the Comptroller General of the United States.

- G. Department of Homeland Security (DHS) Seal, Logo, and Flags - The Subrecipient shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- H. Compliance with Federal Law, Regulations, And Executive Orders - This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Subrecipient will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- I. No Obligation by Federal Government - The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Subrecipient, or any other party pertaining to any matter resulting from the contract.
- J. Program Fraud and False or Fraudulent Statements or Related Acts - The Subrecipient acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Subrecipient's actions pertaining to this contract.
- K. Equal Employment Opportunity - The Subrecipient shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. The Subrecipient shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.
- L. Regarding handicapped persons, the Subrecipient will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Subrecipient agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.
- M. Regarding Americans with disabilities, Subrecipient agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

ATTACHMENT 1 to ATTACHMENT C
TO CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT
AGREEMENT NO. MA-042-21010443 FOR SKILLED NURSING FACILITIES ELIGIBLE
MEDICAL EXPENSES

CERTIFICATION REGARDING ANTI-LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Subrecipient, «Legal_Name», certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Subrecipient understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Subrecipient's Authorized Official

Name and Title of Subrecipient's Authorized Official

Date

ATTACHMENT D
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 (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, 2020.²

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.

¹ On June 30, 2020, the guidance provided under “Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020” was updated. On September 2, 2020, the “Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees” and “Supplemental Guidance on Use of Funds to Cover Administrative Costs” sections were added.

² See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

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 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

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID-19 public health emergency during the covered period.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period but not otherwise. Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient’s usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, *e.g.*, the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19

public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020, will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient's control.

This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

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 expenditures³

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.⁴
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.

³ 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.

⁴ 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.

Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees

As discussed in the Guidance above, the CARES Act provides that payments from the Fund must be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As reflected in the Guidance and FAQs, Treasury has not interpreted this provision to limit eligible costs to those that are incremental increases above amounts previously budgeted. Rather, Treasury has interpreted this provision to exclude items that were already covered for their original use (or a substantially similar use). This guidance reflects the intent behind the Fund, which was not to provide general fiscal assistance to state governments but rather to assist them with COVID-19-related necessary expenditures. With respect to personnel expenses, though the Fund was not intended to be used to cover government payroll expenses generally, the Fund was intended to provide assistance to address increased expenses, such as the expense of hiring new personnel as needed to assist with the government's response to the public health emergency and to allow recipients facing budget pressures not to have to lay off or furlough employees who would be needed to assist with that purpose.

Substantially different use

As stated in the Guidance above, Treasury considers the requirement that payments from the Fund be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020, to be met if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost is for a *substantially different use* from any expected use of funds in such a line item, allotment, or allocation.

Treasury has provided examples as to what would constitute a substantially different use. Treasury provided (in FAQ A.3) that costs incurred for a substantially different use would include, for example, the costs of redeploying 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.

Substantially dedicated

Within this category of substantially different uses, as stated in the Guidance above, Treasury has included payroll and benefits 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. The *full amount* of payroll and benefits expenses of substantially dedicated employees may be covered using payments from the Fund. Treasury has not developed a precise definition of what "substantially dedicated" means given that there is not a precise way to define this term across different employment types. The relevant unit of government should maintain documentation of the "substantially dedicated" conclusion with respect to its employees.

If an employee is not substantially dedicated to mitigating or responding to the COVID-19 public

health emergency, his or her payroll and benefits expenses may not be covered *in full* with payments from the Fund. A *portion* of such expenses may be able to be covered, however, as discussed below.

Public health and public safety

In recognition of the particular importance of public health and public safety workers to State, local, and tribal government responses to the public health emergency, Treasury has provided, as an administrative accommodation, that a State, local, or tribal government may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020.

In response to questions regarding which employees are within the scope of this accommodation, Treasury is supplementing this guidance to clarify that public safety employees would include police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (*e.g.*, laboratory technicians) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel.

Not substantially dedicated

As provided in FAQ A.47, a State, local, or tribal government may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department. This means, for example, that a government could cover payroll expenses allocated on an hourly basis to employees' time dedicated to mitigating or responding to the COVID-19 public health emergency. This result provides equitable treatment to governments that, for example, instead of having a few employees who are substantially dedicated to the public health emergency, have many employees who have a minority of their time dedicated to the public health emergency.

Covered benefits

Payroll and benefits of a substantially dedicated employee may be covered using payments from the Fund to the extent incurred between March 1 and December 30, 2020.

Payroll includes certain hazard pay and overtime, but not workforce bonuses. As discussed in FAQ A.29, hazard pay may be covered using payments from the Fund if it is provided for performing hazardous duty or work involving physical hardship that in each case is related to COVID-19. This means that, whereas payroll and benefits of an employee who is substantially dedicated to mitigating or responding to the COVID-19 public health emergency may generally be covered in full using payments from the Fund, hazard pay specifically may only be covered to the extent it is related to COVID-19. For example, a recipient may use payments from the Fund to cover hazard pay for a police officer coming in close contact with members of the public to enforce public health or public safety orders, but across-the-board hazard pay for all members of a police department regardless of their duties would not be able to be covered with payments from the Fund. This position reflects the statutory intent discussed above: the Fund was intended to be used to help governments address the

public health emergency both by providing funds for incremental expenses (such as hazard pay related to COVID-19) and to allow governments not to have to furlough or lay off employees needed to address the public health emergency but was not intended to provide across-the-board budget support (as would be the case if hazard pay regardless of its relation to COVID-19 or workforce bonuses were permitted to be covered using payments from the Fund).

Relatedly, both hazard pay and overtime pay for employees that are not substantially dedicated may only be covered using the Fund if the hazard pay and overtime pay is for COVID-19-related duties. As discussed above, governments may allocate payroll and benefits of such employees with respect to time worked on COVID-19-related matters.

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

Supplemental Guidance on Use of Funds to Cover Administrative Costs

General

Payments from the Fund are not administered as part of a traditional grant program and the provisions of the Uniform Guidance, 2 C.F.R. Part 200, that are applicable to indirect costs do not apply. Recipients may not apply their indirect costs rates to payments received from the Fund.

Recipients may, if they meet the conditions specified in the guidance for tracking time consistently across a department, use payments from the Fund to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency. (In other words, such costs would be eligible direct costs of the recipient). This includes, but is not limited to, costs related to disbursing payments from the Fund and managing new grant programs established using payments from the Fund.

As with any other costs to be covered using payments from the Fund, any such administrative costs must be incurred by December 30, 2020, with an exception for certain compliance costs as discussed below. Furthermore, as discussed in the Guidance above, as with any other cost, an administrative cost that has been or will be reimbursed under any federal program may not be covered with the Fund. For example, if an administrative cost is already being covered as a direct or indirect cost pursuant to another federal grant, the Fund may not be used to cover that cost.

Compliance costs related to the Fund

As previously stated in FAQ B.11, recipients are permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act, subject to the limitations set forth in 2 C.F.R. § 200.425. Pursuant to that provision of the Uniform Guidance, recipients and subrecipients subject to the Single Audit Act may use payments from the Fund to cover a reasonably proportionate share of the costs of audits attributable to the Fund.

To the extent a cost is incurred by December 30, 2020, for an eligible use consistent with section 601 of the Social Security Act and Treasury's guidance, a necessary administrative compliance expense that relates to such underlying cost may be incurred after December 30, 2020. Such an expense would include, for example, expenses incurred to comply with the Single Audit Act and reporting and recordkeeping requirements imposed by the Office of Inspector General. A recipient with such necessary administrative expenses, such as an ongoing audit continuing past December 30, 2020, that

relates to Fund expenditures incurred during the covered period, must report to the Treasury Office of Inspector General by the quarter ending September 2021 an estimate of the amount of such necessary administrative expenses.

ATTACHMENT E
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.

3. *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.

¹ On August 10, 2020, these Frequently Asked Questions were revised to add Questions A.49–52. On September 2, 2020, Questions A.53–56 were added, and Questions A.34 and A.38 were revised.

² The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

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.

4. *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.

5. *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.

6. *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.

7. *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.

8. *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.

9. *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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. Are expenses associated with contact tracing eligible?

Yes, expenses associated with contact tracing are eligible.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. *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.

25. *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.

26. *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.

27. *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.

28. *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.

29. *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.

30. *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.

31. *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.

32. *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.

33. *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.

34. *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, such as restrictions on reopening that do not directly concern the use of funds, are not permissible.

35. *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 interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

36. *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.

37. *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.

38. *May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?*

No. Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19. Payments from the fund may only be used to cover such hazard pay.

39. *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.

40. *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.

41. *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.

42. *May funds be used to satisfy non-federal matching requirements under the Stafford Act?*

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

43. *Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?*

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

44. *May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?*

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

45. *May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?*

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

46. *May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?*

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

47. *The guidance provides 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. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent*

on mitigating or responding to the COVID-19 public health emergency?

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department.

48. May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?

The statute 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. As stated in the Guidance, 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 is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.

49. Are States permitted to use Coronavirus Relief Fund payments to satisfy non-federal matching requirements under the Stafford Act, including “lost wages assistance” authorized by the Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (August 8, 2020)?

Yes. As previous guidance has stated, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund’s eligibility criteria and the Stafford Act. States are fully permitted to use payments from the Fund to satisfy 100% of their cost share for lost wages assistance recently made available under the Stafford Act.

50. At what point would costs be considered to be incurred in the case of a grant made by a State, local, or tribal government to cover interest and principal amounts of a loan, such as might be provided as part of a small business assistance program in which the loan is made by a private institution?

A grant made to cover interest and principal costs of a loan, including interest and principal due after the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”), will be considered to be incurred during the covered period if (i) the full amount of the loan is advanced to the borrower within the covered period and (ii) the proceeds of the loan are used by the borrower to cover expenses incurred during the covered period. In addition, if these conditions are met, the amount of the grant will be considered to have been used during the covered period for purposes of the requirement that expenses be incurred within the covered period. Such a grant would be analogous to a loan provided by the Fund recipient itself that incorporates similar loan forgiveness provisions. As with any other assistance provided by a Fund recipient, such a grant would need to be determined by the recipient to be necessary due to the public health emergency.

51. If governments use Fund payments as described in the Guidance to establish a grant program to support businesses, would those funds be considered gross income taxable to a business receiving the grant under the Internal Revenue Code (Code)?

Please see the answer provided by the Internal Revenue Service (IRS) available at <https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions>.

52. If governments use Fund payments as described in the Guidance to establish a loan program to support businesses, would those funds be considered gross income taxable to a business receiving the loan under the Code?

Please see the answer provided by the IRS available at <https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions>.

53. May Fund recipients incur expenses associated with the safe reopening of schools?

Yes, payments from the Fund may be used to cover costs associated with providing distance learning (e.g., the cost of laptops to provide to students) or for in-person learning (e.g., the cost of acquiring personal protective equipment for students attending schools in-person or other costs associated with meeting Centers for Disease Control guidelines).

To this end, as an administrative convenience, Treasury will presume that expenses of up to \$500 per elementary and secondary school student to be eligible expenditures, such that schools do not need to document the specific use of funds up to that amount.

54. May Fund recipients upgrade critical public health infrastructure, such as providing access to running water for individuals and families in rural and tribal areas to allow them to maintain proper hygiene and defend themselves against the virus?

Yes, fund recipients may use payments from the Fund to upgrade public health infrastructure, such as providing individuals and families access to running water to help reduce the further spread of the virus. As required by the CARES Act, expenses associated with such upgrades must be incurred by December 30, 2020. Please see Treasury's Guidance as updated on June 30 regarding when a cost is considered to be incurred for purposes of the requirement that expenses be incurred within the covered period.

55. How does a government address the requirement that the allowable expenditures are not accounted for in the budget most recently approved as of March 27, 2020, once the government enters its new budget year on July 1, 2020 (for governments with June 30 fiscal year ends) or October 1, 2020 (for governments with September 30 year ends)?

As provided in the Guidance, 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.

Furthermore, the budget most recently approved as of March 27, 2020, provides the spending baseline against which expenditures should be compared for purposes of determining whether they may be covered using payments from the Fund. This spending baseline will carry forward to a subsequent budget year if a Fund recipient enters a different budget year between March 27, 2020 and December 30, 2020. The spending baseline may be carried forward without adjustment for inflation.

56. Does the National Environmental Policy Act, 42 U.S.C. § 4321 et seq, (NEPA) apply to projects supported by payments from the Fund?

NEPA does not apply to Treasury's administration of the Fund. Projects supported with payments from the Fund may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

B. Questions Related to Administration of Fund Payments

1. *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.

2. *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.

3. *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.

4. *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.

5. *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.

6. *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.

7. *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.

8. *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.

9. *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.

10. *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.

11. *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.

12. *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.

ATTACHMENT F



County of Orange

County Executive Office

April 13, 2020

I, Frank Kim, am the chief executive of the County of Orange, and I certify that:

1. I have the authority on behalf of the County of Orange to request direct payment from the Department of the Treasury ("Treasury") pursuant to section 601(b) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (Mar. 27, 2020).
2. I understand that Treasury will rely on this certification as a material representation in making a direct payment to the County of Orange.
3. The County of Orange's proposed uses of the funds provided as direct payment under section 601(b) of the Social Security Act will be used only to cover those costs that-
 - a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
 - b. were not accounted for in the budget most recently approved as of March 27, 2020, for [insert name of local government entity]; and
 - c. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

By: Frank Kim

Signature: 

Title: County Executive Officer

Date: 4/13/20

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is two hour per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

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ATTACHMENT G
DEPARTMENT OF THE TREASURY
WASHINGTON, D. C. 20220

July 2, 2020

OFFICE OF

INSPECTOR GENERAL

OIG-CA-20-021

MEMORANDUM FOR CORONAVIRUS RELIEF FUND RECIPIENTS

FROM: Richard K. Delmar /s/
Deputy Inspector General

SUBJECT: Coronavirus Relief Fund Reporting and Record Retention Requirements

Title VI of the Social Security Act, as amended by Title V of Division A of the *Coronavirus Aid, Relief, and Economic Security Act* (Public Law 115-136), provides that the Department of the Treasury (Treasury) Office of Inspector General (OIG) is responsible for monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund payments. Treasury OIG also has authority to recover funds in the event that it is determined a recipient of a Coronavirus Relief Fund payment failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). Accordingly, we are providing recipient reporting and record retention requirements that are essential for the exercise of these responsibilities, including our conduct of audits and investigations.

REPORTING REQUIREMENTS AND TIMELINES

Each prime recipient of Coronavirus Relief Fund payments¹ shall report Coronavirus Disease 2019 (COVID-19) related “costs incurred” during the “covered period”² (the period beginning on March 1, 2020 and ending on December 30, 2020), in the manner of and according to the timelines outlined in this memorandum. As described below, each prime recipient shall report interim and quarterly data and other recipient data according to these requirements. Treasury OIG is working on development of a portal with GrantSolutions³ that is expected to be operational on

¹ Prime recipients include all 50 States, Units of Local Governments, the District of Columbia, U.S. Territories, and Tribal Governments that received a direct payment from Treasury in accordance with Title V.

² Refer to Treasury’s guidance dated June 30, 2020 for more information on costs incurred and the covered period.

³ A grant management service provider under the U.S. Department of Health and Human Services.

September 1, 2020, for recipients to report data on a quarterly basis. Until the GrantSolutions portal is operational, each prime recipient shall follow the interim reporting requirements. Treasury OIG will notify each prime recipient when GrantSolutions is operational or of any changes to the expected September 1, 2020 start date.

Interim Reporting for the period March 1 through June 30, 2020

By no later than July 17, 2020, each prime recipient is responsible for reporting costs incurred during the period March 1 through June 30, 2020. For this interim report, prime recipients need only report totals by the following broad categories:

- a. Amount transferred to other governments;
- b. Amount spent on payroll for public health and safety employees;
- c. Amount spent on budgeted personnel and services diverted to a substantially different use;
- d. Amount spent to improve telework capabilities of public employees;
- e. Amount spent on medical expenses;
- f. Amount spent on public health expenses;
- g. Amount spent to facilitate distance learning;
- h. Amount spent providing economic support;
- i. Amount spent on expenses associated with the issuance of tax anticipation notes;
and
- j. Amount spent on items not listed above.

Recipients should consult Treasury's guidance and Frequently Asked Questions in reporting costs incurred during the period March 1 through June 30, 2020. The total of all categories must equal the total of all costs incurred during that period. A spreadsheet is attached for your use in providing the data. As discussed below, the prime recipient will be required to report information for the period March 1 through June 30, 2020 into GrantSolutions once it is operational.

Quarterly Reporting

Each prime recipient of Coronavirus Relief Fund payments shall report COVID-19 related costs into the GrantSolutions portal. Data required to be reported includes, but is not limited to, the following:

1. the total amount of payments from the Coronavirus Relief Fund received from Treasury;
2. the amount of funds received that were expended or obligated for each project or activity;
3. a detailed list of all projects or activities for which funds were expended or obligated, including:
 - a. the name of the project or activity;
 - b. a description of the project or activity; and

4. detailed information on any loans issued; contracts and grants awarded; transfers made to other government entities; and direct payments made by the recipient that are greater than \$50,000.

The prime recipient is responsible for reporting into the GrantSolutions portal information on uses of Coronavirus Relief Fund payments.

Recipient Portal Access: For future quarterly reporting, each prime recipient will have GrantSolutions portal access for three (3) individuals: two (2) designees (preparers) to input quarterly data and one (1) official authorized to certify that the data is true, accurate, and complete.⁴ **By no later than July 17, 2020**, please provide the name, title, email address, phone number, and postal address of these individuals so that portal access can be granted. After this information is received, guidance on the GrantSolutions portal access and data submission instructions will be issued separately.

Reporting timeline

By no later than September 21, 2020, recipients shall submit via the portal the first detailed quarterly report, which shall cover the period March 1 through June 30, 2020. Thereafter, quarterly reporting will be due no later than 10 days after each calendar quarter. For example, the period July 1 through September 30, 2020, must be reported no later than October 13, 2020 (Tuesday after the 10th day of October and the Columbus Day Holiday). Reporting shall end with either the calendar quarter after the COVID-19 related costs and expenditures have been liquidated and paid or the calendar quarter ending September 30, 2021, whichever comes first.

RECORD RETENTION REQUIREMENTS

Recipients of Coronavirus Relief Fund payments shall maintain and make available to the Treasury OIG upon request all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)), which provides:

(d) USE OF FUNDS.—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government 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 the date of enactment of this section for the State or government; and

⁴ The certifying official is an authorized representative of the recipient organization with the legal authority to give assurances, make commitments, enter into contracts, and execute such documents on behalf of the recipient.

3. were incurred⁵ during the period that begins on March 1, 2020, and ends on December 30, 2020.

Records to support compliance with subsection 601(d) may include, but are not limited to, copies of the following:

1. general ledger and subsidiary ledgers used to account for (a) the receipt of Coronavirus Relief Fund payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19;
2. budget records for 2019 and 2020;
3. payroll, time records, human resource records to support costs incurred for payroll expenses related to addressing the public health emergency due to COVID-19;
4. receipts of purchases made related to addressing the public health emergency due to COVID-19;
5. contracts and subcontracts entered into using Coronavirus Relief Fund payments and all documents related to such contracts;
6. grant agreements and grant subaward agreements entered into using Coronavirus Relief Fund payments and all documents related to such awards;
7. all documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients;
8. all documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards;
9. all internal and external email/electronic communications related to use of Coronavirus Relief Fund payments; and
10. all investigative files and inquiry reports involving Coronavirus Relief Fund payments.

Records shall be maintained for a period of five (5) years after final payment is made using Coronavirus Relief Fund monies. These record retention requirements are applicable to all prime recipients and their grantees and subgrant recipients, contractors, and other levels of government that received transfers of Coronavirus Relief Fund payments from prime recipients.

Thank you and we appreciate your assistance.

⁵ Refer to Treasury's guidance dated June 30, 2020 for more information on the definition of costs incurred.



OFFICE OF
INSPECTOR GENERAL

ATTACHMENT H
DEPARTMENT OF THE TREASURY
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**Department of the Treasury Office of Inspector General Coronavirus Relief Fund
Frequently Asked Questions Related to Reporting and
Recordkeeping**

The Department of the Treasury (Treasury) Office of Inspector General (OIG) is responsible for monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund (CRF) payments as authorized by Title VI of the Social Security Act, as amended by Title V of Division A of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).¹ Treasury OIG was also assigned authority to recover funds in the event that it is determined a recipient of a CRF payment failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). Recipient reporting and record retention requirements are essential for the exercise of these responsibilities, including our conduct of audits and investigations.

Beginning September 1, 2020, the prime recipient of CRF payments will begin reporting Coronavirus Disease 2019 (COVID-19) related costs incurred from March 1, 2020 to December 30, 2020 in the GrantSolutions portal. This document addresses frequently asked questions (FAQ) from CRF prime recipients regarding their reporting and record keeping requirements and supplements Treasury OIG's memorandums *Coronavirus Relief Fund Recipient Reporting and Record Retention Requirements* (OIG-CA-20-021; July 2, 2020)² and *Coronavirus Relief Fund Reporting Requirements Update* (OIG-CA-20-025; July 31, 2020).³

A. Prime Recipients

1. Who is a prime recipient?

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,

¹ P. L. 116 136 (March 27, 2020)

² <https://www.treasury.gov/about/organizational-structure/ig/Audit%20Reports%20and%20Testimonies/OIG-CA-20-021.pdf>

³ <https://www.treasury.gov/about/organizational-structure/ig/Audit%20Reports%20and%20Testimonies/OIG-CA-20-025.pdf>

- U.S. Territories, and
- Tribal Governments

2. Who is a sub-recipient?

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.

3. The definition of a sub-recipient provided by Treasury OIG is different than the definition of a sub-recipient in the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal, 2 CFR Part 200 (Uniform Guidance). Which definition is a prime recipient expected to comply with?

The prime recipient must comply with the Treasury OIG definition. For purposes of reporting in the GrantSolutions portal, a prime recipient is to report on sub- recipients, as defined in Question 2 above. In addition, Treasury has issued guidance as described in Treasury's *Coronavirus Relief Fund Frequently Asked Questions* (FAQs),⁴ noting that prime recipients are to monitor and manage sub- recipients as defined in 2 CFR sec. 200.330 through 200.332.

4. Who is responsible for reporting in the GrantSolutions portal, the prime or sub-recipient?

Only the prime recipient is required to report COVID-19 related costs in the GrantSolutions portal.

5. If the prime recipient distributes funds to an agency or department within the prime recipient's government, is the agency or department considered the prime recipient or a sub-recipient when funds obligated are \$50,000 or more?

The agency or department is considered part of the prime recipient as they are all part of the same legal entity that received a direct CRF payment from Treasury. Obligations and expenditures that the agency or department incurs with the CRF proceeds must be collected by and reported in the GrantSolutions portal by the prime recipient as if they were obligated or expended by the prime recipient.

⁴ <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>

6. If the prime recipient obligates funds to an entity that provides a public service on behalf of the prime recipient but the prime recipient is not financially accountable of, is the entity considered the prime recipient or a sub-recipient when funds obligated are \$50,000 or more (e.g., discreetly presented component unit, quasi agency, etc.)?

The entity is considered a sub-recipient of the prime recipient when funds obligated are \$50,000 or more. The prime recipient must report its obligations and expenditures related to the sub-recipient, including associated projects and expenditure categories, in the GrantSolutions portal. If the prime recipient obligated less than \$50,000, the prime recipient must report its obligations and expenditures related to the sub-recipient entity in aggregate in the GrantSolutions portal.

7. If a prime recipient enters into multiple obligations with an entity, each obligation being less than \$50,000 with no agreement (i.e., contract, grant, or loan), however, the total obligations to the entity is above \$50,000, is the entity considered a sub-recipient?

The entity is considered a sub-recipient, however since the obligations are below \$50,000, the prime recipient must report the multiple obligations to the entity and related expenditures in the aggregate section of the GrantSolutions portal.

8. If a unit of local government received funds as both a prime recipient and as a sub-recipient do they have to track and report obligations and expenditures separately?

Yes. For purposes of reporting in the GrantSolutions portal, the unit of local government is the prime recipient and must report obligations and expenditures related to the funds received directly from Treasury. As a sub-recipient of funds, obligations and expenditures related to the funds received from another prime recipient must be reported by the prime recipient in the GrantSolutions portal. It is recommended that the unit of local government, as a sub-recipient, report obligations and expenditure information to the prime recipient for its reporting purposes.

9. If a third party is hired to review and approve sub-recipient reimbursement requests and supporting documentation, can the prime recipient place reliance on the reviews performed by the third party or is the prime recipient still required to review and approve 100 percent of all costs?

It is up to the prime recipient on how much it relies on third-party review of reimbursement requests. However, the prime recipient is responsible for maintaining documentation to support the use of CRF proceeds. Per Treasury's *Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments*, the direct (or prime) recipient is ultimately

responsible for compliance with the limitation on the use of payments from the CRF.⁵

B. System for Award Management (SAM.gov) Registration

10. Treasury OIG’s memorandum, Coronavirus Relief Fund Reporting Requirements Update, states that “each prime recipient should ensure that any current or potential sub-recipients are registered in SAM.gov.” Are all sub-recipients required to register in SAM.gov?

No, all sub-recipients are not required to register in SAM.gov. This statement is a recommendation to help reduce the reporting burden on the prime recipient when entering sub-recipient details in the GrantSolutions portal. SAM.gov registration allows sub-recipient identifying and demographic details to be automatically populated in the portal after the prime recipient inputs a valid Data Universal Numbering System (DUNS) number assigned to the sub-recipient.⁶

11. What are the identifying and demographic data elements that automatically populate in the GrantSolutions portal if a sub-recipient is registered in SAM.gov with a valid DUNS number?

The following identifying and demographic data elements will automatically populate in the GrantSolutions portal if a sub-recipient is registered in SAM.gov with a valid DUNS number:

- Legal Name
- Address Line 1
- Address Line 2, if applicable
- Address Line 3, if applicable
- City Name
- State Code
- Zip+4
- Congressional District
- Country Name
- Country Code
- Organization Type

⁶ A DUNS number is a unique nine-character number used to identify an organization.

12. If a sub-recipient does not have a DUNS number, can another unique identification number be used in the GrantSolutions portal to automatically populate sub-recipient details (e.g. Federal Employment Identification Number, Federal Tax Identification Number, etc.)?

No. The DUNS number is the only unique identification number that the GrantSolutions portal can associate with a SAM.gov registration in order to automatically populate sub-recipient details.

13. Where does a prime recipient direct a sub-recipient to obtain a DUNS number?

If a sub-recipient does not already have a DUNS number, they can call 1-866-705- 5711 or access <http://fedgov.dnb.com/webform> to get a DUNS number assigned for free.

14. Where does a prime recipient direct a sub-recipient to register in SAM.gov?

Refer the sub-recipient to <https://sam.gov>.

15. What if a sub-recipient is not registered in SAM.gov?

For each sub-recipient that is not registered in SAM.gov, the prime recipient will be responsible for manually entering the following data elements in the GrantSolutions portal:

- Legal Name
- Address Line 1
- AddressLine 2, if applicable
- AddressLine 3, if applicable
- City Name
- State Code
- Zip Code
- Country Name (selection menu)
- Organization Type (selection menu)

16. If a sub-recipient is registered in SAM.gov, are they required to report any information on a quarterly basis in SAM.gov?

No. There are no reporting requirements for a sub-recipient; the prime recipient is required to report in the GrantSolutions portal on behalf of the sub-recipient.

17. Is an entity that a prime recipient obligates a contract, grant, loan, direct payment, or transfer to another government entity of less than \$50,000 recommended to register in SAM.gov?

No. Detailed information of an entity that the prime recipient obligates less than \$50,000 to will not be reported in the GrantSolutions portal. The obligations and related expenditure(s) to entities that the prime recipient obligates less than \$50,000 to will be reported in the aggregate.

18. Is an individual that a prime recipient obligates a contract, grant, loan, or direct payment recommended to register in SAM.gov?

No. Detailed information of an individual that the prime recipient obligates any amount to will not be reported in the GrantSolutions portal; the obligations and related expenditure(s) to individuals will be reported in the aggregate.

C. Terminology

18. What is an obligation?

For purposes of reporting in the GrantSolutions portal, an obligation is a commitment to pay a third party with CRF proceeds based on a contract, grant, loan, or other arrangement.

19. What is an expenditure?

For purposes of reporting in the GrantSolutions portal, an expenditure is the amount that has been incurred as a liability of the entity (the service has been rendered or the good has been delivered to the entity). As outlined in *Treasury's Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments*, performance or delivery must occur between March 1 and December 30, 2020 in order for the cost to be considered incurred; payment of funds need not be made during that time (though it is generally expected that payment will take place within 90 days of a cost being incurred).

20. What is a project?

A project is a grouping of related activities that together are intended to achieve a specific goal (e.g. building a temporary medical facility, offering an economic support program for small businesses, offering a housing support program, etc.)

21. What is a contract?

A contract is an obligation to an entity associated with an agreement to acquire goods

or services.

22. What is a grant?

A grant is an obligation to an entity that is associated with a grant agreement. A grant agreement is a legal instrument of financial assistance between the prime recipient and entity that is used to enter into a relationship to carry out a public purpose and does not include an agreement to acquire goods or services or provide a loan.

23. What is the primary place of performance for a contract or a grant?

The primary place of performance is the address where the predominant performance of the contract or grant will be accomplished.

24. What is the period of performance start date and end date for a contract or a grant?

The period of performance start date is the date on which efforts begin or the contract or grant is otherwise effective. The period of performance end date is the date on which all effort is completed or the contract or grant is otherwise ended.

25. What is a transfer to another government entity?

A transfer to another government entity is a disbursement or payment to a government entity that is legally distinct from the prime recipient. See the list of government entities in Question 26 below.

26. For transfers to another government entity, what type of entity is considered another government entity?

The following organization types are considered another government entity:

- State government
- County government
- City/Township Government
- Special District Government
- US Territory or Possession
- Indian/Native American Tribal Government (Federally Recognized)
- Indian/Native American Tribal Designated Organization

27. What is a direct payment?

A direct payment is a disbursement (with or without an existing obligation) to an entity that is not associated with a contract, grant, loan, or transfer to another government entity. If the direct payment is associated with an obligation, then the obligation and

expenditure should be reported. If the direct payment does not involve a previous obligation, the direct payment will be recorded when the expenditure is incurred.

D. Reporting

28. If a prime recipient received CARES Act funding from different Federal agencies, are all costs incurred related to CARES funding to be reported in the GrantSolutions portal, regardless of the funding source?

No. The GrantSolutions portal is only for the reporting of costs incurred related to CRF proceeds received from Treasury. Financial assistance that a prime recipient may have received from other sources are not to be reported in this portal.

29. Will CRF proceeds be subject to Federal Funding Accountability and Transparency Act (FFATA) reporting requirements? If so, what general information are recipients expected to report?

No, FFATA reporting is not required since CRF payments are not grants.

30. Are prime recipients required to report on an accrual or cash basis?

The prime recipient should report on an accrual basis, unless the prime recipient's practice is traditionally to report on a cash basis for all its financial reporting.

31. Are the reporting requirements different for lump sum payments versus payments made on a reimbursable basis?

No. Reporting of obligations and expenditures related to lump sum payments and reimbursed payments are the same.

32. How should a reimbursable payment to a sub-recipient be reported?

The prime recipient should first report the total obligation to the sub-recipient. As reimbursements are made to the sub-recipient, the prime recipient should report the reimbursements as expenditures to the obligation by expenditure category.

33. How should a lump sum payment to a sub-recipient be reported?

The prime recipient must report the total obligation for the lump sum payment to the sub-recipient. As the sub-recipient uses the funds it received, the prime recipient is responsible for collecting and reporting on the uses as expenditures to the obligation by expenditure category.

34. What level of sub-recipient data will prime recipients be required to report?

The prime recipient is required to report on the first sub-recipient level only. For example: The prime recipient enters into a grant with Entity A to provide assistance to small businesses. For reporting purposes, the prime recipient must report the details of the grant with Entity A as an obligation. As Entity A provides assistance to small businesses, the prime recipient must report the assistance provided as expenditures to the obligation. However, details of the small businesses that received funding is not required.

35. Is every obligation and expenditure required to be associated with a project?

No. We understand that not all uses of funds will be associated with a project. If an obligation or expenditure is not associated with a project, in the GrantSolutions portal, the recipient would select "No Associated Project".

36. How did Treasury OIG determine the \$50,000 reporting threshold?

Sec. 15011 of the CARES Act states that any entity that receives large covered funds (or funds more than \$150,000) is considered a covered recipient. All prime recipients of CRF proceeds are covered recipients as no prime recipient received payment less than \$150,000. Sec. 15011 further requires that each covered recipient (in this case, prime recipient) should submit a report that contains, among other items, detailed information on subcontracts or subgrants awarded by the covered recipient allowing for aggregate reporting on awards below \$50,000.

37. Is the \$50,000 threshold on a project basis?

No. The \$50,000 threshold dictates the specific sub-recipients that must be identified by the prime recipient on a detailed basis rather than in an aggregate total for related obligations and expenditures, regardless of any projects.

38. What is the reporting structure?

The reporting structure is as follows:

- A. Projects
- B. Obligations of \$50,000 or more and related expenditures
 - a. Contracts of \$50,000 or more
 - i. Obligations (individually reported) and links to projects, if applicable
 - ii. Related expenditures (individually reported) and link to projects, if applicable
 - b. Grants of \$50,000 or more
 - i. Obligations (individually reported) and link to projects, if applicable

- ii. Related expenditures (individually reported) and link to projects, if applicable
- c. Loans of \$50,000 or more
 - i. Obligations (individually reported) and link to projects, if applicable
 - ii. Related expenditures (individually reported) and link to projects, if applicable
- d. Transfers to other government entities of \$50,000 or more
 - i. Obligations (individually reported) and link to projects, if applicable
 - ii. Related expenditures (individually reported) and link to projects, if applicable
- e. Direct Payments of \$50,000 or more
 - i. Obligations (individually reported) and link to projects, if applicable
 - ii. Related expenditures (individually reported) and link to projects, if applicable
- C. Aggregate obligations and expenditures of contracts, grants, loans, direct payments, and transfers to other government entities below \$50,000 (reported in total by obligation type)
- D. Aggregate obligations and expenditures to individuals, regardless of the amount (reported in total)

39. If a prime recipient obligates funds to another government entity in the form of a grant, are the obligated funds to be reported as a transfer to another government entity or as a grant?

If a grant agreement in place, the obligation should be reported as a grant.

40. Treasury OIG's reporting timeline indicates six reporting cycles with three cycles for reporting periods of January 1, 2021 through September 30, 2021. If costs related to CRF proceeds must be incurred by December 30, 2020, why are there reporting cycles after December 30, 2020?

Treasury's *Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments* addresses the concept of incurred costs. Specifically, "for a cost to be considered to have been incurred, performance of services or delivery of goods must occur during the covered period (March 1, 2020 through December 30, 2020) but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred)." As a result, we determined to allow reporting through September 30, 2021 to ensure that the prime recipient has sufficient time to capture and report all expenditures incurred that were covered with CRF, including loan repayments, the related obligations of which must have occurred, and been reported, during the covered period. In addition, any final close out reconciliations and adjustments should occur during the time period before September 30, 2021.

41. Are forgivable loans to be reported as a grant or loan?

The forgivable portion of a loan should be reported as a grant. If the forgiving of the loan is conditional, then the loan will originally be reported as a loan for the total amount. At the

time that the conditions are met, the portion of the loan that is forgivable, will be removed from the loan section of the GrantSolutions portal and reported as a grant at that time.

42. For each reporting period, should a prime recipient report all costs that are eligible to be covered with CRF proceeds or only report costs for which the prime recipient has made a final determination to cover with CRF proceeds?

The prime recipient should only report eligible costs for which obligations have been made with CRF payments or specific determinations have been made related to using CRF funds.

43. Do the expenditure categories apply to aggregate reporting?

No. The only information collected during aggregate reporting are obligations (in total) and expenditures (in total) by obligation type (contract, grant, loan, transfer to another government entity, and direct payments) and for individuals.

44. For aggregate reporting of obligations to individuals, what information is required to be reported about the individuals?

None. The only information collected during aggregate reporting are obligations (in total) and expenditures (in total).

45. Where can recipients and sub-recipients access training tools or archived training sessions to assist with reporting?

The only entity responsible for reporting in the portal is the prime recipient. Training on the GrantSolutions portal will be provided to prime recipients by September 1, 2020.

E. Reporting Corrections

46. If a prime recipient submitted information in its interim report of costs incurred as of June 30, 2020 and some information has changed, can we correct this information in the portal?

Yes. Keep in mind that for purposes of meeting the interim reporting requirement, reporting estimated costs incurred was allowed. For the first quarterly reporting period (March 1, 2020 through June 30, 2020) beginning September 1, 2020, the prime recipient must report actual obligations and expenditures in the GrantSolutions portal. The amounts reported in the GrantSolutions portal and certified will be considered the official reporting.

47. If an error is identified or an addition/modification needs to be made, is there an ability to amend the previous submitted data?

Yes, if a prime recipient determines corrections or additions are necessary, the current GrantSolutions submission may be recalled, corrected, and resubmitted within the first 10 days after the quarter end. Also, changes to a previous quarterly submission may be made in a current reporting submission. If a Treasury OIG reviewer determines corrections or additions to the quarterly submission may be required, feedback and the submission will be returned to the prime recipient for resolution. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate in the GrantSolutions portal. If an error is identified or a modification needs to be made after a report is already approved by the Treasury OIG, the prime recipient will need to make the modification or correction in the next quarterly reporting cycle.

48. For forgivable loans originally reported as a grant, in a subsequent reporting period, if the recipient has not met the terms of forgiveness, should this obligation be changed to a loan in subsequent reporting period?

See question 41 above. The loan should be recorded as a loan in total until the condition is met. Only at that time will the forgivable portion of the loan be removed and recorded as a grant.

49. Is there a process to modify prior quarter numbers that change significantly due to the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Public Assistance reimbursement?

Yes, if a prime recipient determines corrections or additions to a quarterly submission are necessary and the quarterly submission has already been approved by Treasury OIG, changes to a previous quarterly submission may be made in the subsequent reporting submission. The prime recipient will not be able to re-open the previous quarter, but instead will make necessary adjustments in the open quarter. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate in the GrantSolutions portal.

50. If a prime recipient reports a cost allocated to the CRF in one reporting cycle, but subsequently determines to allocate that cost to a different funding source, can the prime recipient remove the obligations and related expenditures from its CRF reporting submission?

Yes, if a prime recipient determines corrections or additions to a quarterly submission are necessary and the quarterly submission has already been approved by Treasury OIG, changes to a previous quarterly submission may be made in the subsequent reporting submission. The prime recipient will not be able to re-open the previous quarter, but instead will make necessary adjustments in the open quarter. The prime recipient is ultimately responsible for certifying that the quarterly submissions are true, complete, and accurate

in the GrantSolutions portal.

Keep in mind, if a prime recipient has not used funds it has received to cover costs that incurred between March 1, 2020 and December 30, 2020, as required by the statute, those funds must be returned to the Treasury.

51. Do we need a budget set up for FEMA Cares Act monies received or just to track and report monies used?

The prime recipient is required to report obligations and expenditures of CRF proceeds. It is at the discretion of the prime recipient to determine a budget setup related to CRF payments.

F. Reporting Deadline

52. Can the CRF reporting submission deadline be modified to 30 days, opposed to 10 days, after the quarter end?

We do not have the authority to change the quarterly recipient reporting deadline. Section 15011 of the CARES Act requires CRF reporting within 10 days after the end of each calendar quarter. Prime recipients' GrantSolutions data will be reported to the Pandemic Response and Accountability Committee (PRAC) for display on its website.

53. Can a prime recipient request extensions in filing their quarterly reports?

Yes, requests to extend the quarterly reporting deadline should be sent to Treasury OIG at CARES@oig.treas.gov for extension approval/disapproval. These decisions will be made on a case-by-case basis and consider extenuating circumstances.

54. If a prime recipient does not close its records by 10 days after the reporting period ends, how should these costs be reported?

Record closing times vary and may not align with the GrantSolutions reporting deadlines. If a prime recipient is not able to report within 10 days after the reporting period ends, the prime recipient is responsible for submitting the missing data in the GrantSolutions portal as part of the next quarter's reporting cycle.

G. GrantSolutions Portal

55. Is the portal still on schedule for becoming available on September 1, 2020?

Yes for most users. An upload feature will be available for select very high volume prime recipients. The upload feature will be available after September and timing of that schedule will be communicated to those select recipients.

56. If a prime recipient's designated users already have accounts with GrantSolutions, does the prime recipient still need to submit each user's name, title, email address, and phone number to Treasury OIG?

Yes.

57. Can portal access be granted to users if they share the same email address?

No. In order to grant portal access, each user must have a unique email address; users cannot have the same email address.

58. Can a prime recipient designate more than two preparers?

No. The GrantSolutions portal can only sustain up to three users per prime recipient: two preparers and one authorizing official.

59. Can the authorizing official also be one of the preparers?

No. The authorizing official cannot be both a designee/preparer and an authorizing official.

60. What is the best way to import data from a large number of sub-recipients?

Only the prime recipient is required to report CRF related obligations and expenditures in the GrantSolutions portal. We are currently working with GrantSolutions regarding a data upload feature. The upload feature will be available for certain prime recipients with the most sub-recipient activity. See question 55.

61. Will the portal provide a cumulated view of obligations and expenditures a prime recipient has reported?

Yes.

H. Record Retention/Audit

62. According to Treasury's FAQs, for administrative convenience, a State can presume that all 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 and, thus, can be covered by CRF. Will Treasury OIG or the PRAC ever question the applicability of this presumption in the audit context? If so, under what circumstances?

Yes, the CARES Act provides that Treasury OIG is responsible for monitoring and oversight of the receipt, disbursement, and use of CRF payments. Documents and financial records, as

defined in the Treasury OIG memorandum *Coronavirus Relief Fund Recipient Reporting and Record Retention Requirements* must be maintained to support the use of CRF payments for when the presumption is made that payroll costs is substantially dedicated to mitigating or responding to the COVID-19 emergency. Documents should include those sufficient to support decisions made with respect to its use of CRF payments. See questions 69, 70, and 71.

63. How far down will the audit cascade?

The CARES Act provides that Treasury OIG is responsible for monitoring and oversight of the receipt, disbursement, and use of CRF payments. As such, all CRF payments received by the prime recipient are subject to audit. In this regard, an audit will be at the prime recipient level and may involve reviewing the prime's sub-recipients. In the event that it is determined the prime recipient failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)), those funds will be recouped by Treasury OIG.

64. If providing Small Business Assistance, do we have to receive actual documentation of the expense or business interruption? If we provide thousands of grants to small businesses and are audited, what would be need to provide to satisfy an audit?

The prime recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)). Records include, but are not limited to, general ledger and subsidiary ledgers used to account for (a) the receipt of CRF payments and (b) the disbursements from such payments to meet eligible expenses related to the public health emergency due to COVID-19. The prime recipient is responsible for determining the level and detail of documentation needed from the sub-recipient of Small Business Assistance to satisfy these requirements, however, there would need to be some proof that the small business was impacted by the public health emergency and was thus eligible for the CRF funds.

65. Is there an audit plan at this point? For example, will there be interim audits, or only after Dec 30 or final reporting? Also, do you have criteria upon which you will decide which awards to audit?

Treasury OIG will perform monitoring of the prime recipient's receipt, disbursements, and uses of CRF payments and has developed procedures for this purpose. There are procedures for monitoring, reviewing, and approving prime recipient's quarterly GrantSolutions submissions. Treasury OIG will also conduct desk reviews, for which other procedures have been developed, to further evaluate the prime recipient's documentation supporting the reported uses of CRF proceeds, as well as, results of other audits (i.e. Single Audit), among other things. The desk review may result in a site visit to the prime recipient

for a more in-depth review.

Based on results of the quarterly monitoring, desk reviews, site reviews, and our risk assessments, Treasury OIG will determine the need for a more in-depth audit. In addition to ongoing monitoring, Treasury OIG will initiate audits as deemed necessary based on other referrals and ongoing risk assessments of the prime recipients.

66. Will Treasury OIG audit the sub-recipient as part of its prime recipient audit?

Treasury OIG may audit the sub-recipient as part of its audit of the prime recipient.

67. What cost principles will Treasury OIG be applying to determine allowability of costs during audit if Subpart E of 2 CFR 200 is not applicable to this funding?

The CARES Act and the Treasury guidance and FAQs will be used as criteria for allowability of costs. According to Treasury's FAQs, provisions of the Uniform Guidance, 2 C.F.R. sec. 200.303 regarding internal controls, 2 C.F.R. sec. 200.330 through 200.332 regarding sub-recipient monitoring and management, and subpart F regarding audit requirements are applicable to CRF payments. Subpart E is not applicable.

68. How does the CRF audit relate to Single Audit?

CRF payments are considered to be Federal financial assistance subject to the Single Audit Act (31 U.S.C. sec. 7501-7507). The related provisions of the Uniform Guidance, 2 C.F.R. sec. 200.303 regarding internal controls, sec. 200.330 through 200.332 regarding sub-recipient monitoring and management, and subpart F regarding audit requirements provides detailed information. The results of a prime recipient's Single Audit will be evaluated as part of the Treasury OIG's desk reviews and any audits initiated.

69. To what level of documentation will a government be held to support the reimbursement of public safety payroll that was "presumed" to be substantially dedicated to mitigating the emergency?

The recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)).

Documents/records include payroll records and documentation that support an employee's time dedicated to mitigating the COVID-19 health emergency for the covered period March 1 through December 30, 2020. Records include, but are not limited to (1) general and subsidiary ledgers used to account for the receipt of CRF payments and subsequent disbursements; and (2) payroll, time, and human resource records to support costs incurred for payroll expenses related to addressing the COVID-19 health

emergency. Please refer to the Treasury OIG memorandum, Coronavirus Relief Fund Reporting and Record Retention Requirements (OIG-20-021; July 2, 2020).

a. Will government have to demonstrate/substantiate that an employee's function/duties were in fact substantially dedicated to mitigating the emergency?

Yes, through documentation and financial records as defined above and any other documents/records that support employee's function/duties and/or time was substantially dedicated to mitigating the COVID-19 emergency. Please refer to the Treasury OIG record retention requirements memorandum OIG-20-021 noted in response to question 69.

b. For payroll that was accounted for in the FY2020 budget but was then "presumed" to be substantially dedicated to mitigating the emergency, will the government have to demonstrate/substantiate that an employee's function was a substantially different use?

Yes, the government is required to maintain documents and financial records supporting payroll substantially dedicated to mitigating the emergency to support the use of CRF payments regardless of whether the payroll was originally budgeted. Please refer to response to question 69. The Treasury OIG also requires the government to maintain budgetary records to support the fiscal years 2019 and 2020 budgets.

70. Is the government required to perform any analysis or maintain documentation of the "substantially dedicated" conclusion for payroll expenses of public safety, public health, health care, and human service employees?

Yes, the government is required to maintain documents and financial records to support all payroll expenses, including payroll of public safety, public health, health care, and human service employees, substantially dedicated to mitigating the emergency. Documents should include those to support conclusions made with respect to the "substantially dedicated" use of CRF payments. If an analysis is performed, it should be supported by documentation as outlined in the record retention requirements memorandum OIG-20-021. Please refer to response to question 69.

71. Treasury's FAQs indicate 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."

a. What level of documentation needs to be maintained to indicate the chief executive did not determine "specific circumstances indicate otherwise?"

Documents and financial records, as defined in the Treasury OIG memorandum OIG-CA-20-021 must be maintained to support the use of CRF payments for when the presumption is made that payroll costs is substantially dedicated to mitigating or responding to the COVID-19 emergency. Documents should include those sufficient to support decisions made with respect to its use of CRF payments. No specific documentation of the negative assurance of the chief executive (or equivalent) is required.

b. Is the absence of documentation indicating “specific circumstances indicate otherwise” sufficient, or does an affirmative decision need to be documented?

See previous responses.

72. Are CRF funds required to be accounted for in a separate fund of the government? At least one state thinks it should be.

These are individual management decisions, however, the documentation required above should be easily understandable by the auditors.