

Questions and Answers Regarding Use of CARES Act Funds

1. Are payments to employees who are doing substantially mitigating work covered under this payment regardless of whether or not their payrolls were budgeted during the fiscal year?

Yes. The central qualifying issues are whether the expenses are (1) "necessary" and (2) "due to" the (3) "public health emergency." Expenses are "necessary" within the broad discretion of the governmental agency as "reasonably necessary;" expenses are "due to" a public health emergency if the duties or services rendered are in response to the emergency. Actions addressing, mitigating, or responding to COVID issues are a public emergency. It should be kept in mind that CARES Act payments may only be used to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. To meet this requirement, the cost either cannot be lawfully funded using the line item, or the cost is for a *substantially different use from any expected use*.
2. The Treasury Guidance says that locals can "presume" that public safety is a COVID-related expense, but on the other hand, it says that these funds can only be used if the cost "exceeds current expenses" and meets the "substantially different use" criteria. Specifically, the Guidance states that funding can be used to meet payroll expenses for public safety for services that are "substantially dedicated" to mitigating or responding to the COVID-19 public health emergency. The question then is, how can we ensure that there will not be any disputes between an auditor and a local government about how that presumption was made?

Advice of counsel is the best guarantee that the expenditures will not be substantially challenged in the audit. In the context of this question, the presumption made by the township will be accepted if reasonable under the circumstances. The broad-based concept is to allow discretion and good judgment to prevail.
3. Our township has already purchased and paid for items that are eligible under this funding. Are we permitted to "retroactively reimburse" the original Fund that was used to pay for these items? If so, what is the procedure to do so?

Yes, for any purchases since March 1 (not for prior to that date), assuming the costs were necessary and due to your response to the COVID-19 emergency. The process would be to document those costs, adopt a resolution recognizing those expenditures, relate those costs directly to COVID-19 issues, and then repay from your coronavirus established fund.
4. Can we buy a new furnace/air conditioner for better air circulation and new filters for heating and cooling?

This becomes a close call. Unless these are specific filters or air circulation equipment purchased specifically because of COVID, or unless the filters are being changed more frequently at the recommendation of the local health department, this would not be allowable. Generally, if these are typical filters and they are being change at the same rate as before, then this would be a previously budgeted expense.
5. Would the purchase of chairs and 8-foot tables for the township apply?

If the purchase is to accommodate social distancing to protect the public and employees because of COVID 19, then the costs are appropriate.
6. Could funding be used to purchase/install touch free dispensers for restrooms, Purell hand sanitizer dispensers, and refill bottles to meet COVID recommendations?

Yes. This is an example of necessary safety costs directly related, thus "due to" COVID -19.
7. Does the CARES Act allow for townships to hire seasonal park employees for the purpose of sanitizing park restrooms and playground equipment?

Yes. This is a good example of the purpose of the funding: the costs are necessary to protect the public, directly related to COVID-19.

8. We had employees alternate workdays - one worked a day and the other stayed home - yet we still paid each their regular full rate pay. Would this count for reimbursement?

No. The funds may only be used for payroll expenses for public safety, public health, health care, human services and similar employees whose services are substantially dedicated to mitigating or responding to COVID-19 or whose responsibilities were substantially different due entirely to the COVID-19 public health emergency.

9. Our fire/EMS personnel were required to respond to county flooding rescue efforts during the pandemic. We had additional expenses as it relates to supplies/equipment to protect our crew while responding to this "normal" flooding situation. Can we use the CARES Act funds to reimburse fire /EMS for the costs to respond?

No, for reasons cited above.

10. Our fire department is volunteer with a part-time paid staff. We budgeted to staff one shift per day with two people. We did not increase the staffing levels for COVID-19 because the budget could not support it and no one knew there would be relief, but the duties of the part-time staff changed drastically. Can budgeted wages for EMS workers be claimed and reimbursed with CARES funds?

Probably not. The exception would be if the township could establish that there was significant overtime or other costs incurred, due to COVID issues, that the township managed to cover with the normal budget. You may be able to carve out some component of those costs that could be reimbursed. Again, the funding is intended to cover the extraordinary costs the township could not anticipate.

11. We added hours to our fire dept for 24/7 coverage in anticipation calls would go up. Can we use the funding for the added staffing hours?

Yes. The presumption is that these costs were incurred because of COVID and the services rendered were "substantially dedicated to mitigating or responding to COVID public health emergency."

12. Our fire and EMS departments will be utilizing the CARES Act funds. Can we pay hazard pay to safety service personnel?

Per the Treasury Guidance, hazard pay is allowable for staff in hazardous situations.

13. Would our cemetery workers qualify for hazard pay for burying a coronavirus patient?

Possibly. Work with your legal counsel, as there could be circumstances that could be attributed.

14. An employee tested positive for COVID-19 and was unable to work for 3 weeks. Can we use CARES Act funds for his time unable to work? Can we use the funds to pay unemployment due to ODJFS for some of our fireman that lost their full-time job due to COVID-19, while we still employ them but only part time?

Yes, per the Treasury Guidance a township can use the money to pay for employee leave for reasons outlined in the Families First Coronavirus Response Act (FFCRA). Make sure to give specifics and document the situation before making payment from the fund. With respect to unemployment, review the Treasury Guidance FAQ with your legal counsel – it may be allowable.

15. Can we use the funds for COVID testing of employees and residents?

Per the Treasury Guidance, the money may be used for COVID-19 testing.

16. Our township hall is used for a voting location in November, can we use the funds for hiring a company to sanitize for COVID before and after the election?

Yes.

17. If our expenses exceed the funds allocated, what do you recommend?
Per HB 481, any money that is not encumbered by local governments for COVID-19 related expenses as of October 15th must be returned to the county auditor and then redistributed, per a formula in the bill, to entities that are still in need.
18. Why can't we use the money to replace lost revenue?
The purpose of the CARES Act relief is to provide funding for a local government's emergency response efforts. Loss of revenue is an unfortunate side effect of the crisis. However, if the loss of revenue has exhausted resources and some of the expenses incurred have been paid to mitigate or respond to COVID issues, then those costs could be recovered. The specific Guidance from the Treasury indicates that revenue replacement is not a permissible use of the funds.
19. How can we use the CARES Act money for monetary assistance to stay open?
If the township budget was exhausted in responding to COVID issues, then the township could be reimbursed for those costs and the costs incurred that are necessary and due to the emergency. For instance, payrolls costs for workers not "substantially dedicated to mitigating or responding" to COVID would not be reimbursable; but if the funds were exhausted for services dedicated to the emergency, then there may be some costs that could be reimbursed. Otherwise, the money may not be used for revenue replacement.
20. If we received a direct deposit from HHS in April, are we eligible for HB 481 funds?
Yes.
21. We already were told to create a new fund for the Stimulus money received in April. Can we use this fund, or do we have to make another new fund? What Fund Number should be created to hold this money?
Per the law, you must create a fund called the Local Coronavirus Relief Fund. Please contact the Auditor of State's Local Government Services or UAN division regarding the specific fund number you should use.
22. If a resolution was passed under SB 310, do we need to amend to read HB 481 before sending to the county auditor and Office of Budget and Management (OBM)?
No, OBM Director Murnieks has informed the local government associations that you do not need to pass another one.
23. Does the resolution need to be sent to the county auditor and OBM?
Yes, the resolution required pursuant to HB 481 should be sent to both. OBM is accepting electronic copies to the Ohio Grants Partnership e-mail box at grants@obm.ohio.gov.
24. Do townships need to let the county auditor know that they are not requesting any CARES funding?
The county auditor will realize you have not passed a resolution accepting the funding, which is a prerequisite for the funding.
25. If there are no townships/villages accepting the funds, what happens to the funds? Are they immediately sent back? If we do not have expenses now, can we apply in the future should there be a "re-spike"?
No, the money is not immediately sent back. The funds would remain in the county treasury and would be redistributed in October pursuant to the law. It may be advisable to apply for the funding through resolution now and, if the funds are not used, then the money is sent back to the county on October 15th. There will be a redistribution of funds on October 22nd and your township would receive additional funding that may be necessary since any potential spike in cases could occur in the October to December time frame. However, if a township does not pass the initial resolution for the funding, then in that event, no funds will be redistributed to that township on October 22nd.

26. What is the process for returning funds to the State of Ohio?
Final returns of payment must be received by the Office of Budget and Management no later than December 28, 2020. Returns can be made via check payable to the Treasurer of the State of Ohio and mailed to:
Ohio Office of Budget and Management
ATTN: Fiscal Section
30 E. Broad St., 34th Floor
Columbus, OH 43215
27. If my township has no COVID-19 related expenses, can we subgrant the funds to the county health district or joint fire district for what they have used?
Generally, yes, if for appropriate COVID-related expenses. There are checklists on the OBM's website regarding subgranting and contracting. Subgranting and contracting may have different requirements; therefore, you should consult your legal counsel for your specific situation.
28. Can CARES Act funds be used to cover extraordinary costs that are passed through as additional billing to the township from an entity with which the township contracts for fire, EMS, or police services?
If the additional costs can be related to the township's response to COVID-19, then some, if not all, those costs could be reimbursed. The key is to establish the necessity of the additional costs and the proximal relationship to the COVID-19 crisis response. The invoices or additional contracts should clearly state why they are necessary due to COVID. Documenting the COVID necessity for each expense/invoice/contract is key.
29. Can our self-funded volunteer fire department apply for revenues lost due to the cancellation of county fair events where funds were raised from a food stand?
No, unfortunately, those losses in revenue would not be deemed necessary expenditures due to COVID-19. Revenue replacement is not deemed an appropriate use of the funds.
30. We have rental halls/shelters that had events cancelled because of the COVID-19 restrictions. Would the refunded payments to those that reserved the facilities be eligible for reimbursement through the Cares Act funds?
No, because revenue replacement is not deemed an appropriate use of the funds.
31. Could the funds cover an upgrade to our computer system and the consolidation of all our emails and video conferencing into one easy to use platform? What about upgrading to high speed internet to enable us to live stream meetings, help with notifying the public about emergencies, and to make our meetings more transparent?
This is a grey area. It may be allowable if the costs incurred are due to COVID, are not routine, and are only through December 30, 2020. You cannot pre-pay for example for a three-year software license. The township would have to demonstrate that, but for the upgrade, it would not have been capable or less capable of mitigating or responding to the COVID-19 crisis. Specific IT costs for video/teleconferencing that were not otherwise planned but were necessary due to COVID would be allowable. Routine software upgrades would not be allowable.
32. We have been designated as an Emergency Shelter through the Red Cross and have received a Grant for ¾ of the costs. We did not budget for the remaining ¼ this year but proceeded to finish the project due to COVID and concern for a second wave. Could we use the money to repay what we spent for the remaining ¼?
Yes. The costs incurred appear to be directly related to mitigating the Coronavirus. As long as the expenditures were not accounted for in the budget, were incurred between March 1, 2020 and December 30, 2020, and were necessary due to the Coronavirus Emergency, which appears to be

the case in providing an Emergency Shelter through the Red Cross, the reimbursement would be appropriate. The Department of Treasury Guidelines provide that certain expenditures are permitted, including “Expenses for care of homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.”

33. What if our Township sells assets that we acquired with money from our CARES 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.
34. What happens if interest is earned on the Coronavirus Relief Fund?
Funds are not subject to the Cash Management Improvement Act of 1990. Interest funds earned must be placed back into the program and used in a manner consistent with the U.S. Department of Treasury guidance on eligible costs within the performance period.
35. Are Townships permitted to provide "economic support" to individuals or businesses under ORC?
Department of Treasury Guidelines give examples of acceptable expenditures for “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...” The economic support presumably contemplated would be limited to small businesses that were closed and had no ability to recoup those business interruption losses through insurance or other subsidies. Advice of legal counsel would be helpful in this situation because in order to offer funds to businesses, there must be an objective and transparent process for applications and an objective standard for awarding funds.
36. Can we use funds to help 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.
37. Should we issue a Blanket Purchase Order tied to the CARES fund for our fire department to use when paying expenses for COVID-related costs?
Please consult the Auditor of State’s Local Government Services or your legal counsel on this matter.
38. Has the Ohio State Auditor provided a bulletin to follow for future audits of the CARES Act funds?
Not as of June 14th. The Auditor’s website has a spreadsheet setting forth the specific federal guidelines.
39. Who can we call or email about a purchase to confirm that it qualified as a Covid-19 purchase?
Townships should always discuss with their legal counsel, but OBM’s Grants Partnership is also happy to discuss questions about the allowability of specific items. Their e-mail is grants@obm.ohio.gov.