



# CRF Compliance Overview



*Main CRF Compliance Issues for Municipalities*

RHODE  
ISLAND

# Coronavirus Relief Fund: Essential Requirements

There are three main criteria from the CARES Act for determining CRF eligibility.

## Necessary

Costs are “necessary” if the responsible official makes a reasonable judgment that they are “reasonably necessary” to either:

- ✓ respond directly to the emergency, such as by addressing medical or public health needs, or
- ✓ 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.

## Unbudgeted

Costs must not be accounted for in the enacted FY20 budget. A cost satisfies this element if

- ✓ the cost cannot lawfully be funded using a line item, allotment, or allocation within the enacted FY20 budget, or
- ✓ the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

## Incurred by 12/30

Costs must be “incurred” between 3/1/20 and 12/30/20. Generally speaking, for a cost for a service or good to be considered to have been incurred in the covered period, performance or delivery for the service or good must

- ✓ occur between 3/1/20 and 12/30/20, and
- ✓ need to occur between 3/1/20 and 12/30/20.

# U.S. Treasury's Interpretations of CRF Rules

U.S. Treasury has interpreted CRF in guidance and FAQs that it has updated from time to time

- [Treasury Guidance](#)
  - Defines “necessary,” “unbudgeted,” and “cost incurred by 12/30”
  - Provides examples of eligible and ineligible uses
  - Contains detailed discussion of what public sector payroll is eligible for CRF funding
- [Treasury FAQs](#)
  - Address many common scenarios
  - Implicitly set out additional rules through the answers given
- Guidance and FAQs last updated on September 2. Unclear if future updates forthcoming.

# U.S. Treasury OIG's Oversight of CRF

## U.S. Treasury Office of Inspector General monitors and oversees use of CRF

- Treasury OIG determines if uses of CRF are ineligible
  - State of Rhode Island will owe to federal government any amounts used for ineligible purposes
- **\*\*\*State of Rhode Island is liable for ineligible uses by entities it gives CRF money to\*\*\***
- State, through its agreement with CRF recipients, requires CRF recipients to pay back to state any amounts used for ineligible purposes
- Treasury OIG has issued detailed reporting and record keeping requirements
  - State of Rhode Island is responsible for reporting and record keeping
  - State, through program design and agreements, captures necessary information and requires record retention.

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# What Costs Are “Necessary” Due to COVID Emergency?

## Examples of costs that could be necessary:

- Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
- Expenses for sanitizing products and PPE 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 in response to the COVID-19 public health emergency.
- Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
- Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.

# How to determine whether cost is “necessary”?

- Refer to list of eligible and ineligible examples in [Treasury Guidance](#):  
Is the cost listed as example of eligible or ineligible uses?
- Refer to the [Treasury FAQs](#): Does an FAQ indicate that the cost is eligible or ineligible?
- Consult the state Pandemic Recovery Office for uncertain costs

## *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.

## **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.

# What Costs Are “Unbudgeted”?

## CRF eligible costs must be “unbudgeted”

- Budget baseline
  - CARES Act baseline is the budget as it existed on March 27, 2020, i.e. the official budget in place at that date.
  - Treasury considers this budget to be the “spending baseline” for determining whether or not an expenditure satisfies the “unbudgeted” criterion.
- A cost is unbudgeted if it cannot be funded with an existing line item in the March 27 budget or the cost would be for a “substantially different use” from an existing line item in that budget
- This “spending baseline” carries forward, without an inflationary adjustment, when a government enters a new budget year.

# When are “Costs Incurred”?

CRF is only for costs incurred between 3/1/20 and 12/30/20. **Deadline is 12/30, not 12/31!**

- For a cost to be considered incurred between 3/1/20 and 12/30/20, the goods or services paid for must:
  - Be received between 3/1/20 and 12/30/20 *and*
  - Need to be received between 3/1/20 and 12/30/20
- This rule applies to subrecipients of state, in addition to state
- Narrow exceptions for:
  - Uncontrollable vendor delay
  - Goods that need to be purchased in December in order to be able to be used in January
  - Goods purchased in bulk and delivered during by 12/30/20 if the bulk purchase is consistent with normal procurement practice, a portion of the goods will be used before 12/30/20, and tracking usage of goods is impractical

# Coronavirus Relief Fund: Prohibited Uses

Any use must meet the three eligibility criteria. Some uses are specifically prohibited, including the following.

## No Government Revenue Replacement

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify.

Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

## No Double Dipping

Funds cannot be used for costs that will be covered from another federal source, from insurance, or by donations.

- ✓ Funds can cover the 25% local share of FEMA, but not the 75% covered by FEMA itself.

## No General Economic Development Uses

Broad-based economic development uses are not permitted.

Any assistance to businesses or individuals must be tailored to address business or employment interruptions caused by the pandemic.

# Other Prohibited Uses

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## Prohibited uses are listed in Treasury guidance and contained in Treasury FAQ answers

- Additional explicit prohibitions from Treasury Guidance:
  - Expenses for state share of Medicaid
  - Damages covered by insurance
  - Reimbursement to donors for donated items or services
  - Workforce bonuses other than hazard pay or overtime
  - Severance pay
  - Legal settlements
- Examples of implied prohibitions from Treasury FAQs:
  - Assistance to enable tax payments, except only in cases designed to prevent foreclosure (FAQs 20, 26)
  - Expenses to prepare for future pandemics (FAQ 41)
  - Capital projects that do not result in significant public health impact during the current public health emergency (FAQs 28, 36)

# What payroll costs are eligible?

Payroll expenses must be (1) necessary, (2) unbudgeted, (3) incurred between 3/1 and 12/30, and (4) not covered by other federal sources. Payroll costs can fall into three main categories.

## Public Safety & Public Health

As an administrative convenience, certain public safety & public health employees are presumed to be CRF eligible

## New COVID-19 Hires

New, previously unbudgeted hires who are exclusively dedicated to COVID-19 response are 100%

## Employees Dedicated to COVID-19

Time of existing employees dedicated to mitigating or responding to the COVID-19 public health emergency can be CRF eligible, subject to documentation and other restrictions.

- Eligible costs include payroll, certain hazard pay and OT, and benefits, including costs of all types of leave, employee insurance, refitment, unemployment benefits plan, workers comp insurance, and FICA
  - Hazard pay is only eligible if it is COVID-19 related.
  - Across the board workforce bonuses or hazard pay is not allowed.

# Payroll Costs: Public Health and Public Safety Presumption

- As an administrative accommodation, a government may presume that certain public health and public safety employees are CRF eligible, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise
  - Public safety employees include police officers, firefighters, emergency medical responders, and those who directly support such employees such as dispatchers and supervisory personnel.
  - Public health employees include employees of public health directly engaged in matters related to public health and related supervisory and employees involved in providing medical and other health services to patients and supervisory personnel.
- 100% of presumed employees payroll and benefit costs can be covered, BUT municipalities cannot double dip and claim CRF and FEMA reimbursement for the same payroll/benefit costs
- Municipalities should clearly define the employees deemed “public safety” or “public health” employees consistent with the guidance.
- **Records required:** payroll, time, and human resource records to support costs incurred for these payroll expenses.

# Payroll Costs: New, COVID-19 Employees

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- This category covers new, unbudgeted hires who are exclusively dedicated mitigating or responding to the COVID-19 public health emergency.
- 100% of COVID-19 hires payroll and benefit costs can be covered, BUT municipalities cannot double dip and claim CRF and FEMA reimbursement for the same payroll/benefit costs
- **Records required:** payroll, time, and human resource records to support costs incurred for these payroll expenses and to substantiate that the employee's duties were 100% COVID-19 related.

# Payroll Costs: Existing Employees

- Employee time dedicated to mitigating or responding to the COVID-19 public health emergencies.
- Municipalities have two options on how to approach this within their agencies/department:
  - **Option 1:** Charge 100% of the payroll and benefits for employees who, for the relevant pay periods, are “substantially dedicated” to COVID-19 response. Treasury has not defined “substantially dedicated,” but state has defined as 50% or more of time during relevant pay period.
  - ***Required documentation:*** documentation of the “substantially dedicated” conclusion with respect to its employees, e.g. time sheets and process for determining substantial dedication; payroll, time, and human resource records to support costs incurred for these payroll expenses
  - **Option 2:** Charge portion of payroll and benefits corresponding to employee time spent on COVID-19, regardless of whether employees were substantially dedicated.
  - ***Required documentation:*** payroll, time, and human resource records to support costs incurred for these payroll expenses, with documentation of the time spent on COVID-19 response

# Payroll Costs: Existing Employees – Examples

- Suppose an agency has Employee 1 who worked 60% of his time on COVID-19 and Employee 2 who spent 20% of her time on COVID-19. Agency has two options:
- Option 1:
  - Charge 100% of Employee 1’s payroll and benefits to CRF because Employee 1 was “substantially dedicated” to COVID-19 response.
  - Charge 0% of Employee 2’s time to CRF because agency is not portioning out Employee 1’s time.
- Option 2:
  - Charge 60% of Employee 1’s payroll and benefits to CRF.
  - Charge 20% of Employee 2’s payroll and benefits to CRF.
- Agency must be consistent in choice between options throughout the entire CRF period.

# Where to find more information?

## Federal resources which are updated periodically.

- U.S. Treasury Guidance on CRF uses: <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>
- U.S. Treasury FAQs on CRF uses: <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>
- Rhode Island Pandemic Recovery Office website: <http://www.omb.ri.gov/pandemic-recovery/>