**Update on CARES Act Funding**

We now have a better – but still not final – understanding of the CARES Act funding. I had a good call with the State OMB director, and then was on a call with a Treasury official, organized by our partners at NACo. This still all depends on Legislative actions, which are to be determined. If this funding moves forward...

The short of it – there are lots of things you can spend these funds on, but not for the purposes you need them for most. CARES Act funding will not make your budgets whole.

- You can definitely spend them on expenditures related to the public health crisis
- You can definitely *not* spend them on lost revenue replacement – anything that looks like an attempt to back-fill budgets will be questioned
- Expenses are the liability of the State – Treasury will recoup from the State any questionable funds

In terms of advocacy, this leaves us a few things to consider:

- We would recommend not saying to policy makers or the media that you can’t use these funds – that increases the likelihood that the total amount or those funds that others desperately need or can use could be reduced or redirected
  - Our approach is for the State to set up a mechanism for unspent or unspendable funds to be redistributed to those who do need it
- It is more important than ever to talk about the impacts you are experiencing so that we can advocate to the Legislature and Congress for less restrictive funding
  - We’ll still need to address where vetoes weren’t addressed and where budget shortfalls clearly impact your ability to function
- It is certainly on the table for Congress to pass a bill with direct support for local governments that would allow lost revenue replacement
OMB is currently working with the Dept. of Law on a contract or agreement to have in place for accepting these funds. I would expect it to have some kind of clause in there that expects you to follow the Treasury guidance. They are also looking at reporting processes. We’re hoping these will be simplified documents that outline expenses by category and then justification in narrative form. I wouldn’t be surprised if there were higher levels of reporting requirements for larger allocations.

Based on the call with Treasury (see notes below), here are some potential guidelines:

- It would be beneficial for you to set up a new special revenue fund to account for all funding proceeds, not intermingle the revenue in the General Fund; it will be much cleaner to do so.
- In FY20, you can use CARES Act funding to reimburse costs already budgeted, if those budgeted costs are redirected because of COVID-19. So, if you budgeted for police and emergency responders, but the majority of their time is affected by COVID-19 needs, CARES Act funding would apply. The same is true for any other staff – it might have been budgeted but it wasn’t budgeted for the purposes of addressing the public health emergency.
- For FY20, you can assume that costs related to COVID-19 should be either reimbursable from FEMA or CARES Act, and, either request reimbursement from FEMA, account for the costs in the new special revenue fund, or, transfer funding to other funds were the costs are recorded. Everything needs to be tracked through a project number for audit trail or reporting purposes.
- Beyond these direct costs that you are experiencing, you can create entirely new programs in support of residents. Importantly, you’ll need to justify the relation to the public health crisis or economic impact thereof. So for each of these, you would want to develop some criteria, either broadly (community-wide economic impact as % to justify broader distribution) or specifically (application process that indicates need)
  - Grants to businesses, residents, or nonprofits
  - Rent or mortgage relief
  - Food distribution programs, or anything in support of vulnerable populations
  - Property or sales tax relief (we’re looking for more direct guidance on this)

Ultimately, you’ll need to rely on your municipal attorney and finance officer to steer through this appropriately. These will be political and policy-driven decisions that require careful evaluation of risks involved and the needs of your community.

Here is a brief summary from Treasury; they were able to answer questions directly from NACo, with answers from someone directly responsible for drafting the guidance. It definitely gave us some insight into the overall process and how they approached this. We expect additional or expanded FAQs from Treasury later this week and as we move forward, which might address dos and don’ts.

- Treasury is silent, for now, on whether funds can be used for FEMA match
• Each local government will have to determine whether FEMA reimbursement or CARES Act funding is most appropriate, based on timing and other funds that might be available.
• Local government can grant funds to other employers based on public health or economic impact.
• Local governments cannot apply the payroll support provision to their own payroll.
• CARES Act funding can be applied to employees not performing planned duties, even if they were already accounted for in current budgets.
• State (recipient of federal funds) is responsible for proper use of funds, held accountable.
• Costs must be incurred before December and accounted for on cash basis; expended funds by end of year.
• Economic support, grants to individuals, rent or mortgage assistance, or utility bills are all eligible, but avoid back door to revenue support; grant to individuals allowed with direct connection to economic impact.
• Funds can support furloughed employee training or workforce development programs – any activity to get people back into workforce.
• Funds can be spent on asset development or purchasing, and capital needs depending on circumstances and what is necessary to promote health; can’t look like addressing deferred maintenance.
• Local governments can hire an entity to assist local governments with reporting of expenditures.
• There is no requirement to ask permission before you spend – keep receipts and report accordingly, document reasoning why it is appropriate, code correctly.
• Assistance programs need to be related to public health emergency; if an expanded program then it would pay for the increase and not the base.

Below is a draft op ed that articulates some broader conclusions and talking points that are useful, we think. We’re thinking about how best to approach this. It does seem like our best efforts can be to 1) use these funds in support of communities and 2) keep up advocacy for additional funds that will help offset your budget challenges.

Thanks, everyone, as we all try to understand this better. There is plenty still to do before any of this is implemented.

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