

FEDERAL GUIDANCE RELATED TO AUDITS OF CARES ACT PAYMENTS

US Treasury Guidance

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.

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.

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.

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.

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.

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.

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.

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.

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, pending completion of registration.

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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.

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.

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.

What are the differences between a subrecipient and a beneficiary under the Fund for purposes of the Single Audit Act and 2 C.F.R. Part 200, Subpart F regarding audit requirements?

The Single Audit Act and 2 C.F.R. Part 200, Subpart F regarding audit requirements apply to any non-federal entity, as defined in 2 C.F.R. 200.69, that receives payments from the Fund in the amount of \$750,000 or more. Non-federal entities include subrecipients of payments from the Fund, including recipients of transfers from a State, territory, local government, or tribal government that received a payment directly from Treasury. However, subrecipients would not include individuals and organizations (e.g., businesses, non-profits, or educational institutions) that are beneficiaries of an assistance program established using payments from the Fund. The Single Audit Act and 2 C.F.R. Part 200, Subpart F regarding audit requirements do not apply to beneficiaries.

Please see Treasury Office of Inspector General FAQs at <https://www.treasury.gov/about/organizational-structure/ig/Audit%20Reports%20and%20Testimonies/OIG-CA-20-028.pdf> regarding reporting in the GrantSolutions portal.

OMB Guidance

Section 15011(b)(2) of the CARES Act requires that Recipients of “large covered funds” (\$150,000 or more) shall within 10 days after the end of each calendar quarter submit to the agency and Pandemic Response Accountability Committee a report that contains:

1. The total amounts of large covered funds received from the Agency;
2. The amount of large covered funds received that were expended or obligated for each project or activity;

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3. A detailed list of all projects or activities for which large covered funds were expended or obligated, including :
 - a. The name of the project or activity;
 - b. A description of the project or activity; and
 - c. The estimated number of jobs created or retained by the project or activity; and
4. Detailed information on any level of subcontracts or subgrants awarded by the covered recipient or its subcontractors or subgrantees, to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (31 USC §6101) allowing aggregate reporting on awards below \$50,000 or to individuals, as prescribed by the Director of the Office of Management and Budget (OMB)

Covered Funds are defined in Section 15010(a)(6) the CARES Act to include funds, including loans, that are made available in any form to any non-Federal entity, not including an individual, under the following:

1. The CARES Act;
2. The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (P.L. 116-123);
3. The Families First Coronavirus Response Act (P.L. 116-127); or
4. Any other act primarily making appropriations for the Coronavirus response and related activities.

The OMB through M-20-21 has noted that the reporting already required of recipients of covered funds through existing federal programs should be sufficient to meet the requirements for reporting under Section 15011(b)(2) of the CARES Act. M-20-21 states that federal agencies are required to notify recipients if any additional reporting is required and includes such notice in the award.