State Spending on COVID-19 and FEMA Reimbursement

The CARES Act entrusted $1.38 billion in Coronavirus Relief Fund (CRF) dollars to the state, including 45 percent (almost $625 million) that was intended for distribution to local governments (US Treasury FAQ, page 7). The Legislature had set aside $400 million for local government, less than two thirds of what was intended. So far, local governments received $46 million, and there is another $156 million currently in the process of distribution, this leaves $200 million remaining that needs to be allocated to cities and counties across the state.

At the August 5, 2020 meeting of the Joint Emergency Board we heard that the state planned to spend the remaining $200 million in local share on COVID-19 contact tracing, testing, education and outreach, case management, and supportive services (Item 1, $94.2 million); as well as the purchase of Personal Protective Equipment (PPE) (Item 3, $105 million). The E-board moved Item 1, but did not move Item 3 at the urging of local government.

Since that meeting local government has been asking **"will the state seek FEMA reimbursement on these expenses, and if not, why not?"** Our preference would be that the state utilize its share of CRF dollars to fund the local match, and use budgetary reserves to fund the remainder of these expenses until such time that they are reimbursed through the Stafford Act and FEMA public assistance. We ask that the remaining $200 million in E-board allocated local funds be allocated to local governments for the full range of uses allowed under U.S. Treasury guidance as intended by the CARES Act.

Even if the state does not seek or receive FEMA reimbursement asking local government to shoulder these costs is wrong. If local governments receive $400 million total the state will still have nearly $1 billion with which to prioritize public health spending. While this money may have been allocated, it has not all been spent, and the state may need to rethink some of its other priorities. Our request for additional funding is not tied to whether the state will seek or receive FEMA reimbursement, we are simply offering this up in an attempt to be helpful.

CRF dollars may be used for FEMA local match, but not for expenses that will be reimbursed.

The U.S. Treasury is explicit in their FAQ Document that CRF funding may be able to cover the 25% match under the Stafford Act and FEMA public assistance:

> "**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."

Although the funds may be used for the local match, the same FAQ indicates that *CRF Funds may not be used for any costs for which the state will seek reimbursement.* Using CRF funds for expenses beyond the 25% local match will render them ineligible for FEMA reimbursement and the state will effectively leave as much as $150 million in federal funds on the table if it follows through with the $200 million in planned health spending from the August 5 E-board:

> **"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.*" (our emphasis)

All of part of the $200 million in health costs local governments are being asked to shoulder are FEMA reimbursable.

From correspondence with the Oregon Military Department and Office of Emergency Management in an August 6th email we understand that PPE at the very least is likely a reimbursable expense:

> "Most PPE should be eligible for reimbursement under the FEMA Public Assistance program. The PA program does require a 25% match. 100% of cost reviewed and 75% of eligible costs reimbursed. Nothing is very quick with the Federal government. There is not a specific timeframe I can provide. It is different for each project based on several factors. FEMA must "build a project" and 100% of the supporting documentation is needed for review to determine eligibility and the project amount. There are several layers of review plus a congressional review, since I'm sure it will be several million, before funds are obligated. The project then comes to the Oregon Emergency Management (OEM) to work with DAS on the reimbursement. OEM, as the pass thru entity, would draw down the funds from the feds and then process the payment to DAS. The process will take several months."
>
> Daniel Gwin, Deputy State Public Assistance Officer; Oregon Military Department/OEM

We also suspect that some if not all costs for testing, tracing, education and outreach and quarantine cost will be similarly reimbursable based on FEMA guidance documents[1] although this will depend on details not available in the LFO staff recommendation. Asking local government to fund FEMA reimbursable expenses is neither fair nor an effective use of limited CRF resources.

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[1] https://www.fema.gov/sites/default/files/2020-07/fema_covid_eligible-emergency-protecitve-measures_factsheet.pdf
https://www.fema.gov/sites/default/files/2020-06/PA_Medical_Care_Policy_for_COVID-19_508.pdf
https://www.fema.gov/sites/default/files/2020-07/FEMA-COVID-19_coordinating-public-assistance-and-other-sources-of-federal-funding_07-01-2020.pdf