



## **Use of Coronavirus Relief Funds for Utility Customer Assistance Programs**

The Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27, 2020, appropriated \$150 billion for Coronavirus Relief Fund (CRF), which is intended to provide assistance to states and local governments in response to the COVID-19 pandemic. Use of these funds is restricted. However, guidance from the U.S. Department of Treasury indicates CRF can be used to provide subsidy payments to utility customers in need of assistance as a result of the COVID-19 pandemic. This document gives an overview of the issue, provides specific examples of state or community use of CRF funds for this purpose, and includes examples of letters to local lawmakers in support of such use.

### Background

The CARES Act appropriated \$150 billion to the CRF, which, in turn, was paid to states, the District of Columbia, U.S. Territories, and eligible units of local government based on population. A unit of local government eligible for receipt of direct payment includes a county, municipality, town, township, village, parish, borough, or other unit of general government below the state level with a population that exceeds 500,000. The amount of payments made to each state was reduced by the aggregate amount of payments that was disbursed to eligible local governments within the state.

The CARES Act provides that CRF can only be used to fund expenses that:

1. Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. Were not accounted for in the budget most recently approved as of March 27, 2020, (the date of enactment of the CARES Act) by the state or local government; and
3. Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

The Treasury Department has specifically interpreted the CARES Act to mean that CRF cannot be used to replace governmental revenue losses as a result of the pandemic. So, for example, they could not be used to offset a decline in utility revenues due to a decline in load or due to an increase in customer non-payment. However, Treasury has said CRF could be used to provide “subsidy payments” to utility customers in need of assistance because of the pandemic. Specifically in a “Frequently Asked Questions” (FAQ) document published on May 5 and again on May 28, Treasury stated.

Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in

the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

This FAQ document and all other CRF-related guidance from Treasury can be found [here](#).

As a result of this guidance, several states and localities have established CRF-funded customer assistance programs. Below are descriptions of several such programs. It is worth emphasizing that Treasury notes that such payments must be deemed by the recipient to be necessary due to the pandemic. Thus, it is incumbent on any entity wishing to creating such a program to at least provide a mechanism for making such an assertion, if not some means of confirming the accuracy of that assertion.

### Examples of CRF Use for Utility Customer Assistance

#### *Jacksonville, Florida*

On April 24, Jacksonville Mayor Lenny Curry [announced](#) plans for spending \$160 million in Coronavirus Relief Funds, including a \$40 million program to provide up to 40,000 households a \$1,000 debit card for use in paying mortgage, rent or utility bills. The program was authorized under section 7 of City of Jacksonville [Ordinance 2020-0235-E](#). To qualify for a debit card under the program, an applicant must:

- Be a Duval County resident
- Provide proof of employment on February 29, 2020
- Make less than \$75,000 per household on the date of application
- Have lost at least 25% of their income because of the COVID-19 crisis

The city is now [considering](#) legislation to provide an additional \$200 to up to 10,000 residents for utility bills only. An excerpt from the original ordinance is below.

NOTES: The follow-on ordinance is not yet available, but could be a way to deal with the issue of “leakage” from providing grants to customers, rather than paying customer accounts on their behalf. (Some local counsel are recommending such an approach as an extra measure to avoid running afoul of the prohibition against using CRF funds for revenue replacement.) Specifically, a debit card that could only be used to pay utility bills could a) be considered a direct grant to the customer rather than revenue replacement for the utility, but b) also ensure that all funds provided were spent on the intended purpose.

#### *State of Colorado*

The Colorado State Assembly has taken up and passed [Bill 20-1412](#). This bill allocates \$4.8 million of CRF funds received by the state to Energy Outreach Colorado, a not-for-profit energy assistance organization, which is also responsible for the state’s Low Income Home Energy Assistance Program. In turn, Energy Outreach Colorado is directed to “provide direct utility payment assistance to low-income households.” Full background on the legislative history of Bill 20-1412 can be found [here](#). Again, as with the Jacksonville program, a household must certify that its need for assistance “results from the public health emergency cause by the COVID-19 pandemic.”

NOTES: The program does not allocate funds to households, but to the community action agency (CAA) that currently distributes LIHEAP benefits. The CAA will, in turn, not provide funds to households, but make utility payments for their benefit. Again, this resolves the issue of leakage without running afoul of “revenue replacement” restrictions.

*State of Oregon*

On June 5, the Oregon State Emergency Board (which operates during the interim when the Legislature is not in session) [established](#) “an Other Funds expenditure limitation of \$15,000,000 for the Housing and Community Services Department, for funding from the Coronavirus Relief Fund received by the Department of Administrative Services and transferred to the Housing and Community Services Department for energy assistance payments to Oregonians with incomes adversely impacted by circumstances due to the COVID-19 pandemic.”

*Douglas County, Nebraska*

On June 30, the Douglas County Board of Commissioners voted to provide \$4 million of CRF funds to a “dollar energy fund” with funds to benefit Douglas County residents, including Omaha Public Power District and Metropolitan Utilities District (MUD) customers.

*Orange County, Florida*

Orange County has allocated 30 percent of the \$243 million in CRF funds to “Social Services and Resident Needs,” including for utility assistance. More information about the program can be found [online](#).

*Talbot County, Maryland*

Talbot County has created the [CARES Individual Assistance Program](#) to provide emergency cash assistance for individuals who are out of work or whose income has been reduced because of the COVID-19 public health emergency. The program can also assist those who are unable to meet the cost of a COVID-19-related expense. CARES assistance can help with rent, mortgage or other housing costs, utilities, and other emergency needs, and payments are made directly to the landlord, mortgage company, utility company or other vendor.

*For more information please contact:*

John Godfrey  
jgodfrey@publicpower.org  
(202) 256-7710