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# Wisconsin Legislative Council

Anne Sappenfield  
Director



TO: SENATOR JON ERPENBACH

FROM: Dan Schmidt, Deputy Director

RE: CARES Act Expenditure Deadlines

DATE: November 25, 2020

This memorandum, prepared at your request, responds to questions you have asked regarding the deadline for the expenditure of Coronavirus Relief Fund (CRF) monies received by state, local, and tribal governments in Wisconsin under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. Specifically, you asked the following three questions:

- Do the remaining unspent [CRF] dollars expire December 31<sup>st</sup> 2020?
- Is there a way to ask the federal government for an extension?
- Can [CRF monies] be “parked” in a state appropriation before the December 31<sup>st</sup> deadline and spent in the new year?

My answers to your questions follow.

## EXPIRATION OF UNUSED CRF MONIES

Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act, specifically provides that CRF monies may only be used as follows:

USE OF FUNDS.—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government 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 the date of enactment of this section for the State or government; and
- (3) **were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.** [Emphasis added.]

Based on this provision, and barring any new federal legislation addressing the issue, costs for expenditures using CRF funds must be incurred by the end of day on December 30, 2020. Costs incurred on or after December 31, 2020, do not qualify for the CRF funding and must be returned to the federal government.

U.S. Treasury guidance clarifies that “for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time.”<sup>1</sup> The guidance further emphasizes that, in all cases, performance or delivery of the service or good must take place within the period between March 1, 2020, and December 30, 2020. Therefore, use of the remaining State of Wisconsin CRF funds will require all costs to be incurred, meaning goods purchased or services rendered, prior to December 31, 2020. While it is the general expectation of the U.S. Treasury that payment for the cost of a good or service will occur within 90 days of its respective delivery or performance, the guidance indicates that **payment** need not be made prior to the December 30, 2020, expenditure deadline.

## **EXTENSION FOR THE USE OF CRF MONIES**

There is no provision of the current CARES Act which permits an extension for the use of CRF monies beyond the December 30, 2020, expenditure deadline.

## **“PARKING” OF CRF MONIES**

There is no provision of the current CARES Act which permits a state to allocate CRF funds for future use beyond the December 30, 2020, expenditure deadline. As noted above, the CARES Act specifically states that CRF funds may only be used to cover those costs of the state that were incurred during the March 1, 2020, to December 30, 2020, covered period. U.S. Treasury guidance indicates that while costs may be paid following the December 31, 2020, expenditure deadline, performance or delivery of services and goods must occur prior to that deadline. Therefore, it appears that appropriating the CRF monies into a state reserve account without incurring specific costs for goods or services within the required period is not a permitted use of the funds and such funds would be required to be returned to the federal government following the December 30, 2020, deadline.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

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<sup>1</sup> See [Coronavirus Relief Fund Guidance for State, Territorial, Local and Tribal Governments](#), U.S. Treasury, Updated September 2, 2020.