



Illinois
Department of Commerce
& Economic Opportunity
JB Pritzker, Governor

Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program

Substantially Dedicated Payroll claiming guidance as of September 28, 2020

The Department of Commerce and Economic Opportunity (DCEO) is pleased to announce an update from the U.S. Department of the Treasury with regard to claiming public health and public safety payrolls as a cost that is *substantially dedicated to mitigating or responding to COVID-19* will drastically decrease the reporting burden placed on local governments participating in the Local CURE program.

On September 21, 2020 the Department of the Treasury OIG issued an updated Frequently Asked Question (FAQ). The Treasury OIG provided new, revised guidance on the claiming of payroll as an acceptable use of the Coronavirus Relief Fund—the funding source for the Local CURE program.

Therefore, the DCEO and State of Illinois are committed to adopting such guidance. To that end, the relevant guidance in FAQs 70, 71 and 72 regarding presumed “substantially dedicated” public health and public safety employees is adopted under the Local CURE program.

The Local CURE program will consider public health and public safety employees (as defined below) to be substantially dedicated to mitigating the emergency, unless otherwise indicated by the chief executive for the local government, and will consider their services a “substantially different use” from any expected use of previously budgeted funds.

70. To what level of documentation will a government be held to support the reimbursement of public health and safety payroll that was “presumed” to be substantially dedicated to mitigating the emergency?

The recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)). Documents/records include payroll records for the covered period March 1 through December 30, 2020. Records include, but are not limited to (1) general and subsidiary ledgers used to account for the receipt of CRF payments and subsequent disbursements; and (2) payroll, time, and human resource records to support costs incurred for payroll expenses. Please refer to the Treasury OIG memorandum, Coronavirus Relief Fund Reporting and Record Retention Requirements (OIG-20-021; July 2, 2020). These document requirements apply to supporting payroll reimbursement amounts using CRF proceeds and not to support the presumption that public health and safety payroll is substantially dedicated to mitigating the emergency.

- a. Will a government have to demonstrate/substantiate that a public health or public safety employee's function/duties were in fact substantially dedicated to mitigating the emergency?**

No, the government will not have to demonstrate/substantiate that a public health or public safety employee's function/duties were substantially dedicated to mitigating the emergency but must maintain records and documentation supporting payroll amounts reimbursed using CRF proceeds. As indicated in Treasury's Guidance, as an administrative accommodation, governments may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. Treasury's FAQs add that entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020.

- b. For payroll that was accounted for in the FY2020 budget but was then "presumed" to be substantially dedicated to mitigating the emergency, will the government have to demonstrate/substantiate that a public health or public safety employee's function was a substantially different use?**

No, the government will not have to demonstrate/substantiate that a budgeted public health or public safety employee's function was a substantially different use. As stated in Treasury's Guidance, within the category of substantially different uses, Treasury has included payroll and benefits expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID19 public health emergency. The Treasury OIG does require the government to maintain budgetary records to support the fiscal years 2019 and 2020 budgets.

- 71. Is the government required to perform any analysis or maintain documentation of the "substantially dedicated" conclusion for payroll expenses of public safety, public health, health care, and human service employees?**

No, the government is not required to perform an analysis or maintain documentation of the substantially dedicated conclusion for payroll expenses of public safety, public health, health care, and human service employees. As indicated in Treasury's Guidance, as an administrative accommodation, governments may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. Please refer to response to question 69.

72. Treasury’s FAQs indicate a “State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.”

a. ***What level of documentation needs to be maintained to indicate the chief executive did not determine “specific circumstances indicate otherwise?”***

No documentation of the negative assurance of the chief executive (or equivalent) is required.

b. ***Is the absence of documentation indicating “specific circumstances indicate otherwise” sufficient, or does an affirmative decision need to be documented?***

See previous responses.

For purposes of the presumption described in this new guidance from the Treasury OIG, look to the September 2, 2020 “Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees” included in Treasury’s “Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments” for clarification on which employees are “public health and public safety employees”:

In response to questions regarding which employees are within the scope of this accommodation, Treasury is supplementing this guidance to clarify that public safety employees would include¹ police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (e.g., laboratory technicians) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel.

¹ Local CURE accepts *emergency managers* under the same “public safety personnel” umbrella