

COVID-19 FUNDING RESOURCES FOR LAW ENFORCEMENT

On March 27, 2020, the President signed into law the CARES (Coronavirus Aid, Relief, and Economic Security) Act, which is the third stimulus bill to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus pandemic. The CARES Act provides more than \$2 trillion for relief efforts and includes funding for law enforcement and other first responders:

U.S. DEPARTMENT OF HOMELAND SECURITY (DHS)

For FEMA to provide assistance the President must declare that an emergency or major disaster exists. On March 13, 2020, the President issued a declaration of national emergency regarding COVID-19. The Stafford Act authorizes the President to provide federal assistance in the event of a disaster to affected state and local governments and certain private nonprofits that provide public services to respond or recover.

The CARES Act includes the following funding from DHS:

FEMA Grants (\$400 million)

- **Emergency Management Performance Grants COVID-19 Supplemental (EMPG-S) (\$100 million)** – assists states, territories, tribes, and local governments with their public health and emergency management activities supporting the prevention of, preparation for, and response to the ongoing COVID-19 public health emergency.
 - Through this funding opportunity, FEMA will award funding to support planning and operational readiness for COVID-19 preparedness and response, development of tools and strategies for prevention, preparedness, and response, and ongoing communication and coordination among federal, state, local, tribal, and territorial partners throughout the response.
 - **Eligibility:** All 56 States and territories are eligible to apply for EMPG-S funds.
 - Either the State Administering Agency (SAA) or the State’s Emergency Management Agency is eligible to apply directly to FEMA on behalf of each State or territory. However, only one application will be accepted from each State or territory.
 - On April 13, 2020, FEMA announced the funding notice for the \$100 million in supplemental EMPG program funds.
 - Information and the Notice of Funding Opportunity are available at <https://www.fema.gov/media-library/assets/documents/187029>
 - **Application Deadline: April 28, 2020** - Applications must be submitted on Grants.gov.

FEMA Disaster Relief Fund (\$45 billion) – for the immediate needs of state, local, tribal, and territorial governments to protect citizens and help them recover from COVID-19.

- For areas where “major disasters” are declared by the President (\$25 billion of this total)
- For all purposes authorized under the Stafford Act (\$15 billion of this total)

- Under the Stafford Act, eligible emergency protective measures taken to respond to COVID-19 at the direction or guidance of public health officials may be reimbursed under FEMA’s Public Assistance Program, Category B.
 - FEMA will not duplicate assistance provided by HHS/CDC or other federal agencies.
 - FEMA is legally prohibited from duplicating benefits from other sources, such as from insurance proceeds or other federal awards. Public Assistance funding is funding of last resort. If the applicant receives funding from another source for the same work that FEMA funded, FEMA reduces the eligible cost or deobligates funding to prevent a duplication of benefits.
- **Eligibility:** State, territorial, tribal, and local government entities and certain private non-profit organizations are eligible to apply for Public Assistance.
 - Local governments and other eligible Public Assistance applicants apply through their respective state, tribal, or territorial jurisdictions. The State then bundles these requests and submits them to FEMA.
 - Municipalities and counties are encouraged to work directly with their local emergency management offices and through the State Emergency Management Agency for all requests for assistance.
 - Since submission of expenses to a Stafford Act Declaration is done through the State Emergency Management Agency (SEMA), state and local law enforcement are encouraged to develop close working relationships with their SEMA and others processing the FEMA documents. Meeting with SEMA counterparts early on can assist law enforcement in understanding how the claims under the Stafford Act will be submitted, the timelines and requirements of various state agencies submitting the claims to FEMA, and can avoid any misunderstandings about time frames for submitting and when payments can be expected to flow back to the county treasurer to ensure prompt reimbursement.
 - To receive assistance, a FEMA-State/Tribal/Territory Agreement and an applicable emergency plan are required.
 - **Cost Share** - Through the Public Assistance program, FEMA may provide a 75 percent federal cost share to eligible entities. FEMA funds 75%, and 25% is split between the State and applicant. Other federal entities may not have a cost share.
 - To be eligible for Public Assistance, the work must be required as a result of the declared emergency and be the legal responsibility of an eligible applicant. Specific costs must be directly tied to the performance of eligible work and be adequately documented (who, what, when, where, how much).
 - **Documentation** required by FEMA for specific types of costs can be found in FEMA’s Public Assistance Program and Policy Guide (PAPPG) (April 2018), p. 139-140, at <https://www.fema.gov/media-library/assets/documents/111781>.
 - **Policies** – the existence of certain policies is a requirement before an event. The most important of these required

policies that should be included with the application are Payment Policy, Procurement Policy, and Insurance Policy.

- Applicants must abide by these policies, and the Payment Policy cannot state that overtime is allowed only when there is a Federal declaration.
- **Payroll Time Keeping** – Applicants must tie all costs to an eligible activity, which applies to the time claimed for staff performing an eligible activity.
 - Applicants must provide an activity log, comments, etc. that illustrate what employees were doing during the time claimed by the applicant, and that the employees were performing eligible activities (i.e. working in EOC responding, operating a generator, providing security at a hospital, etc.)
- **Procurement** – Generally states are required to follow their own procurement procedures, as well as the Federal requirements for procurement of recovered materials and inclusion of required contract provisions. Non-compliance with federal procurement requirements remains a leading cause nationwide of deobligations and eligibility issues related to costs.
 - Limited circumstances exist under which there are exceptions to noncompetitive procurement or “sole source contracting” requirements.
 - ***Emergency or Exigent Circumstances*** – If circumstances are of such severity and magnitude that they prevent the undertaking of a procurement action, then strict adherence to these regulations is not required so long as the emergency or exigent circumstances exist.
 - If the governmental entity is not going to use a competitive process to purchase goods and services, they need to document the reason -- and for emergency and exigency circumstances -- the date those circumstances started and ended.
 - ***For additional information, consult the FEMA Fact Sheet: “Procurement Under Grants: Under Exigent or Emergency Circumstances”*** at <https://www.fema.gov/news-release/2020/03/20/procurement-under-grants-under-exigent-or-emergency-circumstances>.

- **Reimbursable Activities** - include medical response, PPE, National Guard deployment, coordination of logistics, safety measures, and community services.
 - Final reimbursement determinations are coordinated by HHS and FEMA.
 - **Types of emergency protective measures that may be eligible** under FEMA's Public Assistance Program in accordance with the COVID-19 Emergency Declaration include, but are not limited to, the following:
 - Management, control, reduction of immediate threats to public health/safety
 - Emergency Operation Center costs
 - Training specific to the declared event
 - Disinfection of eligible public facilities
 - Technical assistance to state, tribal, territorial, or local governments on emergency management and control of immediate threats to public health and safety
 - Emergency medical care:
 - Non-deferrable medical treatment of infected persons in a shelter or temporary medical facility, correctional facility, including Sheriff-controlled temporary facilities
 - Related medical facility services and supplies, including PPE
 - Temporary medical facilities and/or enhanced medical/hospital capacity (for treatment when existing facilities are reasonably forecasted to become overloaded in the near term and cannot accommodate the patient load or to quarantine potentially infected persons)
 - Use of specialized medical/decontamination equipment, supplies, and services
 - Medical waste disposal
 - Emergency medical transport
 - Medical sheltering (e.g. when existing facilities are reasonably forecasted to become overloaded in the near future and cannot accommodate needs)
 - All sheltering must be conducted in accordance with standards and/or guidance approved by HHS/CDC and must be implemented in a manner that incorporates social distancing measures
 - Non-congregate medical sheltering is subject to prior approval by FEMA and is limited to that which is reasonable and necessary to address the public health needs of the event, is pursuant to the direction of appropriate public health officials, and does not extend beyond the duration of the public health emergency
 - Household pet sheltering and containment actions related to household pets in accordance with CDC guidelines
 - Purchase and distribution of food, water, ice, medicine, and other consumable supplies, to include PPE and hazardous material suits
 - Non-ambulance movement of supplies and persons
 - Security and law enforcement
 - Communications of general health and safety information to the public

- Search and rescue to locate and recover members of the population requiring assistance
 - Equipment and vehicle costs (owned and leased)
 - Reimbursement for state, tribe, territory, and/or local government force account overtime costs
 - Emergency staff overtime, on-call and standby costs – deputies, correctional, 911, etc.
 - Necessary staff augmentation and specialized deployment costs – reserves
 - Mitigation efforts, including structural modifications and process changes
- **Ineligible Costs** include:
 - Straight time (regular time)
 - Comp time/overtime/fringe benefits for non-essential employees
 - Provision of food for the general public
 - Loss of revenue due to the event, such as lost tax revenue
- Further information about eligible emergency protective measures can be found in FEMA’s Fact Sheet: COVID-19 Pandemic: Eligible Emergency Protective Measures at <https://www.fema.gov/news-release/2020/03/19/coronavirus-covid-19-pandemic-eligible-emergency-protective-measures> and in FEMA’s PAPPG, which discusses the eligibility criteria for Public Assistance funding and provides comprehensive Public Assistance policy to use when evaluating eligibility. Applicants can check to see if activities are eligible for reimbursement.
- **Application Process:** To streamline the application process during the COVID-19 emergency, FEMA has developed the “COVID-19 Pandemic: Public Assistance Simplified Application.” This simplified application and process to follow is explained in this FEMA Fact Sheet at <https://www.fema.gov/news-release/2020/03/23/coronavirus-covid-19-pandemic-public-assistance-simplified-application>.
 - Generally, this process involves an online form for applicants to explain their eligibility, work activities, answer basic questions, provide supporting documentation, and cost estimates. Once this application is received, FEMA and the recipient will review, pose follow up questions if needed, and award assistance.
 - Recipients are states, tribes, or territories that receive and administer Public Assistance awards. Applicants are state, local, tribal, and territorial governments, or eligible private nonprofits, submitting a request for assistance under a recipient’s federal award.
 - Applicants are encouraged to apply as soon as possible through FEMA’s Grants Portal at www.grantee.fema.gov.
 - Once a Portal account is set up, there is a section with all the FEMA fact sheets available. Since things change daily, it is prudent to check this resource link regularly.
 - For first timers applying for funding, at the login screen, go to the link to apply for direct assistance (link below the login).
 - FEMA will have virtual applicant briefings, and applicants can submit information all at one time thru the Portal.

- Applicants can submit the online form without interaction with the State, or preferably can outreach to the State or FEMA manager for assistance.
- **FEMA will put out a notice 30 days prior to the application deadline.**

FY2020 Homeland Security Grants

Due to COVID-19, DHS/FEMA has extended its **grant deadline to April 30, 2020** for the FY2020 Homeland Security Grants. Below are links to information and the Notice of Funding Opportunity for each grant program.

The Homeland Security Grant Program (\$1.12 billion) is comprised of three grant programs:

- **State Homeland Security Program (\$415 million)**
<https://www.fema.gov/media-library/assets/documents/185911>
- **Urban Area Security Initiative (UASI) (\$615 million)**
<https://www.fema.gov/media-library/assets/documents/185911>
- **Operation Stonegarden (\$90 million)**
<https://www.fema.gov/media-library/assets/documents/185911>

Nonprofit Security Grant Program (\$90 million – UASI \$50 million; State \$40 million)
<https://www.fema.gov/media-library/assets/documents/185917>

Transit Security Grant Program (\$88 million)
<https://www.fema.gov/media-library/assets/documents/185921>

Intercity Bus Security Grant Program (\$2 million)
<https://www.fema.gov/media-library/assets/documents/185913>

Intercity Passenger Rail Program (\$10 million)
<https://www.fema.gov/media-library/assets/documents/185915>

Port Security Grant Program (\$100 million)
<https://www.fema.gov/media-library/assets/documents/185919>

Tribal Homeland Security Grant Program (\$15 million)
<https://www.fema.gov/media-library/assets/documents/185923>

U.S. DEPARTMENT OF JUSTICE (DOJ)

The CARES Act contains the following funding from DOJ:

Coronavirus Emergency Supplemental Funding (CESF): Byrne JAG Grants (\$850 million)

– to assist state, local, and tribal jurisdictions in responding to the coronavirus. These funds will go directly to state, local, and tribal governments for use by law enforcement and other disciplines.

- Funds go directly to state and local governments, with no match required, to support criminal justice needs related to coronavirus. Eligible applicants do not have to prove a criminal justice nexus, so the funds can be expanded to other public safety partners.
 - **Eligibility:** States, territories, units of local government, and federally recognized tribal governments that were identified as eligible for funding under the FY19 State and Local Byrne JAG Program are eligible to apply.
 - The term “units of local government” includes a town, township, village, parish, city, county, borough, or other general-purpose political subdivision of a state, or a federally recognized Indian tribal government that performs law enforcement functions. A unit of local government also may be any law enforcement district or judicial enforcement district established under state law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.
 - These grants are modeled on the 2019 JAG grant, so only recipients of that grant will be eligible applicants for this supplemental funding.
 - Only the State Administering Agency that applied for the FY19 State JAG grant is eligible to apply for this grant.
 - However, over 350 new applicants (mostly small and medium-sized counties) are now eligible for this grant, as they were previously part of a joint FY19 JAG local grant.
 - Municipal entities such as cities and counties should apply for the grant, but a sheriff’s office or police department can serve as the organizational unit and sign the award.
 - A complete list of eligible jurisdictions and their allocation amounts for the FY20 CESF program can be found at <https://bja.ojp.gov/program/fy20-cesf-allocations>
 - Local agencies that did not receive FY19 Byrne JAG funds and do not receive direct allocations may request CESF funding through the State agency that receives Byrne JAG funds.
- All applications must show the nexus to preventing, preparing for, or responding to the coronavirus.
 - **Allowable projects and purchases** include, but are not limited to, overtime; equipment (including PPE); hiring; supplies (such as gloves, masks, sanitizer); training; travel expenses (particularly related to the distribution of resources to the most impacted areas); and addressing the medical needs of inmates in state, local, and tribal prisons, jails, and detention centers.

- Since this grant has similar allowability as other federal programs, including the Stafford Act, applicants must be very careful not to duplicate expenses.
- The project period will be established retroactively to January 20, 2020, but federal supplanting rules apply.
- DOJ money cannot be used for a match for other funds (e.g. FEMA's 25% cost share).
- Grant recipients may draw down funds in advance, or on a reimbursement basis.
- Sanctuary-related grant restrictions are lifted for this specific infusion of funds in Byrne JAG; however, the regular FY20 Byrne JAG funds are still subjected to the sanctuary restrictions.
- BJA is processing applications on a rolling basis and will expedite the review of these applications and move them as quickly as possible, with over 35 award recipients already notified and 1,000 applications underway.
 - BJA is trying to make awards 7 to 10 days after application and is using electronic signatures to accept the award.
- **Application deadline: May 29, 2020**
 - BJA posted the solicitation for this funding on March 30, 2020, at <https://bja.ojp.gov/funding/opportunities/bja-2020-18553>.
 - The CESF program page is available at https://bja.ojp.gov/funding/opportunities/bja-2020-18553?utm_medium=email&utm_source=govdelivery.
 - Applications must be submitted via OJP's Grants Management System ("GMS").

Bureau of Prisons (\$100 million) – for correctional officer overtime, clean work and living environments, and PPE and supplies and inmate medical care and supplies related to COVID-19. https://www.bop.gov/resources/news/20200313_covid-19.jsp

COVID-19 Public Safety Officers' Benefits (PSOB) Program – provides death benefits to the eligible survivors of public safety officers who are fatally injured in the line of duty, disability benefits to public safety officers catastrophically injured in the line of duty, and education benefits to the eligible spouses and children of fallen and catastrophically injured officers.

- Under the current PSOB Act and its implementing regulations, conditions caused by infectious diseases, viruses, and bacteria may be found to be an injury sustained in the line of duty.
 - The PSOB Act and regulations require that the evidence show that it is more likely than not that the disease resulted from the public safety officer's exposure to the disease or the virus that causes the disease, SARS-CoV-2, while performing a line of duty activity or action.
 - In general, DOJ's BJA will find that the evidence shows a public safety officer with COVID-19 contracted it in the line of duty, when:
 - The officer had engaged in line of duty action or activity under circumstances that indicate that it was medically possible that the officer was exposed to the virus, SARS-CoV-2, while so engaged; and
 - The officer did contract the disease, COVID-19, within a timeframe where it was medically possible to contract the disease from that exposure.

- In the absence of evidence showing a different cause of death, BJA generally will find that the evidence shows a public safety officer who died while suffering from COVID-19 died as the direct and proximate result of COVID-19.
- As the PSOB Office receives claims based on COVID-19 exposure, it will work closely with survivors, officers, and agencies to obtain whatever evidence may be needed to support each claim, through all available information, including incident reports and related documents.
- For information about the PSOB program or filing a claim, go to www.psob.gov.

U.S. DEPARTMENT OF TREASURY

The CARES Act contains the following funding from Treasury:

The Coronavirus Relief Fund (\$150 billion) – provides for payments to State, Local, and Tribal governments navigating the impact of COVID-19.

- Each state gets \$1.25 billion with additional money based on population.
 - Amounts paid to States, the District of Columbia, U.S. territories, and eligible units of local government are based on population as provided in the CARES Act.
 - The CARES Act directs Treasury to use U.S. Census Bureau data for the most recent year for which data is available.
 - The amount of payments made to each State will be reduced by the aggregate amount of payments that will be disbursed to eligible local governments within such State that have provided the required certifications to Treasury.
 - The data sources and the distribution methodology for units of local government is available at <https://home.treasury.gov/system/files/136/Census-Data-and-Methodology-Final.pdf>.
- **Eligibility** - State, local, and tribal governments and some large municipalities can apply.
 - Treasury will make payments from the Fund to States and eligible units of local government; the District of Columbia and U.S. territories, and tribal governments.
 - 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.
 - A list of eligible units of local government is available at <https://home.treasury.gov/system/files/136/Eligible-Units.pdf>
 - Payments to Tribal Governments are to be determined by the Secretary of the Treasury in consultation with the Secretary of the Interior and Indian Tribes. Although that consultation has not yet concluded, certain data is requested of Tribal governments at this time to assist in this determination. Additional information on payments to Tribal governments will be posted as it becomes available.

- **Allowable Expenses** - The CARES Act requires that the payments from the Fund only be used to cover expenses that:
 - Are necessary expenditures incurred due to COVID-19;
 - Were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
 - Were incurred during the period from March 1, 2020 to December 30, 2020.
 - Additional information on eligible uses of Fund disbursements by governments will be posted as it becomes available.
- **Application Deadline: April 17, 2020.**
 - To ensure payments are made within the 30-day period specified by the CARES Act, governments must submit completed payment materials not later than April 17, 2020.
 - Eligible local governments must submit the certification required by the CARES Act to Treasury by April 17, 2020 in order to receive payment.
 - Eligible local and Tribal governments that do not provide required information – and in the case of a local government, the required certification – by April 17, 2020, may not receive any payment from the Fund.
 - Governments eligible for payments must provide payment information and required supporting documentation through the electronic form “The Eligible Units: Submission Required for Receipt of Coronavirus Relief Fund Payments” accessible at <https://forms.treasury.gov/caresact/stateandlocal>.
 - This online application form is compatible with the following Web browsers: Internet Explorer 10+, Chrome 80.0+, Safari 13.1+, Firefox 74.0+.
 - If you need technical support to complete your online application, please contact caresITforms@treasury.gov to request assistance.
- Information about the Coronavirus Relief Fund is available on Treasury’s portal, Treasury.gov/CARES, at <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>