



WEBINAR Q&A FOLLOW-UP

Ohio Auditor of State: Auditing of CARES Act Funds

The Ohio Township Association, Ohio Municipal League, Ohio Mayors Alliance, and County Commissioners Association of Ohio invited participants to join Ohio Auditor of State (AOS) Keith Faber's office in discussing the processes and procedures of auditing CARES Act funds. This webinar addressed audit requirements under the CARES Act, accounting procedures, a review of how funds will be audited, and information on best practices and additional resources.

Below are Q&As regarding the webinar, with answers provided by the AOS office and (**where noted**) the Ohio Office of Budget and Management. The use of "we" in an **answer** refers to the AOS office. The use of "we" in a **question** refers to the local government that wrote the inquiry.

1. *Our understanding is that the return date is December 30. Can you explain again the December 20 date coming into play?*

Slide 11 of the presentation included a typo of December 20 instead of December 30. The slides were corrected and the OTA distributed to the attendees of the webinar. We apologize for the confusion.

2. *You mentioned single audit for ALL federal programs. Does this include FEMA grants awarded for equipment purchases not related to COVID-19?*

Correct. A single audit is required any time an entity expends \$750,000 or more in a fiscal year. The \$750,000 or more is not program specific but is based on the total expended in the fiscal year for all Federal awards that are subject to the Uniform Guidance. See 2 CFR §§200.501, 200.502.

3. *There were several questions related to the movement of expenditures out of the CRF Funds.*

- 1. *If we enter a Transfer Out from the Coronavirus Relief Fund to the Fire Fund to reimburse EMS payroll, is that appropriate? Do I understand correctly that when the CAFR is prepared then we need to restate those expenses as if they were paid directly out of the Coronavirus Relief Fund?***
- 2. *Can we use just one earning source to reallocate wages? Rather than when there are multiple earnings, overtime, etc.***
- 3. *The county is only allowing 15% for police salaries. It is going to be extremely difficult to "reallocate" those salaries back to March 1. Can we just use the "reimbursement method" instead?***

(Answer to question 3 on page 2)

(Answer to question 3)

See AOS Coronavirus FAQs at:

http://www.ohioauditor.gov/resources/covid19/Coronavirus_FAQ_Final_10.01.2020.pdf

AOS encourages local governments to take advantage of the opportunity to reimburse expenditures made from other funds, particularly during the early months of the pandemic before the CARES Act and other COVID-19 awards were available. For those accounting systems that accommodate it, AOS prefers local governments utilize a negative expenditure, Reduction of an Expenditure, or Reduction of Prior Year Expenditure line-item to move the eligible expenditure out of the fund that originally paid for it and record the expenditure the appropriate federal fund. However, some accounting systems do not include these options. Therefore, alternatively, while entities may use the transfer line-items to reimburse eligible expenditures made in state and local funds with an allowable federal fund, this should be the method of last resort when recording reimbursements.

Questions sometimes arise about what constitutes a transfer per Ohio Rev. Code §§ 5705.14-.16. Therefore, the AOS has developed guidance in the OCS in determining the proper accounting and legal noncompliance reporting treatment for transfers. GASB Cod. 1800.102 defines “Interfund Reimbursements” as “repayments from the funds responsible for particular expenditures or expenses to the funds that initially paid for them.” However, under the terms of Ohio Rev. Code § 5705.10, such reimbursements would be illegal transfers (subject to possible Finding for Adjustment) if the fund initially paying violated restrictions on its resource use. It is generally preferable to advance money per AOS Bulletin 1997-003; however, advances may not always be possible. FEMA grants often require reimbursements, so they provide a useful reimbursement example subdivisions sometimes encounter. AOS Bulletin 1998-013 describes other acceptable alternatives to treating these transactions as a reimbursement on the face of the financial statements. While this Bulletin is specific to FEMA grants, subdivisions can generally apply the guidance therein to any reimbursement transaction.

Local governments should work with their legal counsel to determine whether interfund reimbursements related to federal COVID-19 funding constitute reimbursements of allowable expenditures under the applicable COVID-19 federal program. If so, AOS Bulletin 98-013 and page 50 of the Ohio Compliance Supplement Implementation Guide (“Interfund Reimbursements”) recognize an accounting principle that permits an entity to reimburse a fund by reducing the expenditure in the fund that made the original payment and recording the expenditure in the fund that contains the federal moneys once the federal moneys have been received. In addition, OBM has suggested this method as a way to use CRF moneys received by a local government under HB 481 & 614 to reimburse funds that previously paid for eligible Coronavirus Relief Fund (CRF) expenses.

The Auditor of State’s office recommends that every local government consult its own legal counsel for advice pertinent to the local government’s particular situation to ensure that ORC 5705.14-.16 are not violated. Where disagreement over the application of a rule or statute arises, AOS will give all due consideration to a well-reasoned legal opinion provided by the local government’s legal counsel.

Upon availability of the federal award funding, entities should use advances (if the program is operating on a reimbursement basis) or being posting expenditures directly to the new federal fund (for advance-funded/lump-sum allocations).

(Answer to question 3 continued on page 3)

(Answer to question 3 continued)

As a reminder, refunds of prior year receipt/expenditure are not allowable other financing sources/uses and should be reclassified. Similarly, neither should interfund reimbursements be reported as transfers under any reporting framework (GAAP, OCBOA, or AOS Regulatory). Interfund reimbursements, regardless of the method of recording them in the accounting system, are reported as an expenditure/expense in the fund ultimately responsible and as a reduction of expenditure/expense in the fund being reimbursed on the financial statements. These reclassifications should be made during the financial statement compilation process, prior to filing in the Hinkle System, to eliminate the refund of prior year expenditure and/or transfer for all reporting frameworks (GAAP, OCBOA, and AOS Regulatory).

4. When we reallocate each payment, do we need to open then and nows or can we open a Super Blanket to reallocate each payment?

Thank you for this question. We are working within several different areas of our office to come up with further guidance regarding this topic. Please be sure to check our Frequently Asked Questions on our AOS COVID page http://www.ohioauditor.gov/resources/COVID19_assistance.html for this to be included in the future.

5. If you purchased an item that is determined by the auditor during the audit that it does not qualify for the CARES Act Funds, does the entity just have to repay the funds or will the fiscal officer have that marked against them as well?

It would depend on the exact circumstances of the situation. In single audits, findings known as questioned costs can be issued when testing a program and the cost is over \$25,000 and does not meet the compliance requirements for that program. Questioned costs are defined at 2 CFR 200.516 (a) and would be reported at the entity level and individuals are not named.

Situations could also occur where an entity could receive a finding for adjustment and/or a finding for recovery related to their federal funding. A finding for adjustment occurs when expenditures are posted to a fund that should have been made out another fund (i.e. ineligible expenditures being posted to the CRF Fund) and this finding would be made against the entity and not the individual. If it was determined that the an item was purchased with Cares Act Funds but was not for proper public purpose this would result in a Finding for Recovery and the fiscal officer could potentially be named.

6. We've been hearing that some municipalities throughout the state are buying COVID-19 police cruisers. Will they have to receive those cars by December 31 to use CARES ACT funds on those cruisers? Some COVID related sanitizing equipment orders are back ordered, and may not be delivered until after the spending deadline of December 30. If it arrives late, the CARES Act funds are no longer available for the purchases, is that correct?

OBM has advised about police cruisers: Police cruisers are a bit trickier. One issue is that cruisers ordered now may not be delivered prior to December 30, which is the grant performance period end date. Additionally, the local government would need to establish and document that the cruiser is a necessary expense to respond to the COVID-19 health emergency. Simply replacing an older cruiser with

(Answer to question 6 continued on page 4)

(Answer to question 6 continued)

high mileage in the fleet with a new cruiser would generally not be allowable as it would not be a necessary expense due to COVID-19. Treasury Guidance and FAQs do not reference cars, vehicles, etc. as allowable expenses in any way.

Likewise, for other expenses on backorder, the grant performance period remains the same at December 30. For exceptions, we suggest local governments work with their governing board and legal counsel. AOS will give all due consideration to a well-reasoned legal opinion provided by the local government's legal counsel and documented decisions about spending, compliance, etc., to the greatest extent possible.

In addition, local governments will need to fully document supply chain disruptions and the promise for delivery by December 30. This also needs to be reasonable in that there is not a purchase being promised delivered when normal delivery of such an item typically takes six months during normal times. Prepayment is not allowed. We are unable to extend beyond the legislation so there is a limited window for these types of situations.

7. For payroll dating back to March 1, 2020 - is that earned date or paid date?

Per the Treasury's guidance, updated September 2, 2020, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the "covered period"). Treasury clarified 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 (though it is generally expected that this will take place within 90 days of a cost being incurred). Treasury guidance is available at: <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

8. We are also seeing ODJFS credits on our unemployment statements related to COVID funds being applied to our bills. Are these payments considered "on-behalf of" and do we need to record these as an in and an out?

ODJFS communicated to AOS there is no pass-through relationship regarding the unemployment credits and the payments would not need to be considered "on-behalf of." The payments bills can be recorded net of any credits. Additionally, these credits would not be considered federal assistance to the local government and would not need to be recorded on their Schedule of Expenditures of Federal Awards (SEFA).

9. If I return the money to the county, does that count as an expenditure for SEFA purposes?

If unspent funds are returned to the county, that payment would not count as a federal expenditure and would not need to be reported on your SEFA. See 2 CFR § 200.34.

10. What other classes of expenditures would not be encumbered like payroll?

See the Ohio Compliance Supplement Implementation Guide, Appendix A-2 at http://www.ohioauditor.gov/references/compliancemanuals/2020/OCSImplementationGuide_2020.pdf

11. The following two questions have been combined together by the AOS office:

1. **The "paying after 12/30" for services received prior to 12/30 is not allowable per OBM. I've posed this question and their guidance is cash basis - if it's received prior to 12/30, but not yet spent to the vendor, it must be returned on 12/28. OBM contradicts federal guidance on this scenario.**
2. **Previously, I thought I heard that as long as the procurement was encumbered prior to 12/28/2020 that those dollars can be spent after that date.**

OBM updated their guidance October 1, 2020, and we believe the updated guidance clarifies this topic. That guidance indicates that the balance of unexpended funds must be returned to the state treasury not later than February 1, 2020. The time period between December 30 and February 1 may only be used as a liquidation or account reconciliation purposes. This period is strictly to finalize payments for performance and delivery of goods and / or services that occurred prior to December 30 and / or make accounting adjustments for eligible activity that was paid prior to December 30. Treasury guidance states 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 (though it is generally expected that this will take place within 90 days of a cost being incurred).

12. When is the interim report due to OBM? Is it different for SB 357 money vs HB 614 money?

The first interim report is due to OBM October 20, 2020, for all activity through September 30. A second interim report is due January 6, 2021, for activity from October 1 through December 31, 2020. HB 614 amended SB 357 and the requirements and all funds will be reported at the same time. OBM has created a guidance and a training regarding reporting which can be found at <https://grants.ohio.gov/fundingopportunities.aspx#funding-opportunities-coronavirus-relief> .

13. If something was incurred by December 30, but not paid for until January 2021, it is not SPENT. So is the single audit triggered by money incurred? Or money spent?

2 CFR §200.502 discusses the basis for determining when a federal award has been expended and this is further determined by the basis an entity chooses to prepare their federal schedule on. Most entities in Ohio prepare their SEFAs on a cash basis and therefore expenses would be reported when spent.

14. If a township normally files Regulatory, will they required to file GASB this year?

There is no requirement for townships to change their basis of filing. However, for townships subject to single audits, they cannot be considered a low-risk auditee for single audit purposes unless you file GAAP financial statements. See §200.520.

15. If we are a local government passing on funds to a fire district (reimbursing them after they submit proof of what they spent to us), how would the fire district account for the receipt of that reimbursement from us?

The fire district, as a subdivision, must comply with Ohio Revised Code Section 5705.09 to account for the funds. See AOS FAQ at:

http://www.ohioauditor.gov/resources/covid19/Coronavirus_FAQ_Final_10.01.2020.pdf (All entities Question #12).

16. *If we have submitted a question to OBM asking if an expense is eligible for CARES Act money and received a response stating that it is indeed eligible, will that satisfy the justification for the expense during the audit?*

A communication with OBM (or communication regarding CARES Act funding) should be kept as part of your grant information. Our audit teams will review that information as part of the audit process. While OBM's guidance is helpful, only the local government knows the true structure and fine details surrounding the transaction. Auditors must audit based upon each individual situation to ensure that the particular requirements of the program have been met. The burden is on the local government to support how the expenditures met the three prongs of the CARES Act. Therefore, an email from OBM alone is not sufficient. We suggest local governments work with their governing board and legal counsel to ensure you are complying with the three prongs of the CARES Act, state, and federal law. AOS will give all due consideration to a well-reasoned legal opinion provided by the local government's legal counsel and documented decisions about spending, compliance, etc., to the greatest extent possible.

17. *Prior to the September 2 guidance, the word "performance" or "delivery" did NOT even appear anywhere in any document with respect to CRF guidelines. The cost incurred requirement shift to delivery or performance from money spent put approved programs PRIOR to that guidance at risk of an audit. Examples include: Zoom annual licenses, mobile hot spot programs for families in need, etc. How is it fair to reconcile these programs prior the substantive guidance change with an audit?*

We agree the way the guidance from the US Department of Treasury has evolved, in some cases it was reversed. It has made it difficult and frightening for local governments who are trying to perform their due diligence and support their local communities in this pandemic. We do not have the guidance (OMB COVID Compliance Supplement) from the US Treasury yet that auditors will be expected to follow when performing their Single Audit testing. However, we anticipate (based on past practice of other federal agencies that oversee programs subject to Single Audit) that the US Treasury will expect local governments to adjust the charges they've already made to their Coronavirus Relief Fund program to conform to the changing guidance.

Meaning, if the local government has already charged an entire one-year Zoom license fee to its' Coronavirus Relief Fund, we believe the US Treasury would expect the local government to go back and reduce the expenditure charges by the proportion of the one-year fee that will not be rendered by December 30, charging that proportion to another allowable state or local fund. Typically, in situations where the federal agencies have updated their guidance to reflect a change before the fiscal year is over, they would expect the local government to implement the changes prior to year-end. In other words, there is still time before the fiscal year is over to reallocate a portion of the cost and make sure only allowable charges have been recorded in the Coronavirus Relief Fund. Unfortunately, the "cost incurred" prong is rooted in the CARES Act (i.e., it is law) and we don't think the US Treasury will offer much wiggle room for flexibility or forgiveness in an audit despite their changing guidance.

18. *Each township that accepts CARES Act money must get an Amended Certificate of Estimated Resources to incorporate it into their budgets and expend the funds. In some cases, the amount may put the township into a higher budget category for pay purposes. What if the township officials choose NOT to take the pay increase? Will they be cited?*

(Answer to question 18 on page 7)

(Answer to question 18)

Township officials are permitted to decline the pay increase and this would not cause a citation. We would recommend that the township pass a resolution stating they are choosing to decline the pay increase and enter the document into their minute record.

There were several questions that we felt it was appropriate for OBM to answer as the grant administrator. The following responses were obtained from OBM Grants Management team; for any additional follow up, please reach out to them at grants@obm.ohio.gov

Has there been any guidance on the delivery of grants to households? Some households don't have bank accounts. Are there prohibitions of delivering grants to households with prepaid cards or other methods that aren't warrants/checks? Of course we prefer the internal controls using warrants/checks.

There has been no guidance on how to handle individual assistance programs. Prepaid cards (not gift cards) have been explored as a payment option for state payments, and if proper controls are put in place, could be a form of payment as well.

The "paying after 12/30" for services received prior to 12/30 is not allowable per OBM. I've posed this question and they're guidance is cash basis - if it's received prior to 12/30, but not yet spent to the vendor, it must be returned on 12/28. OBM contradicts Federal guidance on this scenario.

I am not understanding where this came from as we changed when the US Treasury changed. HB 481 limited this with the deadline for return of funds but this was alleviated by HB 614. Goods or services received by December 30 and payment can occur after. Pre-payments are not allowed.

Does everyone do quarterly reporting or are we included with the state/county that provided the funds?

Local governments receiving funds from OBM are required to do reporting to OBM. OBM is compiling this information for the report to the US Treasury.

For administrative leave, it states you can use CARES Act funds for employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace. What is the time period for the Stay at Home order? Is it truly only during the period of 03/24/2020 - 04/30/2020 when the "stay at home" orders were active or does it also include the additional time that places of business are still ordered to remain closed (rec centers and human service centers, for example).

OBM is unsure how US Treasury meant this to be, but a case can be made justifying those employed in rec centers or other areas ordered closed by the Governor would seem to fit the criteria.