**June 1, 2020**

**From Salt Lake County Mayor Jenny Wilson to the Utah League of Cities and Towns to be shared with city leaders within Salt Lake County:**

Dear Community Partners,

Salt Lake County (SLCo) is in receipt of grant funds provided by the Federal Government under section 601(a) of the Social Security Act, added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) which established the Coronavirus Relief Fund.  The County has been reviewing the allowable uses of these funds, assessing the cost of on-going needs for the primary health purposes of the funds as well as assessing opportunities to distribute funding within the County.

I am pleased to inform you that I have authorized a distribution of funds to each municipality based on the state’s formula. $34 Million will be distributed by population and SLCo’s goal is to align funding distribution with the state’s distribution timeline of early June, contingent on several conditions being met.

The CARES Act provides that grant funds may only be used for limited purposes, and any funds used for an unallowed purpose would need to be repaid by the County. For this reason, any municipality accepting a subgrant of CARES Act funds from the County will be asked to agree to certain terms detailed below.  In short, municipalities will be required to adhere to the CARES Act’s spending limitations, agree to reporting requirements designed to help ensure that the County fulfills its obligations to spend funds appropriately and to prove its compliance to the Department of the Treasury, and agree to reimburse the County in the event it must repay any funds expended improperly by a municipality.  Additionally, should municipalities receive funding from the Federal government due to an anticipated 4th package, the municipalities shall return funds to Salt Lake County.

To obtain CARES Act funds, Salt Lake County was required to certify to the U.S. Department of the Treasury that the funds would be used as provided for in the Act.  The CARES Act provides that funds may only be used to cover costs that:

a.                Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) (“necessary expenditures”);

b.               Were not accounted for in the budget most recently approved as of March 27, 2020; and

c.                Were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

The U.S. Department of the Treasury has since issued guidance which clarifies what constitutes a “necessary expenditure.”  The Treasury Department guidance states that an expenditure will be considered “necessary” if “the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.”  In addition, Treasury has determined that funds may be used not only “to respond directly to the emergency, such as by addressing medical or public health needs” they may also be used “to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment of business interruptions due to Covid-19-related business closures.”  A non-exclusive list of such necessary expenditures is contained in the attached April 22, 2010, [*Coronavirus Relief Fund Guidance Treasury issued for State, Territorial, Local and Tribal Governments*.](https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf) Additional guidance is contained in the [*Coronavirus Relief Fund Frequently Asked Questions*](https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf) Updated as of May 4, 2020, also attached.

Although officials will have broad discretion in spending any CARES Act funds, there are limitations.  The primary limitation is that CARES Act funds may NOT be used to replace lost revenues or resulting budget shortfalls.  Other limitations include a prohibition on using funds to pay for damages, legal settlements, or for expenditures that will be compensated by any other emergency COVID-19-related supplemental funding (whether state, federal or private in nature) for that same expense.  [The attached Treasury Guidance documents](https://home.treasury.gov/policy-issues/cares/state-and-local-governments) contain additional examples of unapproved use of CARES Act funds.

To enforce the spending requirements of the CARES Act, the Act contains a provision which states that the Inspector General of the Department of the Treasury Department will “conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under” the CARES Act.  Further, the Act states that if the Inspector General determines that any spending was not in compliance with the Act, the amount spent must be reimbursed to the Federal Government.  It appears at this time that the duty to spend funds only as permitted and to repay the funds if not spent as permitted is non-delegable.  This means that if the County provides a subgrant to any municipality and that municipality misspends funds, that the County would be under a legal obligation to repay the funds to the Federal Government.  Because of these non-delegable duties, the following conditions may apply to any subgrant made by the County:

1. The chief executive of any municipality accepting funds will need to sign an agreement accepting a grant from Salt Lake County from the allocation of funds to Salt Lake County from the Coronavirus Relief Fund created in the CARES Act and certifying that they have or have obtained authority to bind the municipality and will use the funds only as permitted by the CARES Act and pursuant to the terms of the grant from the County.
2. Funds provided by Salt Lake County pursuant to this Agreement that are not expended on necessary expenditures on or before October 1, 2020, must be returned to Salt Lake County on or before 5pm, October 7, 2020, so that the County will have time to reallocate the funds before the deadline to use the funds expires on December 30, 2020. A municipality may petition the County to retain allocated, but unspent funding, after the October 1, 2020 date, with approval from Salt Lake County.
3. A municipality accepting funds must agree to adhere to any current or future official Federal or County guidance regarding spending, reporting or any other matter related to the Coronavirus Relief Funds distributed to by the County. Further, the municipality shall require that any subgrantee to which it awards CARES Act funds adhere to the CARES Act and any current or future guidance related to the Coronavirus Relief Funds. Federal guidance has been updated regularly and can be found at <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>.
4. If the Inspector General of the Department of the Treasury of the United States determines that any funds were expended by the municipality in violation of the requirements of the CARES Act and requests repayment of those funds, the municipality shall immediately return the funds to Salt Lake County for repayment to the Federal Government as required by the CARES Act.  If the County is forced to repay the funds because the municipality is unwilling or unable to repay the funds, the amount paid by the County will become a past due obligation of the municipality to the County and may be collected as such.
5. The municipality shall agree that if it receives funding from another source intended for a purpose which is the same as or similar to the purpose of the CARES Act funds, that it will reimburse the County the grant funds the County provided which have been spent by the municipality and also return any unused funds up to the amount of the other funding.
6. The municipality shall retain documentation related to any uses of the funds, including but not limited to invoices and/or sales receipts. All payroll expenditures must illustrate compliance with CARES by detailed, daily documentation. Any subgrants made by a municipality shall similarly require as a term of the grant that the subgrantee shall retain documentation and shall produce such documentation to the municipality and Salt Lake County upon request by either.
7. A municipality must electronically post and otherwise make accessible to the public the uses or subgrants of CARES Act funds on a website or other medium accessible to citizens.  The information must be posted within three business days of any disbursement and must be maintained until December 30, 2020.  The information provided must contain at a minimum a description of the use or identity of a grantee and the amount of funds dedicate to the use or grantee.
8. A municipality must provide a monthly report to the County, describing the use of funds in the preceding month, including the sub-granting of any funds.  The reports shall describe the amounts spent and the purpose or the amount paid to a subgrantee and that subgrantee’s purpose.  The reports will also contain documentation sufficient to demonstrate that the funds were used in accordance with the CARES Act and the terms of the County’s grant.
9. The municipality must also agree to other basic contract terms commonly found in a Salt Lake County contract such as an indemnity provision, conflicts provisions and immunity provisions.

Please note, that Salt Lake County may have additional requirements as it prepares agreements or receives additional guidance from the Federal government.  This memo is intended only to provide background and a summary of the County’s anticipated terms for any grant award.

Salt Lake County is in the process of developing agreements.  Funding amounts are attached to this memo. I am excited about the opportunity to have such a large impact for our community.  I am grateful for these federal dollars and the chance for Salt Lake County to be a partner in this response.

Sincerely,

Jenny

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**JENNY WILSON**

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