

State and Local Government Assistance from the CARES Act

Michele Allgood

mallgood@mwlaw.com
(501) 688.8874

Jill Grimsley

jgrimsley@mwlaw.com
(479) 464.5655

John Bryant

jbryant@mwlaw.com
(501) 688.8823

Ashley Edwards

aedwards@mwlaw.com
(501) 688.8878

04/06/2020

The Coronavirus Aid, Relief and Economic Security Act (CARES Act) provides an estimated \$2 trillion stimulus package to assist individuals, small and medium-sized business as well as state and local governments during the COVID-19 pandemic. There has been a lot of attention given to the relief provided to individuals and small businesses, but state and local governments should pay attention to the portions of the CARES Act aimed to provide much needed financial assistance during this difficult time. A summary of the provisions of the CARES Act providing assistance to state and local governments is provided below:

Coronavirus Relief Fund

The CARES Act creates the \$150,000,000,000 Coronavirus Relief Fund for state and local governments to cover expenditures incurred due to the COVID-19 pandemic or were not accounted for in its most recently approved budget and that were incurred between March 1 and December 30, 2020. Amounts will be available proportional to state population and were made available upon enactment of the CARES Act. Any local governments certifying its use of the funds are consistent with the CARES Act can receive funds directly. Amounts provided directly to local governments will be deducted from the amount available to the state in which the local government is located.

Disaster Relief Fund

An additional \$45,000,000,000 appropriation is provided to the Federal Emergency Management Agency (FEMA) for the immediate needs of state and local governments to protect their citizens and to respond and recover from the coronavirus. This includes \$25,000,000,000 for major disasters declared for certain states, \$15,000,000,000 for FEMA to expand information technology and communication capabilities and build capacity in response coordination efforts.

Emergency Loans

The CARES Act created a \$500,000,000,000 lending fund to provide direct loans to eligible business, states and municipalities experiencing hardship as a result of the COVID-19 pandemic. Regulations for the implementation of this medium-sized business loan program are in the process of being prepared. For more information on this program see our April __, 2020 article "CARES Act – Large Enough for Medium-Sized Businesses."

Education

Local Education Funding – The CARES Act provides for appropriations in the amount of \$13,500,000,000 to the Department of Education to provide emergency formula grants to states for elementary and secondary education. At least 90% of grants to states must be made to local educational agencies in

proportion to the funds the local educational agencies received under Title I in the most recent fiscal year. The local educational agencies can use the funds for any activity provided under the Elementary and Secondary Education Act (ESSA), coronavirus preparation, assisting disadvantaged populations, improving preparedness and training, sanitizing facilities, planning for closures and IDEA services, purchasing educational technology for students, providing mental health services and developing summer and supplemental programs.

Emergency Education Relief Grants – An additional \$3,000,000,000 will be used to make Emergency Education Relief grants to state governors to be allocated in their discretion for emergency support grants to local education agencies and institutions of higher education that have been most significantly impacted by the coronavirus. Sixty percent of the funds are to be distributed based on the state’s relative population of individuals aged 5 through 24 in the state and 40% of the funds are distributed based on the state’s relative number of children younger than the age of 21 as defined by section 1124(c) of ESSA.

Higher Education Funding - The CARES Act also appropriates \$14,000,000,000 to the Department of Education for higher education institutions for any costs associated with significant changes to the delivery of instruction due to the COVID-19 pandemic. Schools with a higher number of Pell Grant recipients are given priority of funds. The CARES Act sets out how the funds are to be used with 90% devoted to each institution of higher education, 7.5% to address needs directly related to coronavirus, and 2.5% to institutions with the greatest unmet needs related to coronavirus. Further, at least 50% of the funds must be used to provide emergency financial aid grants to students to cover certain eligible expenses under a student’s cost of attendance, such as food, housing, course materials, technology, health care and child care. The remaining funds can be used to account for lost revenue and technology costs associated with the shift to online learning.

Economic Development Assistance Programs

Through the Economic Development Administration, \$1,500,000,000 in grants to states and communities for development of public facilities, public services, business development and any other assistance to alleviate long-term economic deterioration and sudden and severe economic dislocation are available through September, 2022 for necessary expenses responding to economic injury as a result of the coronavirus.

Unemployment

Emergency Unemployment Relief Legislation – Under the CARES Act, the Secretary of Labor is authorized to give states authority to interpret their unemployment compensation laws in a manner that would provide “maximum flexibility” to reimbursing employers with respect to timely payments and assessing penalties and interest.

Dislocated Worker National Reserve – The Department of Labor received \$360,000,000,000 to invest in programs that provide training and supportive services for dislocated workers, seniors, migrant farmworkers and homeless veterans. The CARES Act also expands unemployment insurance from three to four months and provides temporary unemployment compensation of \$600 per week in addition to the regular state and federal unemployment benefits. Unemployment insurance benefits are accessible to part-time, self-employed and gig economy workers. Employers are allowed to receive an advance tax credit from the Treasury instead of having to be reimbursed on the back end.

Transportation

The CARES Act appropriates \$25,000,000,000 to the Federal Transit Administration for state transit systems. Specific funding amounts have been determined by the Federal Transit Administration which now available for use. Funds may be used for operating expenses of transit agencies related to the response to the coronavirus, reimbursement of operating costs to maintain service and lost revenue due to the coronavirus, including the purchase of personal protective equipment and paying the administrative leave of operations personnel due to reduction in service.

Housing

Public Housing Operating Fund – Additional appropriations in the amount of \$685,000,000 for HUD has been made to assist public housing agencies facing operating shortfalls due to reduced tenant rent payments and for containing the spread of coronavirus in public health properties.

Tenant-Based Rental Assistance - The CARES Act appropriates \$1,250,000,000 to the Housing and Urban Development Department (HUD) to be available until it is used to prevent, prepare for and respond to coronavirus including to provide additional funds for public housing agencies to maintain normal operations and take other necessary actions during the period that the program is impacted by coronavirus. Of this amount \$850,000,000 is available for administrative expenses and other expenses of public housing agencies for Section 8 programs and \$400,000,000 is available to make adjustments to Section 8 renewal funding allocations in the calendar year 2020.

Rental Assistance – In addition \$1,000,000,000 has been appropriated for HUD to be set aside for states to make up for reduced tenant rental payments to owners or sponsors of Section 8 housing as a result of coronavirus, \$50,000,000 for assistance to owners or sponsors of Section 202 elderly housing as a result of coronavirus and \$15,000,000 for assistance to owners or sponsor of Section 811 disabled housing.

Community Development Fund – There is appropriated an additional \$5,000,000,000 to HUD to be used as Housing and Community Development Block Grants to states and communities that received allocation to that same formula in the fiscal year 2020 for housing, homelessness and public health.

Forbearance and Eviction Moratorium – The CARES Act also establishes a forbearance moratorium for those with federally-backed mortgage loans to seek forbearance of up to 180 days. Also created is a 120-day moratorium on eviction filings relating to units either in a covered federal housing program or under federally-backed mortgage loans.

Additional resources surrounding these programs for state and local governments are being developed by the appropriate governmental agencies. Our firm will continue to monitor these developments and provide information as it becomes available.