



OFFICE OF
INSPECTOR GENERAL

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

November 13, 2024

**MEMORANDUM FOR JESSICA MILANO, CHIEF PROGRAM OFFICER, OFFICE OF
CAPITAL ACCESS, DEPARTMENT OF THE TREASURY**

FROM: Deborah L. Harker /s/
Assistant Inspector General for Audit

SUBJECT: Desk Review of the State of West Virginia's Use of
Coronavirus Relief Fund Proceeds
(OIG-CA-25-007)

Please find the attached desk review memorandum¹ on the State of West Virginia's (West Virginia) use of Coronavirus Relief Fund (CRF) proceeds. The CRF is authorized under Title VI of the Social Security Act, as amended by Title V, Division A of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Under a contract monitored by our office, Castro & Company, LLC (Castro), a certified independent public accounting firm, performed the desk review. Castro performed the desk review in accordance with the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Federal Offices of Inspector General* standards of independence, due professional care, and quality assurance.

In its desk review, Castro personnel reviewed documentation for a non-statistical selection of 34 transactions reported in the quarterly Financial Progress Reports (FPR) and identified a combination of unsupported and ineligible questioned costs of \$657,742 and \$20,917,332, respectively, with total questioned costs across all payment types of \$21,575,074 (see attached schedule of monetary benefits).² Castro also identified grants portal misclassification reporting issues related to Contracts greater than or equal to \$50,000 that did not comply with Department of the Treasury's (Treasury) Guidance.

¹ The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) assigned the Department of the Treasury Office of Inspector General with responsibility for compliance monitoring and oversight of the receipt, disbursement, and use of Coronavirus Relief Fund (CRF) payments. The purpose of the desk review is to perform monitoring procedures of the prime recipient's receipt, disbursement, and use of CRF proceeds as reported in the grants portal on a quarterly basis.

² Questioned costs consist of ineligible costs related to the West Virginia Medical Access Road Program (MARF) and unsupported costs related to public safety payroll.

Castro determined that expenditures related to Grants greater than or equal to \$50,000, Transfers greater than or equal to \$50,000,³ and Aggregate Reporting less than \$50,000⁴ payment types complied with the CARES Act and Treasury's Guidance. Castro also determined that expenditures for the Contracts greater than or equal to \$50,000 payment type complied with the CARES Act but not Treasury's Guidance. Castro determined that the expenditures related to the Direct Payments greater than or equal to \$50,000 and Aggregate Payments to Individuals⁵ payment types did not comply with the CARES Act and Treasury's Guidance. Additionally, Castro determined that West Virginia's risk of unallowable use of funds is moderate.

Castro recommends that Treasury Office of Inspector General (OIG) follow-up with West Virginia's management to confirm if the transactions noted as unsupported expenditures of \$657,742 within Aggregate Payments to Individuals can be supported. If support is not provided, Treasury OIG should recoup the funds or request West Virginia management to provide support for replacement expenses, not previously charged, that were eligible during the CRF period of performance. In addition, Castro recommends that Treasury OIG request West Virginia management to provide support for replacement expenses, not previously charged, that were eligible during the CRF period of performance for the \$20,917,332 of ineligible costs charged to the Direct Payments greater than or equal to \$50,000 payment type. If support is not provided, Treasury OIG should recoup the funds.

Based on West Virginia's responsiveness to Treasury OIG's requests and West Virginia's ability to provide sufficient documentation and/or replace unsupported and ineligible transactions charged to CRF with valid expenditures, Castro recommends Treasury OIG determine the feasibility of conducting an audit for the Direct Payments greater than or equal to \$50,000 and Aggregate Payments to Individuals payment types.

³ A transfer to another government entity is a disbursement or payment to a government entity that is legally distinct from the prime recipient.

⁴ Recipients are required to report CRF transactions greater than or equal to \$50,000 in detail in the grants portal. Transactions less than \$50,000 can be reported as an aggregate lump-sum amount by type (contracts, grants, loans, direct payments, and transfers to other government entities).

⁵ Obligations and expenditures for payments made to individuals, regardless of amount, are required to be reported in the aggregate in the grants portal to prevent inappropriate disclosure of personally identifiable information.

Treasury OIG and Castro met with West Virginia management to discuss the questioned costs. West Virginia management stated that they would provide additional documentation to Treasury OIG to support the questioned costs or replace them with other eligible expenditures.

In connection with our contract with Castro, we reviewed Castro's desk review memorandum and related documentation and inquired of its representatives. Our review, as differentiated from an audit performed in accordance with generally accepted government auditing standards, was not intended to enable us to express an opinion on West Virginia's use of CRF proceeds. Castro is responsible for the attached desk review memorandum and the conclusions expressed therein. Our review found no instances in which Castro did not comply in all material respects with the *Quality Standards for Federal Offices of Inspectors General*.

We appreciate the courtesies and cooperation provided to Castro and our staff during the desk review. If you have any questions or require further information, please contact me at (202) 486-1420, or a member of your staff may contact Lisa DeAngelis, Deputy Assistant Inspector General for Audit, at (202) 487-8371.

cc: Michelle. A. Dickerman, Deputy Assistant General Counsel, Department of the Treasury
Danielle Christensen, Deputy Chief Program Officer, Office of Capital Access, Department of the Treasury
Wayne Ference, Partner, Castro & Company, LLC
Ann Urling, Senior Advisor, Officer of the State of West Virginia Governor

Attachment

Schedule of Monetary Benefits

According to the Code of Federal Regulations,⁶ a questioned cost is a cost that is questioned due to a finding:

- (a) which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds;
- (b) where the costs, at the time of the review, are not supported by adequate documentation; or
- (c) where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Questioned costs are to be recorded in the Department of the Treasury's (Treasury) Joint Audit Management Enterprise System (JAMES).⁷ The amount will also be included in the Office of Inspector General (OIG) Semiannual Report to Congress. It is Treasury management's responsibility to report to Congress on the status of the agreed to recommendations with monetary benefits in accordance with 5 USC 405.

<u>Recommendation</u>	<u>Questioned Costs</u>
Recommendation No. 1	\$21,575,074

The questioned cost represents amounts provided by Treasury under the Coronavirus Relief Fund. As discussed in the attached desk review, \$21,575,074 is West Virginia's expenditures reported in the grant-reporting portal that were ineligible or lacked supporting documentation.

⁶ 2 CFR § 200.84 – Questioned Cost

⁷ JAMES is Treasury's audit recommendation tracking system.

Desk Review of the State of West Virginia

November 13, 2024

OIG-CA-25-007

MEMORANDUM FOR DEBORAH L. HARKER,
ASSISTANT INSPECTOR GENERAL FOR AUDIT

FROM: Wayne Ference
Partner, Castro & Company, LLC

SUBJECT: Desk Review of the State of West Virginia

On September 18, 2023, we initiated a desk review of the State of West Virginia's (West Virginia) use of the Coronavirus Relief Fund (CRF) authorized under Title VI of the Social Security Act, as amended by Title V, Division A of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).¹ The objective of our desk review was to evaluate West Virginia's documentation supporting its uses of CRF proceeds as reported in the GrantSolutions² portal and to assess the risk of unallowable use of funds. The scope of our desk review was limited to obligation and expenditure data for the period of March 1, 2020 through December 31, 2022,³ as reported in the GrantSolutions portal.

As part of our desk review, we performed the following:

- 1) reviewed West Virginia's quarterly Financial Progress Reports (FPRs) submitted in the GrantSolutions portal through December 31, 2022;
- 2) reviewed the *Department of the Treasury's (Treasury) Coronavirus Relief Fund Guidance* as published in the Federal Register on January 15, 2021;⁴

¹ P.L. 116-136 (March 27, 2020).

² GrantSolutions, a grant and program management Federal shared service provider under the United States (U.S.) Department of Health and Human Services, developed a customized and user-friendly reporting solution to capture the use of CRF payments from prime recipients.

³ West Virginia fully expended their total CRF proceeds as of December 31, 2022. Castro set the scope end date to December 31, 2022, which was the date of West Virginia's last reporting submission within the GrantSolutions portal.

⁴ Coronavirus Relief Fund Guidance as published in the Federal Register (January 15, 2021).
https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf

Desk Review of the State of West Virginia

- 3) reviewed Treasury Office of Inspector General's (OIG) *Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping*;⁵
- 4) reviewed Treasury OIG's monitoring checklists⁶ of West Virginia's quarterly FPR submissions for reporting deficiencies;
- 5) reviewed other audit reports issued, such as Single Audit Act reports,⁷ and those issued by the Government Accountability Office and other applicable Federal agency OIGs for internal control or other deficiencies that may pose risk or impact West Virginia's uses of CRF proceeds;
- 6) reviewed Treasury OIG Office of Investigations, the Council of the Inspectors General on Integrity and Efficiency Pandemic Response Accountability Committee,⁸ and Treasury OIG Office of Counsel input on issues that may pose risk or impact West Virginia's use of CRF proceeds;
- 7) interviewed key personnel responsible for preparing and certifying West Virginia's GrantSolutions portal quarterly FPR submissions, as well as officials responsible for obligating and expending CRF proceeds;

⁵ Department of the Treasury Office of Inspector General *Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping* OIG-20-028R; March 2, 2021.

⁶ The checklists were used by Treasury OIG personnel to monitor the progress of prime recipient reporting in the GrantSolutions portal. GrantSolutions quarterly submission reviews were designed to identify material omissions and significant errors, and where necessary, included procedures for notifying prime recipients of misreported data for timely correction. Treasury OIG followed the *CRF Prime Recipient Quarterly GrantSolutions Submissions Monitoring and Review Procedures Guide*, OIG-CA-20-029R to monitor the prime recipients on a quarterly basis.

⁷ P. L. 104-156 (July 5, 1996) The Single Audit Act of 1984, as amended in 1996, requires entities who receive federal funds in excess of \$750,000 to undergo an annual audit of those Federal funds. The act was enacted for the purpose of promoting sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities and to establish uniform requirements for audits. This prime recipient was subject to those audit requirements, and Castro reviewed applicable prior year single audit reports as part of our desk review risk assessment procedures.

⁸ Section 15010 of P.L. 116-136 established the Pandemic Response Accountability Committee within the Council of the Inspectors General on Integrity and Efficiency to promote transparency and conduct and support oversight of covered funds (see Footnote 15 for a definition of covered funds) and the coronavirus response to (1) prevent and detect fraud, waste, abuse, and mismanagement; and (2) mitigate major risks that cut across program and agency boundaries.

Desk Review of the State of West Virginia

- 8) made a non-statistical selection of Contracts, Grants, Transfers,⁹ Direct Payments, Aggregate Reporting,¹⁰ and Aggregate Payments to Individuals¹¹ data identified through GrantSolutions portal reporting; and
- 9) evaluated documentation and records used to support West Virginia's quarterly FPRs.

Based on our review of West Virginia's documentation supporting the uses of its CRF proceeds as reported in the GrantSolutions portal, we determined that the expenditures related to the Grants greater than or equal to \$50,000, Transfers greater than or equal to \$50,000, and Aggregate Reporting less than \$50,000 payment types complied with the CARES Act and Treasury's Guidance. Also, we determined that the expenditures related to the Contracts greater than or equal to \$50,000 payment type complied with the CARES Act but not Treasury's Guidance. In addition, we determined that expenditures related to the Direct Payments greater than or equal to \$50,000 and Aggregate Payments to Individuals payment types did not comply with the CARES Act and Treasury's Guidance.

We identified unsupported and ineligible questioned costs of \$657,742 and \$20,917,332, respectively, with total questioned costs of \$21,575,074. We also determined West Virginia's risk of unallowable use of funds is moderate.

Castro recommends that Treasury OIG follow-up with West Virginia's management to confirm if the \$657,742 noted as unsupported expenditures within Aggregate Payments to Individuals can be supported. If support is not provided, Treasury OIG should recoup the funds or request West Virginia management to provide support for replacement expenses, not previously charged, that were eligible during the CRF period of performance.

In addition, Castro recommends that Treasury OIG request West Virginia management to provide support for replacement expenses, not previously charged, that were eligible during the CRF period of performance for the \$20,917,332 of ineligible costs charged to the Direct Payments greater than or equal to \$50,000 payment type. If support is not provided, Treasury OIG should recoup the funds.

⁹ A transfer to another government entity is a disbursement or payment to a government entity that is legally distinct from the prime recipient.

¹⁰ Prime recipients were required to report CRF transactions greater than or equal to \$50,000 in detail in the GrantSolutions portal. Transactions less than \$50,000 could be reported as an aggregate lump-sum amount by type (contracts, grants, loans, direct payments, and transfers to other government entities).

¹¹ Obligations and expenditures for payments made to individuals, regardless of amount, were required to be reported in the aggregate in the GrantSolutions portal to prevent inappropriate disclosure of personally identifiable information.

Desk Review of the State of West Virginia

Further, based on West Virginia's responsiveness to Treasury OIG's requests and its ability to provide sufficient documentation and/or replace unsupported and ineligible transactions charged to CRF with valid expenditures, Castro recommends Treasury OIG determine the feasibility of conducting an audit for the Direct Payments greater than or equal to \$50,000 and Aggregate Payments to Individuals payment types.

Non-Statistical Transaction Selection Methodology

Treasury issued a \$1,250,000,000 CRF payment to West Virginia. As of December 31, 2022, West Virginia expended all its CRF funds. West Virginia's cumulative obligations and expenditures by payment type are summarized below.

Payment Type	Cumulative Obligations	Cumulative Expenditures
Contracts >= \$50,000	\$ 34,542,780	\$ 34,542,780
Grants >= \$50,000	\$ 20,573,908	\$ 20,573,908
Loans >= \$50,000	\$ -	\$ -
Transfers >= \$50,000	\$ 255,687,153	\$ 255,687,153
Direct Payments >= \$50,000	\$ 45,102,179	\$ 45,102,179
Aggregate Reporting < \$50,000	\$ 173,405,258	\$ 173,405,258
Aggregate Payments to Individuals (in any amount)	\$ 720,688,722	\$ 720,688,722
Totals	\$ 1,250,000,000	\$ 1,250,000,000

Castro made a non-statistical selection of payments in the Contracts greater than or equal to \$50,000, Grants greater than or equal to \$50,000, Transfers greater than or equal to \$50,000, Direct Payments greater than or equal to \$50,000, Aggregate Reporting less than \$50,000, and Aggregate Payments to Individuals payment types. Selections were made using auditor judgment based on information and risks identified in reviewing audit reports, the GrantSolutions portal reporting anomalies¹² identified by the Treasury OIG CRF monitoring team, and review of West Virginia's FPR submissions. West Virginia did not obligate or expend CRF proceeds to the Loans greater than or equal to \$50,000 payment type; therefore, we did not select transactions from this payment type.

The number of transactions (34) we selected to test were based on West Virginia's total CRF award amount and Castro's overall risk assessment of West Virginia. To allocate the number of transactions (34) by payment type (Contracts greater than or equal to \$50,000, Grants greater than or equal to \$50,000, Transfers greater than or equal to \$50,000, Direct Payments greater than or equal to \$50,000,

¹² Treasury OIG had a pre-defined list of risk indicators that were triggered based on data submitted by prime recipients in the FPR submissions that met certain criteria. Castro reviewed these results provided by Treasury OIG for the prime recipient.

Desk Review of the State of West Virginia

Aggregate Reporting less than \$50,000, and Aggregate Payments to Individuals), we compared the total payment type dollar amounts as a percentage of cumulative expenditures as of December 31, 2022. The transactions tested were not selected statistically, and therefore results could not be extrapolated to the total universe of transactions.

Background

The CARES Act appropriated \$150 billion to establish the CRF. Under the CRF, Treasury made payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories, including the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and Tribal governments (collectively referred to as “prime recipients”). Treasury issued a \$1,250,000,000 CRF payment to West Virginia. The CARES Act stipulates that a prime recipient may only use the funds to cover costs that —

- (1) were necessary expenditures incurred due to the public health emergency with respect to the coronavirus disease 2019 (COVID-19);
- (2) were not accounted for in the budget most recently approved as of March 27, 2020; and
- (3) were incurred during the covered period between March 1, 2020 and December 31, 2021.¹³

Section 15011 of the CARES Act required each covered recipient¹⁴ to submit to Treasury and the Pandemic Response Accountability Committee, no later than 10 days after the end of each calendar quarter, a report that contained (1) the total amount of large covered funds^{15,16} received from Treasury; (2) the amount of large covered funds received that were expended or obligated for each project or activity; (3) a detailed list of all projects or activities for which large covered funds

¹³ P.L. 116-260 (December 27, 2020). The covered period end date of the CRF was extended through December 31, 2021 by the Consolidated Appropriations Act, 2021. The covered period end date for tribal entities was further extended to December 31, 2022 by the State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act, Division LL of the Consolidated Appropriations Act, 2023, P.L. 117-328, December 29, 2022, 136 Stat. 4459.

¹⁴ Section 15011 of P.L. 116-136 defined a covered recipient as any entity that received large covered funds and included any State, the District of Columbia, and any territory or possession of the United States.

¹⁵ Section 15010 of P.L. 116-136 defined covered funds as any funds, including loans, that were made available in any form to any non-Federal entity, not including an individual, under Public Laws 116-123, 127, and 136, as well as any other law which primarily made appropriations for Coronavirus response and related activities.

¹⁶ Section 15011 of P.L. 116-136 defined large covered funds as covered funds that amounted to more than \$150,000.

Desk Review of the State of West Virginia

were expended or obligated; and (4) detailed information on any level of sub-contracts or sub-grants awarded by the covered recipient or its sub-recipients.

The CARES Act assigned Treasury OIG the responsibility for compliance monitoring and oversight of the receipt, disbursement, and use of CRF proceeds. Treasury OIG also has the authority to recoup funds in the event it is determined a prime recipient failed to comply with requirements of subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)).

Desk Review Results

Financial Progress Reports

We reviewed West Virginia's quarterly FPRs through December 31, 2022, and found that West Virginia timely filed quarterly FPRs in the GrantSolutions portal in compliance with Treasury OIG's reporting requirements for the period of June 30, 2020 through December 31, 2022.

Summary of Testing Results

We found that the expenditures related to the Grants greater than or equal to \$50,000, Transfers greater than or equal to \$50,000, and Aggregate Reporting less than \$50,000 payment types complied with the CARES Act and Treasury's Guidance. We also found that the expenditures related to the Contracts greater than or equal to \$50,000 payment typed complied with the CARES Act but not Treasury's Guidance. Additionally, we found that the Direct Payments greater than or equal to \$50,000 and Aggregate Payments to Individuals payment types did not comply with the CARES Act and Treasury's Guidance because we were unable to determine if all tested expenditures were necessary due to the COVID-19 public health emergency, were not accounted for in the budget most recently approved as of March 27, 2020, and were incurred during the covered period. The transactions selected for testing were not selected statistically, and therefore results could not be extrapolated to the total universe of transactions.

Within the table below, we have included a summary of unsupported and ineligible expenditures identified as questioned costs, which did not comply with the CARES Act and Treasury's Guidance. See the Desk Review Results section below this table for a detailed discussion of questioned costs and other issues identified throughout the course of our desk review.

**Summary of Expenditures Testing and Recommended Results
As of December 31, 2022**

Payment Type	Cumulative Expenditure Population Amount	Cumulative Expenditure Tested Amount	Unsupported Tested Questioned Costs	Ineligible Tested Questioned Costs	Total Tested Questioned Costs
Contracts >= \$50,000	\$ 34,542,780	\$ 8,187,124	\$ -	\$ -	\$ -
Grants >= \$50,000	\$ 20,573,908	\$ 7,721,650	\$ -	\$ -	\$ -
Loans >= \$50,000	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers >= \$50,000	\$ 255,687,153	\$ 8,017,864	\$ -	\$ -	\$ -
Direct Payments >= \$50,000	\$ 45,102,179	\$ 21,724,982	\$ -	\$ 20,917,332	\$ 20,917,332
Aggregate Reporting < \$50,000	\$ 173,405,258	\$ 7,284,271	\$ -	\$ -	\$ -
Aggregate Payments to Individuals (in any amount)	\$ 720,688,722	\$ 9,387,501	\$ 657,742	\$ -	\$ 657,742
Totals	\$ 1,250,000,000	\$ 62,323,392	\$ 657,742	\$ 20,917,332	\$ 21,575,074

Contracts Greater Than or Equal to \$50,000

We determined West Virginia's Contracts greater than or equal to \$50,000 complied with the CARES Act but did not comply with Treasury's Guidance. We tested two contracts totaling \$8,187,124 and identified no testing exceptions. The contracts tested included expenditures for the purchase of medical supplies and rental space for a 24-hour a day emergency room access, and upgrades to enhance a statewide interoperable radio network for emergency responders during the pandemic.

However, we identified a reporting misclassification that did not comply with Treasury's Guidance related to Contracts greater than or equal to \$50,000 that we determined should have been reported as Direct Payments greater than or equal to \$50,000 in the GrantSolutions portal.

Desk Review of the State of West Virginia

Grants Greater Than or Equal to \$50,000

We determined West Virginia's Grants greater than or equal to \$50,000 complied with the CARES Act and Treasury's Guidance. We tested three grants totaling \$7,721,650 and identified no testing exceptions. The grants tested included expenditures for mobile emergency medical technician pandemic-related training, renovation of a facility to provide housing for the homeless during the pandemic, food distribution, personal protective equipment, and payroll costs for training services related to manufacturing medical supplies.

Transfers to Other Government Entities Greater Than or Equal to \$50,000

We determined West Virginia's Transfers greater than or equal to \$50,000 complied with the CARES Act and Treasury's Guidance. We tested five transfers totaling \$8,017,864 and identified no testing exceptions. The transfers tested included expenditures for reimbursement of payroll costs for public health and safety personnel; personal protective equipment; medical supplies; remote video subscriptions to support telework capabilities; contracted call center services; and upgrades to a microwave network and a 911 operation center.

Direct Payments Greater Than or Equal to \$50,000

We determined West Virginia's Direct Payments greater than or equal to \$50,000 did not comply with the CARES Act and Treasury's Guidance. We tested five direct payments totaling \$21,724,982 and identified testing exceptions related to the West Virginia Medical Access Road Program (MARP) resulting in ineligible questioned costs totaling \$20,917,332, as detailed below. The direct payments tested included expenditures for reimbursement for medical access road programs and implementation of a grant management solution software.¹⁷

We tested four transactions totaling \$20,917,332 related to the West Virginia MARP and determined the documentation provided failed to sufficiently support that the expenditures were necessary as it pertained to the COVID-19 pandemic. West Virginia leveraged existing blanket purchase order arrangements with paving companies that were established prior to the start of the COVID-19 pandemic to accomplish the goals of the MARP which the State believed were a necessary response to the public health emergency. Based on our review, we determined the support did not explicitly state the costs incurred were for COVID-

¹⁷ West Virginia used CRF proceeds for a vendor to create, implement, and train West Virginia personnel on using a computerized grants application portal through which the public and state agencies accessed information on COVID-19-related funding opportunities and applied for grants and funding related to the COVID-19 pandemic.

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19 related expenditures, resulting in non-compliance with the CARES Act and Treasury's Guidance.

We obtained and inspected the master agreements and other obligating documents specific to the West Virginia Division of Highways and the selected vendors; however, the support did not clarify how the MARP expenditures were related to the contracted services established in the master agreements. In addition, we noted the master agreements were signed with dates before the enactment of the CARES Act program of March 1, 2020. Further, West Virginia did not provide a modification or separate contract under the master agreements to redefine a scope of work specific to the MARP resulting from the pandemic.

We asked West Virginia to justify how it determined these selected expenditures incurred were necessary due to the public health emergency with respect to COVID-19 and to include any additional documentation needed to support this determination. In response, West Virginia stated the purpose of the MARP expenditures were to provide improvements and deferred maintenance to roads critical to West Virginia communities' ability to travel and access medical facilities. In summary, West Virginia was unable to provide support to corroborate that the expenditures were necessary as it related to the COVID-19 pandemic. As a result, the MARP expenditures reimbursed with CRF proceeds were not justified or an eligible use, resulting in ineligible questioned costs of \$20,917,332.

Aggregate Reporting Less Than \$50,000

We determined West Virginia's Aggregate Reporting less than \$50,000 complied with the CARES Act and Treasury's Guidance. We tested four transactions totaling \$7,284,271 and identified no testing exceptions. The transactions tested included expenditures for the purchase of grant management software related to pandemic support, hardship utility bills, payroll for public health and safety employees, and COVID-19 test kits.

Aggregate Payments to Individuals

CRF payments made to individuals, regardless of amount, were required to be reported in the aggregate in the GrantSolutions portal to prevent inappropriate disclosure of personally identifiable information. Castro notes that the Aggregate Payments to Individuals payment type consisted of the below broad types of potential costs, which we have defined from Treasury's guidance as published in the Federal Register.¹⁸ Prime recipients may or may not have claimed all these types of expenditures.

¹⁸ Coronavirus Relief Fund Guidance as published in the Federal Register (January 15, 2021) https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf

- **Public Health and Safety Payroll**¹⁹ – consisted of payroll costs for public health and safety department personnel.
- **Substantially Dedicated Payroll**²⁰ – consisted of payroll costs for non-public health and safety personnel who were substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
- **Non-Substantially Dedicated Payroll**²¹ – consisted of payroll costs for personnel who performed COVID-19 related tasks on a part-time basis.
- **Non-Payroll Expenditures** – consisted of financial assistance payments to citizens due to hardship or loss of income, unemployment claims, and other non-payroll related expenditures made to individuals.

¹⁹ Treasury's Federal Register guidance provided the following examples of public health and safety employees: "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...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."

²⁰ Substantially dedicated payroll costs meant that personnel must have dedicated over 50 percent of their time to responding or mitigating COVID-19. Treasury's Federal Register guidance indicated: "The full amount of payroll and benefits expenses of substantially dedicated employees may be covered using payments from the Fund. Treasury has not developed a precise definition of what "substantially dedicated" means given that there is not a precise way to define this term across different employment types. The relevant unit of government should maintain documentation of the "substantially dedicated" conclusion with respect to its employees."

²¹ Payroll costs that were not substantially dedicated were payroll costs that were not public health and safety, and which were not substantially dedicated to performing COVID-19 related tasks. Treasury's Federal Register guidance defined more stringent tracking requirements for these types of payroll costs. Specifically, Treasury's Federal Register stated: "track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department. This means, for example, that a government could cover payroll expenses allocated on an hourly basis to employees' time dedicated to mitigating or responding to the COVID-19 public health emergency."

Desk Review of the State of West Virginia

The West Virginia Aggregate Payments to Individuals balance consisted of payroll and other transactions from the following types of claimed costs.

Aggregate Payments to Individuals Category Types ²²	Total Expenses Claimed
Public Health and Safety Payroll	\$ 202,024,088
Substantially Dedicated Payroll	\$ 755,348
Non-Payroll Expenditures ²³	\$ 517,909,286
Totals	\$ 720,688,722

Castro noted that public health and safety payroll transactions were subject to Treasury's administrative accommodation,²⁴ and therefore, were subject to less detailed documentation requirements. Castro tested public health and safety payroll transactions by reviewing itemized payroll distribution reports to support these balances. Substantially dedicated payroll balances were not subject to this administrative accommodation, and therefore, Castro tested these transactions by reviewing payroll distribution files and by performing tests over specific employee timesheet submissions or other documentation provided by the prime recipient to confirm the "substantially dedicated" conclusion with respect to its employees. Non-Payroll expenditure balances were also not subject to this administrative accommodation, and therefore, Castro tested these transactions by reviewing the program requirements and requested specific supporting documentation to determine eligibility and allowable use.

²² West Virginia did not report any non-substantially dedicated payroll within its Aggregate Payments to Individuals payment type, and so these were not included within the Aggregate Payments to Individuals Category Types.

²³ The Non-Payroll Expenditures of \$517,909,286 consisted of unemployment related expenditures of \$445,391,209 (see Non-Payroll Expenditures: CRF Unemployment Expenditures section below for an overall review of these charges), payments to support workforce re-entry into the job market of \$53,971,267, vaccine incentive programs of \$16,772,840, other hardship related payments of \$1,073,970, and reimbursement of survivor benefit payments of \$700,000. The expenditures in the Non-Payroll Expenditures category, other than CRF Unemployment Expenditures, were tested as a part of the sample of transactions selected (see Summary of Aggregate Payments to Individuals Testing Results section below). The CRF Unemployment Expenditures section below discusses the analysis of unemployment expenditures charged to CRF, which was performed as a wholistic analysis rather than testing on a sample of expenditures.

²⁴ Treasury's Federal Register guidance states the following regarding an administrative accommodation: "In recognition of the particular importance of public health and public safety workers to State, local, and tribal government responses to the public health emergency, Treasury has provided, as an administrative accommodation, that a State, local, or tribal government may presume that public health and public safety employees meet the substantially dedicated test...This means that, if this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 31, 2021."

Non-Payroll Expenditures: CRF Unemployment Expenditures

The Unemployment Trust Fund (UI) is a reserve funded by state taxes, primarily on employers, and used only to pay state unemployment benefits. The balance in the reserve fund can decline during a prolonged period of high unemployment such as the COVID-19 pandemic. The fund's activity is demonstrated by inflows and outflows of the account based on contributions from state taxes or employers and reduced by issuance of unemployment benefit claims. Due to the COVID-19 pandemic, West Virginia experienced significant increases in unemployment claims which decreased the reserve fund balance increasing the risk of insolvency. West Virginia maintained a UI fund balance of \$160,448,610 as of February 2020, prior to the COVID-19 pandemic. We noted West Virginia's UI reserve fund balance for the month ending at the start of the pandemic, March 31, 2020, was \$110,535,131. For April 2020, West Virginia originally projected 4,538 total unemployment claims; however, the actual claims filed totaled 108,330. By May 2020, West Virginia's UI fund balance decreased to \$20,054,032, causing concern that the fund would become insolvent. This exponential change in fund balance warranted the unemployment claims analysis described below.

West Virginia performed an unemployment claim analysis supporting how it determined that the change in the UI balance occurred due to the COVID-19 pandemic and not due to unemployment claims that would have been paid regardless of the pandemic. Castro reviewed this analysis and obtained and inspected the bank statements/fund balance with Treasury Direct statements²⁵ to support key unemployment trust fund balances included within West Virginia's unemployment claim analysis to justify the eligibility of unemployment expenditures claimed using CRF proceeds. We noted West Virginia used \$445,391,209 in CRF proceeds related to unemployment expenditures, consisting of the following three items:

1. **\$184,910,036 - Repayment of U.S. Department of Labor Title XII Advances (Loan)**

Due to the significant increase in actual unemployment claims, West Virginia depleted their UI balance and took advantage of an available interest-free loan, the Department of Labor's Title XII Advance (Loan), to support its ability to pay unemployment claims. When the interest-free period ended, CRF proceeds were used to repay the principal loan balance of \$184,910,036 which represented the unemployment payments that had been made from the Loan.

²⁵ Treasury Direct is an official website of the United States Government that provides insight on funds management programs, including unemployment trust fund statements. Castro conducted external research to obtain unemployment related datasets to corroborate the support provided by West Virginia.

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Prime recipients may use CRF proceeds to repay the principal amount of a Title XII Loan,²⁶ but not the interest.²⁷ Specifically, States faced a massive unemployment claim load due to the pandemic, which resulted in the obligation to repay Title XII advances requested during the CRF covered period. These advances were due immediately and payable as long as a balance remained open. However, any interest expense on the Title XII advances would be accrued outside of the covered period, making it ineligible for CRF reimbursement. West Virginia only used CRF proceeds for the total amount of Title XII advances received, not interest. As a result, we determined the use of CRF for the Title XII Loan principal repayment was an eligible expenditure.

2. **\$220,559,606 – Replenishment of the Unemployment Trust Fund**

Supplemental funding was made to West Virginia's UI to prevent insolvency and enable West Virginia to continue to pay necessary unemployment benefits. We noted \$220,559,606 in CRF proceeds were used to replenish the UI balance in September 2021. Castro noted in their supporting documentation that West Virginia accumulated \$536,195,604 in unemployment benefits during the covered period where the claimant indicated on the completed application their claim resulted from the pandemic. Based on the support provided, we determined West Virginia's use of \$220,559,606 in CRF proceeds to replenish the UI was reasonable and eligible.

²⁶ Federal Register Frequently Asked Question A.9 states, "Are States permitted to use Fund payments to support state unemployment insurance funds generally? To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent."

²⁷ Because interest expenses on Title XII advances did not accrue during the covered period, the interest costs were not allowable.

3. \$39,921,567 - Payment of Lost Wage Assistance State Share

The Federal Emergency Management Agency (FEMA) Administrator approved West Virginia for a FEMA grant under the Lost Wages Assistance program. FEMA's grant funding allowed West Virginia to provide \$300 per week -- on top of their regular unemployment benefit -- to those unemployed due to COVID-19. West Virginia strategized to implement an additional \$100 state cost share approved by the Governor using CRF proceeds in addition to the \$300 per week provided by FEMA for a total benefit to the claimant of \$400. To be eligible to receive the Lost Wage Assistance payment, claimants were required to self-certify that they were unemployed due to disruptions caused by COVID-19. Workforce West Virginia's (a West Virginia department that processes unemployment claims) initial and weekly unemployment claim applications included questions indicating whether a claimant's unemployment was caused by the pandemic, and only those claimants indicating the pandemic as the reason for unemployment were paid Lost Wage Assistance benefits. Based on this information, we determined West Virginia's use of \$39,921,567 in CRF proceeds for the state share of the Lost Wage Assistance funding was reasonable and eligible.

Conclusion Related to West Virginia's CRF Unemployment Expenditures

Based on the information and support provided by West Virginia, we determined the use of \$445,391,209 in total CRF proceeds related to CRF unemployment expenditures was reasonable and eligible.

Summary of Aggregate Payments to Individuals Testing Results

Other than the CRF Unemployment Expenditures category, we determined that West Virginia's Aggregate Payments to Individuals did not comply with the CARES Act and Treasury's Guidance. We tested 15 Aggregate Payments to Individuals transactions totaling \$9,387,501. The expenditures tested included vaccine incentive programs, teachers' payroll for dedicated time on online programs, payroll costs of program coordinators, payroll costs for public health and safety personnel, payment of taxes on vaccine incentive programs, payments to public safety front line workers in the West Virginia National Guard, reimbursement of survivor benefit payments for public health and safety personnel, and unemployment-related expenditures which resulted from charges for a service provider contracted to perform unemployment call center services. We identified testing exceptions resulting in unsupported questioned costs related to public safety payroll totaling \$657,742, as detailed below.

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For one transaction related to public safety payroll reimbursements for payments to front line workers in the West Virginia National Guard totaling \$657,742, we requested West Virginia provide supporting documentation to evidence the claimed expenditures were eligible under CRF requirements. However, West Virginia confirmed the transaction was a duplicate transaction in their accounting system, resulting in unsupported questioned costs of \$657,742. These costs were paid in support of the West Virginia National Guard team, who received an initial advance of funds, which was not caught during West Virginia's final CRF reconciliation. West Virginia management told us that the State would use these funds for other eligible purposes.

Conclusion

We determined that the expenditures related to the Grants greater than or equal to \$50,000, Transfers greater than or equal to \$50,000, and Aggregate Reporting less than \$50,000 payment types complied with the CARES Act and Treasury's Guidance. Also, we determined that the expenditures related to the Contracts greater than or equal to \$50,000 payment type complied with the CARES Act but not Treasury's Guidance. Additionally, we determined that the expenditures related to the Direct Payments greater than or equal to \$50,000 and Aggregate Payments to Individuals payment types did not comply with the CARES Act and Treasury's Guidance.

We identified a combination of unsupported and ineligible questioned costs of \$657,742 and \$20,917,332, respectively, with total questioned costs across all payment types of \$21,575,074. Also, we identified GrantSolutions portal misclassification reporting issues related to Contracts greater than or equal to \$50,000 that did not comply with Treasury's Guidance.

Additionally, West Virginia's risk of unallowable use of funds is **moderate**.

Castro recommends that Treasury OIG follow-up with West Virginia's management to confirm if the \$657,742 noted as unsupported expenditures within Aggregate Payments to Individuals can be supported. If support is not provided, Treasury OIG should recoup the funds or request West Virginia management to provide support for replacement expenses, not previously charged, that were eligible during the CRF period of performance.

In addition, Castro recommends that Treasury OIG request West Virginia management to provide support for replacement expenses, not previously charged, that were eligible during the CRF period of performance for the \$20,917,332 of ineligible costs charged to the Direct Payments greater than or equal to \$50,000 payment type. If support is not provided, Treasury OIG should recoup the funds.

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Further, based on West Virginia's responsiveness to Treasury OIG's requests and its ability to provide sufficient documentation and/or replace unsupported and ineligible transactions charged to CRF with valid expenditures, Castro recommends Treasury OIG determine the feasibility of conducting an audit for the Direct Payments greater than or equal to \$50,000 and Aggregate Payments to Individuals payment types.

All work completed with this letter complies with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Federal Offices of Inspectors General*, which require that the work adheres to the professional standards of independence, due professional care, and quality assurance to ensure the accuracy of the information presented.²⁸ We appreciate the courtesies and cooperation provided to our staff during the desk review.

Sincerely,



Wayne Ference
Partner, Castro & Company, LLC

²⁸ <https://www.ignet.gov/sites/default/files/files/Silver%20Book%20Revision%20-%202012r.pdf>