



April 3, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

Dear Secretary Mnuchin,

As the national representative of America's 3,069 county governments, we are writing to request further clarification on the Coronavirus Relief Fund, outlined in the CARES Act (P.L. 116-136). We also wish to offer our understanding and interpretation of the law.

We first want to express our sincere appreciation for your efforts, and we want to acknowledge the passionate work of your team. We appreciated the opportunity to engage with your team earlier this week as part of the intergovernmental consultation process. This is essential for county officials since we serve at "ground zero" of this unprecedented public health and economic crisis. Our 3,069 county governments employ 3.6 million proud public servants, including within our nearly 1,000 public hospitals, 1,900 local public health departments and 750 behavioral health departments. Our first responders and frontline personnel, including our public and community health professionals, sheriffs, 911 operators, firefighters, EMT/paramedics, Emergency Operations Center (EOC) experts, coroners/medical examiners, child welfare and aging service providers, substance abuse and mental health counselors, veterans service officers, homelessness program coordinators and jail administrators, among many others, depend on a strong intergovernmental partnership of federal, state, tribal and local officials.

**We want to address two main issues that were raised by Treasury officials during our intergovernmental consultation:** (1) the baseline amount for each State and how this impacts the potential amount for direct payment to eligible units of local government above 500,000 and (2) Treasury's preference to combine and limit the direct access and/or allocation for eligible counties with cities also above 500,000 population. We also want to acknowledge our joint understanding that counties below 500,000 are eligible as subgrantees of the state.

First, in reading the statute for the determination of direct payment to eligible units of local government the law clearly states that **"the Secretary shall reduce the amount determined for that State by the relative unit of local government population proportion amount described in subsection (c)(5) and pay such amounts directly to such unit of local government."**

Under the (c) section outlining the minimum amount for each State, the law does *not* include any qualifiers, such as a *"notwithstanding"* clause, that would support Treasury's current argument and approach to subtract the state's minimum threshold *before* applying the 45 percent multiplier for eligible units of local

government. In our view, there is no basis for calculating the local government share *after* removing the minimum share from the state's total.

Treasury's argument of "double funding" is inconsistent with congressional intent. Under the Coronavirus Relief Fund, Treasury is empowered to provide state and local officials authority to control roughly \$425 for each American. In most counties, a governor has authority over 100 percent of that individual's portion, including the estimated 19 states and territories identified under the Congressional Research Service report, *CARES Act, Title V: Background and State and Local Allocations*. In some large counties, a governor has authority over 55 percent of that individual's portion, while counties may bear authority over 45 percent. In the approximately 26 large counties with major cities also above the population threshold, the governor may have authority over 10 percent, the city has authority over 45 percent and the county has authority over 45 percent. Therefore, no community will "get extra funding" because of local government population. *The formula merely adjusts which level of government has authority over that community's share.*

**Second, we believe the congressional intent was straightforward that *each* unit of local government above 500,000 population is entitled to receive direct payments, based on the 45 percent multiplier.** By using the *singular*, or "a", unit of local government, the law is clear in several references that *each* local jurisdiction should stand on its own, including for the calculation of its individual direct payment allocation based on its individual population proportion of the state total. The law specifically intends for the 45 percent to be applied solely as a multiplier and does not convey any limitation to an allocation for an individual county or city.

As stated above, the 45 percent reference in (5)(A) is solely a multiplier. It appears that the Treasury Department has misconstrued this reference as to establish a statewide limitation of 45 percent for all local governments within that state. Forty-five percent was placed in the bill solely to instruct Treasury as to how much funding a local government shall receive under Section 5001 *proportional to its population*. A reading of the text confers that in the case of an eligible city located within an eligible county, both the city and the county are entitled to their full 45 percent multiplier under the formula Congress wrote.

In our reading, as noted earlier, the amount for each local government eligible for direct payments is calculated from the "amount determined for that State". There are no references or limitations to considering only certain portions of a county in determining either *its population* or *its potential funding amount*. In the states with more than one local jurisdiction with populations above 500,000, the law applies the total state allocation amount as the multiplier for each local jurisdiction, rather than adjusting the state amount, including the state minimum allocation, as locals are pulled from the total.

In other words, Section 5001 shows Congress did not intend for the formula to be used to restrict counties of more than 500,000 from receiving their full amount. This formula has only three terms. None of the terms in this formula stipulate that funds for eligible cities within eligible counties are offsetting. Nor do these terms exclude certain populations from one unit of local government because they reside in another unit of local government.

In fact, all residents who live within a **city are also part of the county** (except independent cities in Virginia and the two eligible independent cities of Baltimore and St. Louis, who also operate traditional county services similar to a consolidated city-county). The overwhelming majority of county services cover the entire county boundary, not just those areas outside of a city. Meanwhile, all county residents are *not* part of a city. Therefore, the logical order should be interpreted: Federal, State, County and City.

Lastly, President Trump and Vice President Pence have repeatedly described the federal government’s philosophy toward emergency management as “locally executed, state managed, federally supported.” We share these beliefs. In most counties across the country, it is our county elected officials and our county health professionals – including in partnership with our federal, state, tribal and city counterparts – who are instrumental in executing our public health, safety net and economic recovery response. If Treasury proceeds with its preliminary allocation rules for the local government population proportion amount, it will harm our nation’s ability to *execute* our COVID-19 emergency plans at the local level.

America’s counties have been engaged in our nation’s response to COVID-19 since the earliest days and providing counties with the flexible, essential financial resources to which they are entitled under Section 5001, and so desperately need, is the surest way to see that that our nation’s preparedness and responsibility continues. We hope the Treasury Department will apply the local government population proportion amount as written by Congress in the CARES Act and provide counties with more than 500,000 residents with their full allotment.

Thank you for your continued hard work and leadership during these challenging times. We would welcome the opportunity to discuss this issue further. We are committed to a solution that helps our nation mitigate, respond and recover from these historic times.

With respect,

A handwritten signature in black ink that reads "Matthew D. Chase". The signature is written in a cursive, flowing style with a large loop at the beginning of the first name.

Matthew D. Chase  
CEO and Executive Director

**TITLE V—CORONAVIRUS RELIEF FUNDS**

**SEC. 5001. CORONAVIRUS RELIEF FUND.**

(a) IN GENERAL.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by inserting after title V the following:

*Aka “State Stabilization Fund”*

**“TITLE VI—CORONAVIRUS RELIEF FUND**

**SEC. 601. CORONAVIRUS RELIEF FUND.**

(a) APPROPRIATION.—

(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for making payments to States, Tribal governments, and units of local government under this section, **\$150,000,000,000** for fiscal year 2020.

**\$150 billion is available in federal appropriations** for making payments to States, Tribal governments, and units of local government (*Note: Local govts. below 500,000 population are eligible through the state, while local governments above 500,000 population may receive direct payments from U.S. Treasury*)

(2) RESERVATION OF FUNDS.—Of the amount appropriated under paragraph (1), the Secretary shall reserve—

(A) **\$3,000,000,000** of such amount for making payments to the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

**\$3 billion** reserved for the District of Columbia and five U.S. territories

(B) **\$8,000,000,000** of such amount for making payments to Tribal governments.

**\$8 billion** reserved for eligible Tribal governments

(b) AUTHORITY TO MAKE PAYMENTS.—

(1) IN GENERAL.—Subject to **paragraph (2)**, not later than 30 days after the date of enactment of this section, the Secretary shall pay each State and Tribal government, and each unit of local government that meets the condition described in **paragraph (2)**, the amount determined for the State, Tribal government, or unit of local government, for fiscal year 2020 under **subsection (c)**.

(2) **DIRECT PAYMENTS TO UNITS OF LOCAL GOVERNMENT**.— If a unit of local government of a State submits the **certification required by subsection (e)** for purposes of receiving a direct payment from the Secretary under the authority of this paragraph, **the Secretary shall reduce the amount determined for that State by the relative unit of local government population proportion amount described in subsection (c)(5)** and pay such amount directly to such unit of local government.

(c) PAYMENT AMOUNTS.—

(1) IN GENERAL.—Subject to **paragraph (2)**, the amount paid **under this section** for fiscal year 2020 to a State that is 1 of the 50 States shall be the amount equal to the relative population proportion amount determined for the State under **paragraph (3)** for such fiscal year.

**Paragraph (2)** is referencing units of local government that are eligible for direct payments from U.S. Treasury

**Subsection (c)** is payment amounts

**Subsection (e)** requires signed certification by chief executive of the unit of local government

Requires Secretary to **REDUCE** amount for each state **BY** the relative population proportion of the local government entities above 500,000 population

**Paragraph (2)** references minimum payments for states

**Section** is Sec. 601, Coronavirus Relief Fund

**Paragraph (3)** is the calculation to determine each states percentage of the total U.S. state population

(2) MINIMUM PAYMENT.—

(A) IN GENERAL.—No State that is 1 of the 50 States shall receive a payment **under this section** for fiscal year 2020 that is less than **\$1,250,000,000**.

(B) PRO RATA ADJUSTMENTS.—The Secretary shall adjust on a pro rata basis the amount of the payments for each of the 50 States determined under this subsection without regard to this subparagraph to the extent necessary to comply with the requirements of **subparagraph (A)**.

(3) RELATIVE POPULATION PROPORTION AMOUNT.—For purposes of **paragraph (1)**, the relative population proportion amount determined under this paragraph for a State for fiscal year 2020 is the product of—

(A) the amount appropriated under **paragraph (1)** of **subsection (a)** for fiscal year 2020 that remains after the application of **paragraph (2)** of that subsection; and

(B) the relative State population proportion (as defined in **paragraph (4)**).

**Section** is Sec. 601, Coronavirus Relief Fund

No state shall receive less than \$1.25 billion. **(HOWEVER, (b)(2) says that the “Secretary shall reduce the amount determined for that State by the relative unit of local government population proportion amount...”)**

Secretary shall adjust formula to ensure a minimum of \$1.25 billion for each state **(AGAIN, (b)(2) says that the “Secretary shall reduce the amount determined for that State by the relative unit of local government population proportion amount...”)**

**Means that \$139 billion is remaining for States and units of local government, out of the \$150 billion total, after reserving funds for D.C. and territories and for Tribal governments**

See (4) below...

<p>(4) RELATIVE STATE POPULATION PROPORTION DEFINED.—  For purposes of <b>paragraph (3)(B)</b>, the term ‘relative State population proportion’ means, with respect to a State, the <b>quotient</b> of—</p> <p>(A) the population of the State; and</p> <p>(B) the total population of all States (excluding the District of Columbia and territories specified in subsection (a)(2)(A)).</p> <p><b>(5) RELATIVE UNIT OF LOCAL GOVERNMENT POPULATION PROPORTION AMOUNT.—</b>For purposes of <b>subsection (b)(2)</b>, the term ‘relative unit of local government population proportion amount’ means, with respect to <b>a unit of local government</b> and a State, the amount equal to the product of—</p> <p>(A) <b>45 percent of the amount of the payment determined for the State</b> under this subsection (without regard to this paragraph); <b>and</b></p> <p>(B) the amount equal to the quotient of—</p> <p>(i) the population of <b>the</b> unit of local government;</p> <p><b>and</b></p> <p>(ii) the total population of the State in which the unit of local government is located.</p>	<p>For figuring out the state share...</p> $\frac{\text{State Population}}{\text{Total U.S. State Population, Excluding D.C. and Territories}} = \text{State Percentage}$ <p>Subsection (b)(2) is a Direct Payment to “a” Unit of Local Government Above 500,000 Population (i.e. singular)</p> <p>Of the amount for the state, 45 percent ...</p> <p>AND</p> $\frac{\text{Each Unit of Local Govt. Above 500K}}{\text{Total State Population}} = \text{Percentage of Each Unit of Local Government Share}$ <hr/> $\begin{aligned} &\text{Total State Amount} \\ &\quad \times 45\% \\ &\times \text{Each Eligible Unit of Local Govt} \\ &\quad \text{\% of State Population} \\ &= \text{Direct Funding Amount for} \\ &\quad \text{Each Eligible Unit of Local Govt.} \end{aligned}$
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(6) DISTRICT OF COLUMBIA AND TERRITORIES.—The amount paid under this section for fiscal year 2020 to a State that is the District of Columbia or a territory specified in subsection (a)(2)(A) shall be the amount equal to the product of—

(A) the amount set aside under subsection (a)(2)(A) for such fiscal year; **and**

(B) each such District’s and territory’s share of the combined total population of the District of Columbia and all such territories, as determined by the Secretary.

(7) TRIBAL GOVERNMENTS.—From the amount set aside under subsection (a)(2)(B) for fiscal year 2020, the amount paid under this section for fiscal year 2020 to a Tribal government shall be the amount the Secretary shall determine, in consultation with the Secretary of the Interior and Indian Tribes, that is based on increased expenditures of each such Tribal government (or a tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019 by the Tribal government (or tribally-owned entity) and determined in such manner as the Secretary determines appropriate to ensure that all amounts available under subsection (a)(2)(B) for fiscal year 2020 are distributed to Tribal governments.

(8) DATA.—For purposes of this subsection, the **population of States and units of local governments shall be determined based on the most recent year for which data are available from the Bureau of the Census.**

**Need to confirm...**  
census data for States and counties is available for 2019, yet 2018 data may only be available for cities... may impact direct funding eligibility for cities (i.e. Atlanta, Sacramento, etc)



<p>(d) USE OF FUNDS.—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—</p> <p>(1) are <b>necessary expenditures incurred due to the public health emergency</b> with respect to the Coronavirus Disease 2019 (COVID-19);</p> <p>(2) <b>were not accounted for in the budget most recently approved</b> as of the date of enactment of this section for the State or government; and</p> <p>(3) were incurred during the period that begins on <b>March 1, 2020, and ends on December 30, 2020.</b></p> <p>(e) CERTIFICATION.—In order to receive a payment under this section, <b>a unit of local government</b> shall provide the Secretary with a <b>certification signed by the Chief Executive</b> for the unit of local government that the local government’s proposed uses of the funds are consistent with <b>subsection (d).</b></p> <p>(f) INSPECTOR GENERAL OVERSIGHT; RECOUPMENT.—</p> <p>(1) OVERSIGHT AUTHORITY.—The Inspector General of the Department of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under this section.</p>	<p>Expenditures only due to public health emergency of COVID-19</p> <p>New expenditures above the most recent budget adopted by... in our case, the county</p> <p>March 1 thru December 30, 2020</p> <p>To receive funds, the <b>chief executive of the local government must certify</b> the proposed use of funds are eligible, as outlined in 1-3 of subsection (d)</p> <p><b>\$35 million</b> is appropriated for the IG of U.S. Treasury to ensure the proper oversight and accountability of the \$150 billion</p>
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<p>(2) RECOUPMENT.—If the Inspector General of the Department of the Treasury determines that a State, Tribal government, or unit of local government has failed to comply with subsection (d), the amount equal to the amount of funds used in violation of such subsection <b>shall be booked as a debt of such entity</b> owed to the Federal Government. Amounts recovered under this subsection shall be deposited into the general fund of the Treasury.</p> <p>(3) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of the Treasury, <b>\$35,000,000</b> to carry out oversight and recoupment activities under this subsection. Amounts appropriated under the preceding sentence shall remain available until expended.</p> <p>(4) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this subsection shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).</p>	<p>Treasury IG may <b>recoup any amount of funds used in violation</b> of this fund and the amount shall be booked as a debt of the entity owed to the federal government</p> <p>As noted earlier, <b>\$35 million</b> is appropriated for the IG of U.S. Treasury to ensure the proper oversight and accountability of the \$150 billion</p>
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(g) **DEFINITIONS.**—In this section:

(1) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given that term in section 4(e) of the **Indian Self- Determination and Education Assistance Act (25 U.S.C. 5304(e)).**

(2) LOCAL GOVERNMENT.—The term ‘unit of local government’ means 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.**

(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

(4) STATE.—The term ‘State’ means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

(5) TRIBAL GOVERNMENT.—The term ‘Tribal government’ means the recognized governing body of an Indian Tribe.”.

(b) APPLICATION OF PROVISIONS.—Amounts appropriated for fiscal year 2020 under section 601(a)(1) of the Social Security Act (as added by subsection (a)) shall be subject to the **requirements contained in Public Law 116–94 for funds for programs authorized under sections 330 through 340 of the Public Health Service Act (42 U.S.C. 254 through 256).**

**Parishes** are county govts. In La.

Based on 2019 Census data, NACo identified **156 units of local government with populations above 500,000.**

This includes:

- **118 counties**
- **28 cities including two independent cities**  
(I.e. City of St. Louis and City of Baltimore City), and
- **10 consolidated city-county governments**  
(I.e. City of Boston/Suffolk Co; City-County of Denver; City of Jacksonville/Duval Co.; City-County of Honolulu; City of Indianapolis/Marion Co.; Louisville Jefferson Metro Govt.; Metropolitan Govt. of Nashville/Davidson Co; New York City; City-County of Philadelphia; and City-County of San Francisco

Depending on Census year (2018 v. 2019), an **estimated 24-26 counties above 500,000** also contain at least one city above 500,000; Maricopa Co. has two

