



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

OFFICE OF
INSPECTOR GENERAL

February 14, 2023

MEMORANDUM FOR MR. JACOB LEIBENLUFT, CHIEF RECOVERY OFFICER

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

SUBJECT: Desk Review of the State of New York's Use of
Coronavirus Relief Fund Proceeds (OIG-CA-23-013)

Please find the attached desk review memorandum¹ on the State of New York's 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*.

In its desk review of the State of New York, Castro found that documentation supporting the uses of CRF proceeds comply with the CARES Act and Department of the Treasury's (Treasury) Guidance, except for those reported for Aggregate Payments to Individuals.² Based on the totality of the work performed and because the errors with Aggregate Payments to Individuals were self-identified by State of New York personnel and subsequently corrected, Castro determined that the State of New York's risk of unallowable use of funds is low. As such, Castro is not recommending Treasury Office of Inspector General perform an audit of the State of New York.

In connection with the contract, 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 the State of New York's use of the CRF proceeds. Castro is responsible

¹ The 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 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 GrantSolutions portal on a quarterly basis.

² Recipients are required to report CRF transactions greater than or equal to \$50,000 in detail in the quarterly reporting portal. Obligations and expenditures for payments made to individuals, regardless of amount, are required to be reported in the aggregate in the portal to prevent inappropriate disclosure of personally identifiable information.

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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 quality standards for Federal Offices of Inspector 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.

Attachment

cc: Michelle. A. Dickerman, Deputy Assistant General Counsel, Department of the Treasury
Victoria Collin, Chief Compliance & Finance Officer, Office of Recovery Programs, Department of the Treasury
Melody Goetz, Director, Accounting Operations, State of New York
Wayne Ference, Partner, Castro & Company, LLC

Desk Review of the State of New York

February 14, 2023

OIG-CA-23-013

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

FROM: Wayne Ference
Partner, Castro & Company, LLC

SUBJECT: Desk Review of the State of New York

On August 10, 2021, we initiated a desk review of the State of New York's 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 the State of New York'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 September 30, 2021 as reported in Cycles 1 through 6 in the GrantSolutions portal.

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

- 1) reviewed the State of New York's quarterly Financial Progress Reports (FPRs) submitted in the GrantSolutions portal through September 30, 2021;
- 2) reviewed the *Department of the Treasury's (Treasury) Coronavirus Relief Fund Guidance* as published in the Federal Register on January 15, 2021³;

¹ P.L. 116-136 (March 27, 2020)

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

³ 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 New York

- 3) reviewed Treasury Office of Inspector General (OIG) *Coronavirus Relief Fund Frequently Asked Questions Related to Reporting and Recordkeeping*⁴;
- 4) reviewed Treasury OIG's monitoring checklists⁵ of the State of New York's quarterly FPR submissions for reporting deficiencies;
- 5) reviewed other audit reports issued, such as Single Audit reports, 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 the State of New York'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 (PRAC)⁶, and Treasury OIG Office of Counsel input on issues that may pose risk or impact the State of New York's uses of CRF proceeds;
- 7) interviewed key personnel responsible for preparing and certifying the State of New York's GrantSolutions portal quarterly FPR submissions, as well as officials responsible for obligating and expending CRF proceeds;
- 8) made a non-statistical selection of contracts, direct payments, aggregate reporting data⁷, aggregate payments to individuals⁸, and anomalies⁹ identified through GrantSolutions reporting; and
- 9) evaluated documentation and records used to support the State of New York's quarterly FPRs.

⁴ 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

⁵ The checklists are used by the Treasury OIG to monitor the progress of prime recipient reporting in the GrantSolutions portal. GrantSolutions quarterly submission reviews are designed to identify material omissions and significant errors, and where necessary, include procedures for notifying prime recipients of misreported data for timely correction. Treasury OIG follows the *CRF Prime Recipient Quarterly GrantSolutions Submissions Monitoring and Review Procedures Guide*, OIG-CA-20-029R to monitor the prime recipients quarterly.

⁶ 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 13 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.

⁷ Recipients are required to report CRF transactions greater than or equal to \$50,000 in detail in the GrantSolutions 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).

⁸ Obligations and expenditures for payments made to individuals, regardless of amount, are required to be reported in the aggregate in the GrantSolutions portal to prevent inappropriate disclosure of personally identifiable information.

⁹ Treasury OIG has a pre-defined list of risk indicators that are triggered based on data submitted by recipients in the FPR submissions that meet certain criteria. Castro reviewed these results provided by Treasury OIG for the State of New York.

Desk Review of the State of New York

Based on the results of our desk review, documentation supporting the uses of CRF proceeds comply with the CARES Act and Treasury's Guidance, except for those reported for Aggregate Payments to Individuals. Based on the totality of the work performed and because the errors with Aggregate Payments to Individuals were self-identified by State of New York personnel and subsequently corrected, we determined that the State of New York's risk of unallowable use of funds is low. As such, Castro is not recommending Treasury OIG perform an audit of the State of New York.

Non-Statistical Transaction Selection Methodology

Castro made a non-statistical selection of Contracts 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. Selections were made using auditor judgment based on information and risks identified in reviewing audit reports, the GrantSolutions portal reporting anomalies identified by the Treasury OIG CRF monitoring team, and review of the State of New York's FPR submissions. Castro noted the State of New York did not obligate or expend CRF proceeds for Grants greater than or equal to \$50,000 or Transfers greater than or equal to \$50,000¹⁰; therefore, we did not make a selection from these categories.

The number of transactions (43) we selected to test were based on the State of New York's total CRF award amount and our overall risk assessment of the State of New York. To allocate the number of transactions (43) by obligation type (Contracts 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), we compared the obligation type dollar amounts as a percentage of cumulative obligations for Cycle 6. Additionally, as listed below, Treasury OIG provided information on anomalies identified for the State of New York:

- 141 possible duplicate payments were selected by Castro for review
- 24 transactions flagged by Treasury OIG as being an outlier based on risk, as discussed in footnote 9. Five of the outliers were already included in Castro's original transaction selection. Therefore, Castro added the remaining 19 outliers for testing.

These anomalies reported by Treasury OIG resulted in 160 additional transactions, for a total of 203 transactions tested.

¹⁰ A transfer to another government entity is a disbursement or payment to a government entity that is legally distinct from the prime recipient.

Background

The CARES Act appropriated \$150 billion to establish the CRF. Under the CRF, Treasury made payments for specified uses to States; eligible units of certain local governments; the District of Columbia; U.S. Territories, including the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and Tribal governments. Treasury issued a CRF payment to the State of New York for \$5,135,624,853.10. The CARES Act stipulates that a recipient may only use the funds to cover costs that—

- (1) are 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 between March 1, 2020 and December 31, 2021.¹¹

Section 15011 of the CARES Act, requires each covered recipient¹² to submit to Treasury and the PRAC, no later than 10 days after the end of each calendar quarter, a report that contains (1) the total amount of large covered funds^{13,14} 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 were expended or obligated; and (4) detailed information on any level of subcontracts or subgrants awarded by the covered recipient or its subcontracts or subgrantees.

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 authority to recoup funds in the event that it is determined

¹¹ P.L. 116-260 (December 27, 2020). The period of performance end date of the CRF was extended through December 31, 2021 by the Consolidated Appropriations Act, 2021. The period of performance 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.

¹² Section 15011 of P.L. 116-136 defines a covered recipient as any entity that receives large covered funds and includes any State, the District of Columbia, and any territory or possession of the United States.

¹³ Section 15010 of P.L. 116-136 defines covered funds as any funds, including loans, that are 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 makes appropriations for Coronavirus response and related activities.

¹⁴ Section 15011 of P.L. 116-136 defines large covered funds as covered funds that amount to more than \$150,000.

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a 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

Other than Aggregate Payments to Individuals, our review of the State of New York's quarterly FPR submissions through September 30, 2021, did not identify reporting issues or variances. Transactions selected for detailed review were supported by documentation and were allowable expenditures in accordance with the CARES Act and Treasury's guidance. We noted that the tested Contracts greater than or equal to \$50,000, Direct Payments greater than or equal to \$50,000, Aggregate Reporting less than \$50,000, and Anomalies were necessary expenditures 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 cannot be extrapolated to the total universe of transactions.

Aggregate Payments to Individuals

We determined the State of New York's Aggregate Payments to Individuals were not in compliance with the CARES Act and Treasury's guidance. During our review of Aggregate Payments to Individuals, exceptions were identified by the State of New York personnel, and brought to Castro's attention.

For 4 of the 36 transactions reviewed, the State of New York's Department of Corrections and Community Supervision (DOCCS) personnel inadvertently transferred payroll expenses in the amount of \$201,711.57 to the eligible employees who received regular salary pay during the eligible COVID-19 period, but the expense was ineligible since it was for back pay resulting from a suspension for a period not covered by CRF. The issue above was self-identified by State of New York personnel, and a Corrective Action Plan (CAP) was implemented, which resulted in the State of New York personnel identifying employees who were suspended during the ineligible period and removing all associated payroll costs which were transferred to the CRF. The State of New York personnel also ensured that any payroll expenses associated with an employee who was suspended during the ineligible time period was not transferred to the CRF moving forward. As a result of the implemented CAP, the State of New York reversed a total amount in Cycle 7 of \$13,968,565.84 in personnel service expenses and \$8,061,259.35 in applied fringe benefits for a total of \$22,029,825.19.

The State of New York officials stated that they incorrectly coded back pay (outside of CRF-eligible time period) to an otherwise eligible earn code in the State of New

Desk Review of the State of New York

York's payroll processing system due to lack of management oversight. The State of New York personnel have updated internal controls to ensure the exclusion of payroll costs associated with suspended employees from the CRF. Additionally, the State of New York personnel confirmed and provided supporting documentation to evidence the reversal of \$22,029,825.19 in Cycle 7 within the GrantSolutions portal.

Conclusion

Based on our review of the State of New York's documentation supporting the uses of CRF proceeds as reported in the GrantSolutions portal, except for the issues reported with Aggregate Payments to Individuals, we determined that the expenditures comply with the CARES Act and Treasury's Guidance. Based on the totality of the work performed and because the errors with Aggregate Payments to Individuals were self-identified by State of New York personnel and subsequently corrected, we determined that the State of New York's risk of unallowable use of funds is low. As such, Castro is not recommending Treasury OIG perform an audit of the State of New York.

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 presented¹⁵. We appreciate the courtesies and cooperation provided to our staff during the desk review.

Sincerely,



Wayne Ference
Partner, Castro & Company, LLC

¹⁵ <https://www.ignet.gov/sites/default/files/files/Silver%20Book%20Revision%20-%208-20-12r.pdf>