

ILLINOIS REGISTER

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY RULES

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 700

LOCAL CORONAVIRUS URGENT REMEDIATION EMERGENCY (OR LOCAL CURE)
SUPPORT PROGRAM

Section

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AUTHORITY: Implementing Section 605-1045 and authorized by Sections 605-1045(a), 605-1045(c) of the Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program [20 ILCS 605/605-1045].

SOURCE: Emergency rules adopted at 44 Ill. Reg. _____, effective July 2, 2020, for a maximum of 150 days.

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**Section 700.10 Purpose
EMERGENCY**

The purpose of the Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program is to administer federal funds from the Coronavirus Relief Fund provided to the State pursuant to Section 5001 of the federal CARES Act to provide financial support to units of local government for purposes authorized by Section 5001 of the CARES Act and related federal guidance and any subsequent guidance issued by the U.S. Department of Treasury. Upon receipt of such funds, and appropriations for their use, the Department shall administer a program to provide financial support to units of local government that have incurred necessary expenditures due to the COVID-19 public health emergency. [20 ILCS 605/605-1045(a)].

**Section 700.20 Definitions
EMERGENCY**

The following definitions are applicable to the Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program:

“CARES Act” means the Coronavirus Aid, Relief, and Economic Security Act [P.L. 116-136].

“Certified Public Health Department” means a unit of local government, which is a local public health department certified by the Illinois Department of Public Health.

“COVID-19” means the novel coronavirus disease deemed COVID-19 by the World Health Organization on February 11, 2020 [20 ILCS 605/605-1045(d)(1)].

“Department” means the Department of Commerce and Economic Opportunity.

“Disproportionately Impacted Area” means those ZIP Codes most severely affected by the COVID-19 Crisis, to be determined based on positive COVID-19 case per capita rates, and high rates in at least one of the following poverty-related categories relative to other ZIP Codes within their region: (i) share of population consisting of children age 6 to 17 in households with income less than 125% of the federal poverty level; (ii) share of population consisting of adults over age 64 in households with income less than 200% of the federal poverty level; (iii) share of population in household with income less than 150% of the federal poverty level; and (iv) share of population consisting of children ages 5 and under in households with income less than 185% of the federal poverty level. The

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Department, using the criteria above, may determine different eligibility thresholds when allocating funding for the Allotment Tiers.

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708/1 *et seq.*].

"GATA Rule" means 44 Ill. Admin. Code Part 7000.

"Incurred expenses" means services were performed for or goods were received by units of local government to respond directly to the public health emergency with respect to COVID-19.

"LGDF formula" means the Local Government Distributive Formula established by the Illinois Department of Revenue.

"Local CURE Program" means the Local Coronavirus Urgent Remediation Emergency (or Local CURE) Support Program.

"Local government" or "unit of local government" means any unit of local government as defined in Article VII, Section 1 of the Illinois Constitution [20 ILCS 605/605-1045(d)(2)].

"Local Health Protection Grant Program Formula" means the formula established by the Illinois Department of Public Health [77 Ill. Admin. Code 615.210].

"Substantially dedicated use" means the payroll expenses for employees whose services were focused on mitigating or responding to the COVID public health emergency. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to COVID. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to COVID are also included.

"Third party administrator" means a service provider selected by the Department to provide operational assistance with the administration of the [Local CURE Program] [20 ILCS 605/605-1045(d)(3)].

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**Section 700.30 GATA Requirements
EMERGENCY**

- a) The Department will be excepted from the following Grant Accountability and Transparency Act [30 ILCS 708/1 *et seq.*] requirements:
 - 1) The Department will not be required to issue a notice of funding opportunity (NOFO);
 - 2) Applications will not be subject to a merit-based review process;
 - 3) In lieu of the uniform grant agreement, the Department will utilize a certification form for the units of local government to complete in order to receive funding.

- b) The Department and units of local government must still comply with the following GATA requirements:
 - 1) Local CURE Program payments are considered “other financial assistance” under 2 CFR 200.40(a)(6).
 - 2) The Department shall create a CSFA entry on the GATA portal for the disbursement of the Local CURE Program funds and shall record on the GATA portal the payments made to units of local government.
 - 3) Local CURE Program payments made to units of local government are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200): 2 CFR 200.303 regarding internal controls; 2 CFR 200.330 through 200.332 regarding subrecipient monitoring and management; subpart E regarding cost eligibility requirements; and subpart F regarding audit requirements.
 - 4) Units of local government must have a current registration on SAM.gov to receive a reimbursement payment. Units of local government do not need to register or be pre-qualified in the GATA Grantee Portal.
 - 5) Units of local government may not use funds received under the Local CURE Program to pay an entity that is listed on the federal or state

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debarred and suspended list.

**Section 700.40 Allocation Eligibility Requirements
EMERGENCY**

Local governments are eligible for Local CURE Program allocations under this Part if they meet the following criteria:

- a) The unit of local government is within the State of Illinois, except that units of local government, or portions thereof, located within the five Illinois counties that received direct allotments from the CARES Act fund will not be included in the Local CURE Program; and
- b) The unit of local government incurred necessary expenses due to the COVID-19 public health emergency.

**Section 700.50 Restrictions on the Use of Program Funds
EMERGENCY**

- a) The Local CURE Program expenditures must follow the requirements of the CARES Act. Accordingly, payments to units of local government under the Local CURE program may only be used to cover costs that:
 - 1) Are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
 - 2) Were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the unit of local government; and
 - 3) Were incurred during the period that begins on March 1, 2020 and ends December 30, 2020.
- b) The Department reserves the right to reduce the period of allowable costs to units of local government to meet the CARES Act spending deadline of December 30, 2020. The deadline can be extended by the Department if the CARES Act is amended and authorizes a subsequent deadline or the U.S. Department of Treasury guidance is amended at a later date.

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**Section 700.60 Eligible and Ineligible Costs for Incurred Expenses
EMERGENCY**

- a) Eligible incurred expenses include the following five categories of costs and meet the criteria established in Section 700.50, which establishes the restrictions on use of Local CURE Program funds:
 - 1) Medical expenses, including but not limited to: expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, costs of providing COVID-19 testing, and emergency medical response expenses;
 - 2) Public health expenses, including but not limited to: expenses for communication and enforcement by local governments of public health orders related to COVID-19;
 - 3) Payroll expenses for public safety, public health, health care, human services, and similar employees whose services were substantially dedicated to mitigating or responding to COVID-19;
 - 4) Expenses for actions taken to facilitate compliance with COVID-19 related public health measures;
 - 5) Any other COVID-19 related expenses reasonably necessary to the function of government that satisfy the Local CURE Program eligibility criteria. Local governments must document how expenses are related to COVID-19.

- b) Ineligible costs for incurred expenses by local governments include the following and do not meet the criteria established in Section 700.50:
 - 1) Governmental revenue shortfall replacement;
 - 2) Damages covered by insurance;
 - 3) Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency;
 - 4) Expenses associated with the provision of economic support in connection

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with COVID-19; and

- 5) Reimbursement to donors for donated items or services;
- 6) Workforce bonuses other than hazard pay or overtime;
- 7) Severance pay;
- 8) Legal settlements;
- 9) Indirect costs or administrative costs; and
- 10) Incurred expenses that have been or will be reimbursed through another State or federal funding opportunity.

**Section 700.70 Third Party Administrator
EMERGENCY**

The Department may enter into agreements with one or more third party administrators to provide operational assistance with the administration of the Local CURE Program, including, but not limited to, reviewing documentation submitted and recommending approval of financial support payments to local governments and providing technical assistance to local governments.

**Section 700.80 Allocations to Units of Local Government
EMERGENCY**

- a) A portion of the funds (80%) appropriated for the Local CURE Program will be allotted to municipalities and counties based on proportionate population. In consultation with the Illinois Department of Revenue, the method of distribution for this allotment will be utilizing the LGDF formula.
- b) A portion of the funds (5%) appropriated for the Local CURE Program will be allotted to Certified Local Public Health Departments based on the Illinois Public Health Department's State Fiscal Year 2020 Local Health Protection Grant program formula that is based on proportionate population and poverty rates within the jurisdiction.
- c) A portion of the funds (8%) appropriated for the Local CURE Program will be allotted for units of local government eligible to receive financial support under this Part, that do not qualify for an allotment under subsections 700.80(a) or (b),

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above. These units of local government can apply for reimbursement for eligible Local CURE Program expenses up to an amount of county allotment set by the Department, based on funding availability. The Department will allot funds on per capita basis by county, applications will be submitted for pro rata share with preference going to units of local government located or serving a disproportionately impacted area. Units of local government that qualify for an allotment under subsections 700.80(a) or (b), above cannot receive an additional allotment under this subsection (c).

- d) Funding allotments assigned or requested by units of local government under subsections 700.80(a), (b) and (c), but for which reimbursement has not been sought by November 1, 2020, may be forfeited, and additional funding distributed to other local governments under subsection 700.80(e). This deadline for reimbursement requests can be extended by the Department if the CARES Act is amended and authorizes a subsequent deadline or the U.S. Department of Treasury guidance is amended later. The Local CURE Program allotments described in this Section 700.80 are contingent upon and subject to the availability of sufficient appropriated funds. On or after November 1, 2020, the Department is provided discretion to adjust allotments and distributions to units of local government based on the best interests of the State.
- e) Any funds forfeited by units of local government pursuant to subsection (d), plus a portion of the funds (7%) appropriated for the Local CURE Program, will be reserved by the Department for: (1) distribution among units of local government based on the demonstrated needs of the units of local government; and (2) costs of the Department associated with the administration of the Local CURE Program, including the third party administrator contract fee. Local CURE Program funds that have not been claimed by a unit of local government, other than as set forth in subsections 700.80(a), (b), or (c), will be reallocated based on the needs of the State and the Department will notify units of local government of any redistribution.

**Section 700.90 Certification Process for Allocations Based on Proportionate Population
EMERGENCY**

- a) Eligible units of local government, as defined in this Part, will be notified by the Department or third party administrator regarding the maximum allotment based on proportionate population, as described in subsections 700.80(a) and (b). If the Department decides, based on the best interest of the State, to distribute funds described in subsection 700.80(e) using a proportionate population formula, the

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Department and units of local government shall follow the process set forth in this Section 700.90 to submit a certification and request funds. A unit of local government does not need to register or be pre-qualified with the GATA Grantee Portal.

- b) The notification of allotment will contain a certification form for the unit of local government to complete which will require the entity to certify, among other things, that as a recipient of financial support under the Local CURE Program, the unit of local government shall:
- 1) use the funds in accordance with the requirements of the Local CURE Program;
 - 2) provide access to financial records in accordance with audit and record retention requirements;
 - 3) only request reimbursement for expenses related to the COVID-19 public health emergency
 - 4) repay to the Department any funds received but not used for the purposes of the Local CURE Program;
 - 5) not seek reimbursement for incurred expenses, as more fully described in Section 700.50, that have been or will be reimbursed through another State or federal funding opportunity;
 - 6) comply with all applicable federal and State laws and rules;
 - 7) include Local CURE funding in the applicable financial statement and/or audit of the unit of local government;
 - 8) not seek reimbursement for costs paid to an entity on the federal and state debarred and suspended list; and
 - 9) state whether it intends to spend the full allotment.

Units of local government may also be required to complete additional documents required by the State to disburse funds.

- c) Completed certification materials must be signed by the unit of local government's authorized representative and received by the Department, or the

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Department's authorized third party administrator, by the certification submission deadline to be set by the Department.

- d) Funds will be paid on a reimbursement basis for eligible costs incurred by units of local government. After the unit of local government submits its completed certification to the Department or the third party administrator, the unit of local government may request funds up to the amount of the stated allotment provided in the notification. To request funds, the unit of local government must submit to the Department or third-party administrator:
 - 1) a report certifying the costs, as required by 2 CFR 200.415, and providing the categories set forth in subsection 700.60(a) for which reimbursement is sought and the amounts within each category;
 - 2) support documents for the incurred expenses to demonstrate that the costs meet the eligible expense requirements;
 - 3) proof of payment of the expenses;
 - 4) documentation regarding how expenses are necessary and related to COVID-19.
- e) The Department or third party administrator will review the documents submitted to ensure the costs are allowed by the Local CURE Program and within the assigned allocation. If the costs submitted are approved, the Department will then process the reimbursement request and disburse funds to the unit of local government pursuant to State procedures.
- f) By November 1, 2020, all units of local government must submit all reimbursement requests not to exceed the formula amount within the certification. The deadline can be extended by the Department if the CARES Act is amended and authorizes a subsequent deadline or the U.S. Department of Treasury guidance is amended later.
- g) All Local CURE Program funds which were allotted but unclaimed after November 1, 2020, may be reallocated to other units of local government based on need. The deadline can be extended by the Department if the CARES Act is amended and authorizes a subsequent deadline or the U.S. Department of Treasury guidance is amended later.

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- h) All requests for allotment will be processed, and vouchers issued by the Department and/or the third party administrator on or before December 30, 2020. The deadline can be extended by the Department if the CARES Act is amended and authorizes a subsequent deadline or the U.S. Department of Treasury guidance is amended later.
- i) The Department is provided the discretion to modify the process described herein as needed to implement the Local CURE Program.

**Section 700.100 Process for Reimbursement Requests Under Subsection 700.80(c)
EMERGENCY**

- a) For units of local government that are applying for Local CURE Program funds pursuant to Section 700.80(c), the Department will announce funding availability and application procedures on its website as funding becomes available. An application must be completed, signed by the unit of local government's authorized representative and received by the Department or its third party administrator by the required deadline to be set by the Department.
- b) Units of local government chosen to receive funds shall sign a certification which will contain a certification which will require the entity to certify, among other things, that as a recipient of financial support under the Local CURE Program, the unit of local government shall:
 - 1) use the funds in accordance with the requirements of the Local CURE Program;
 - 2) only request reimbursement for expenses related to the COVID-19 public health emergency;
 - 3) repay to the Department any funds received but not used for the purposes of the Local CURE Program;
 - 4) not seek reimbursement for incurred expenses, as more fully described in Section 700.50, that have been or will be reimbursed through another State or federal funding opportunity;
 - 5) provide access to financial records in accordance with audit and record retention requirements; include Local CURE funding in the applicable financial statement and/or audit of the unit of local government;

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- 6) not seek reimbursement for costs paid to an entity on the federal and state debarred and suspended list; and
 - 7) comply with all applicable federal and State laws and rules.
- c) In addition to the certification, the unit of local government must submit to the Department or third-party administrator:
- 1) a report certifying the costs as required by 2 CFR 200.415, detailing the categories set forth in subsection 700.60(a) for which reimbursement is sought, and the amounts within each category;
 - 2) support documents for the incurred expenses, and in compliance with Section 700.60, which will demonstrate that the costs meet the eligible expense requirements;
 - 3) proof of payment of the expenses for which reimbursement is sought; and
 - 4) documentation regarding how expenses are necessary and related to COVID-19.
- d) The Department or third party administrator will review the reimbursement request and documents submitted to ensure the costs are allowed by the Local CURE Program and within the maximum allowable amount. The Department will then process the reimbursement of costs submitted that are eligible under subsection 700.60(a) and disburse funds to the unit of local government pursuant to State procedures.
- e) All applications for reimbursement will be processed, and vouchers issued by the Department and/or the third party administrator on or before December 30, 2020 in accordance with subsection 700.80(c). The deadline can be extended by the Department if the CARES Act is amended and authorizes a subsequent deadline or the U.S. Department of Treasury guidance is amended later.
- f) If the Department decides, based on the best interest of the State, to distribute funds described in subsection 700.80(e) using a process similar to the requirements of subsection 700.80(c), the Department and units of local government shall follow the process set forth in this Section 700.100 to apply for and request funds.

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- g) The Department has the discretion to modify the process described herein as needed to implement the Local CURE Program. The Local CURE Program applications described are contingent upon and subject to the availability of sufficient appropriated funds.

**Section 700.110 Monitoring and Records Retention
EMERGENCY**

- a) The Department or a third party administrator will conduct monitoring of the Local CURE Program to ensure funds were spent in accordance with the Local CURE Program statute and these administrative rules.
- b) Units of local government shall provide, upon the Department's request, documents and information relevant to any applications and funds received pursuant to the Local CURE Program. The Department and/or its agents may make site visits as warranted.
- c) The Department reserves the right to seek a refund from the unit of local government if it finds the unit of local government made a false or fraudulent claim for funds or the funds were spent on ineligible expenses. The Department also may seek a refund from a unit of local government if the federal government or the Department finds that the unit of local government did not properly spend the funds or was reimbursed for ineligible costs under Sections 700.50 and 700.60, or costs that were reimbursed through another federal or State program.
- d) Units of local government that request or receive funds under the Local CURE program shall maintain for three (3) years from the date of submission of the final request for reimbursement, adequate books, all financial records and supporting documents, statistical records and all other records pertinent to the Local CURE Program. If any litigation, claim or audit is started before the expiration of the retention period, the records must be retained until all litigation, claims or audit exceptions involving the records have been resolved and final action taken.