Proposed Distribution Method for CARES Act Local Relief Funds

Prepared by the Utah League of Cities and Towns (ULCT) and Utah Association of Counties (UAC)

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I) Overview:

On March 27, 2020 President Trump signed the Coronavirus Aid, Relief and Economic Security (CARES) Act, which provided $1.25 billion to the State of Utah. The legislation allows up to 45% or $562 million of the overall amount to be shared with local governments. Of the $562 million, Salt Lake County received a direct allocation of $203 million and Utah County received an $111 million allocation solely based on their population exceeding a threshold of 500,000 people. This leaves $246 million for the State to allocate to local governments to non budgeted "necessary expenditures" directly related COVID19.

The U.S. Treasury Department recently issued guidance and FAQs clarifying that medical, public health, payroll for employees dedicated to COVID19 management, compliance costs, and economic support and revitalization are all allowable expenses for CARES Act funds. Funds cannot cover lost revenue, budget shortfalls, damages, payroll (for employees not dedicated to COVID19), severance pay, or workforce bonuses (some exceptions).

II) Policy objectives of ULCT and UAC:

- Collaboration between cities and counties
- Compliance with federal law
- Simple formula with predictable outcomes
- Equitable formula and allocation set aside for all residents and for all cities, towns, and counties
- Allocation provided or available to every city, town, and county for "necessary expenditures"
- Flexibility to address hot-spots and other needs
- Maximization of the full 45%
- Fit the timing of the budget cycle (municipal budget ends June 30, County budgets end December 31)

III) Consensus: State Distribution

The Utah League of Cities and Towns and the Utah Association of Counties are recommending distribution to the remaining 27 counties who did not receive a direct appropriation, and to the cities and towns in those counties, through a population-based distribution model. Funding would be dispersed in three tranches with the first tranche in June. The remaining two distributions would go out later in the summer and the fall.

For those counties the ULCT and UAC recommend population as the distribution tool to mirror the federal government's distribution method of $562 million . In Salt Lake and Utah Counties, those two counties received the full value of $175 per resident. The same value of $175 a resident will be used for the remaining 27 counties to distribute the remaining $246 million. If a resident lives in a city or town, half of the $175 ($87.50) will go to the city or town and the remaining half ($87.50) will go to the county government. For residents living in unincorporated portions of a county, the full $175 will go to the county.

For example, a resident living in Layton would count for $87.50 allocated to Layton City and $87.50 allocated to Davis County. A resident living in unincorporated Davis County would count for $175 for Davis County.

For the State's $246 million, allocation for each municipality will be divided into three tranches. The first allocation will be sent as early as June to each county and city/town to cover expenses dated back to March 1st and any ongoing expenses covered under the CARES Act and Treasury guidance. The remaining two tranches will also be distributed based on population, unless it is determined in the future that changes need to be made to the formula according to "hot spots" or other needs, recognizing that we should strive for highest and best use of limited dollars.

IV) Consensus: Initial Distribution by and within Utah/Salt Lake Counties

Due to uncertainty surrounding future local aid from the federal government Utah and Salt Lake Counties have expressed concern with long-term commitments with the frequently changing federal funding environment. They have, however, agreed and committed to provide funding from their direct federal allocation to cities and towns within their jurisdictions with the same timing as the first statewide tranche . Salt Lake and Utah Counties will set aside an amount equal to what would otherwise be distributed based on one-third of the population allocation, this is the equivalent of the same population based formula used for all other jurisdictions in their first tranche of funding. They will then work collaboratively with their cities to cover all direct COVID related costs.

Additional distributions, similar to the state tranches two and three, will require discussion once we have some actual data to evaluate how best to distribute future funds. The formula may be revisited during the year, similar to what the state contemplates above, after we review the efficacy of the first set-aside.

While there is consensus on the aggregate amount that will be set aside for the county allocation--the equivalent to ⅓ of the population value of the cities within the counties--the two counties and their cities are still working on a mechanism to equitably distribute the funds.

V) Consensus: accountability for use of funds

Counties, cities, and towns will be expected to indemnify the State in order to receive their state-based allocation. They also will be required to repay any funds not used according to federal legislation and guidance. ULCT and UAC support this type of accountability.

For the state-based distribution, ULCT and UAC prefer a model that mirrors the federal system: allocate the money based on population with guidance accompanied by an auditing provision but not require the state to approve each expense up front. The State of Utah has suggested a regular reporting requirement, perhaps similar to the model of the American Recovery and Reinvestment Act of 2009 (ARRA), to verify how the local recipient spent the money.

Salt Lake and Utah Counties, as a direct recipient of federal funds, must act as a fiduciary for all funds it has received. As such, those counties will also require indemnification and eligibility compliance before disbursement of funds to their respective jurisdictional cities and towns. They have not yet determined how best to distribute funds to ensure federal compliance, while also balancing city concerns regarding the potential of a burdensome reimbursement model. The counties will continue to work with their cities to strike an appropriate balance.

VI) Further considerations and where we are still working to find consensus:

1) With the federal funding picture still unclear, we would suggest that all future distributions take into account any future distribution from Congress.
2) We will need to utilize the distribution and reimbursement data from the 1st tranche to inform potential changes to the distribution formula for the 2nd and 3rd tranches. We will also need to analyze the data in Salt Lake County and Utah County for purposes of future distributions to cities therein.
3) The State of Utah could use the $246 million pot as a backstop to equalize distribution for all cities, towns, and counties, including the cities within Salt Lake and Utah Counties under certain circumstances.
    a) Note: there are two policy questions of equity here. First, there is the equity of valuing a resident equally. Second, there is equity among political subdivisions. We accomplish both objectives in the first tranche, and will collectively strive to find an equitable distribution for all future distributions.
    b) In addition to the equity arguments outlined above, we should consider need and impact. Park City and Richfield have similar populations but have faced radically different impacts from COVID-19. Potentially re-visiting the formula for the second and third tranches allows the flexibility to shift resources to areas of highest need.
4) What will the impact be on the CARES Act distribution from potential additional federal investment in the State of Utah and local governments?
5) What kind of reporting to the State of Utah, Salt Lake County, and Utah County makes sense, matches the Treasury Department guidance and process, and is manageable for the remaining counties, cities, and towns?
6) What recourse will the State, Salt Lake or Utah County have as fiduciaries, if funds are not spent in accordance with federal guidelines? Should the State, Salt Lake County,

and Utah County act as a “gatekeeper” or as an auditor? Should the recourse provisions be known and memorialized?

7) What level of mandatory coordination should exist to avoid significant redundancy between governments but allows for local decisions that are consistent with Treasury guidance?
8) How does a county, city, or town return unused funds to the State of Utah and to the two counties by November so that the state and counties can reallocate funds to localities with higher demand before the December 30th deadline?