

Coronavirus Relief Fund (CVRF) “Substantially Dedicated” vs. “Substantially Different Use” Side-by-Side for Payroll Eligibility

Reference	“Substantially Dedicated” for Payroll Eligibility	“Substantially Different Use” for Payroll Eligibility
Definition of terms	<p>SUMMARY: Any personnel working in the departments detailed in “Types of Employees”, when more than half of their time (51% or more) is spent mitigating or responding to COVID-19. That means 49% of these employee’s time can be spent on other tasks not related to mitigating or responding to COVID-19.</p> <p>-----</p> <p>As stated in US Treasury Guidance dated 9/2/2020 ~ page 5: 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 (emphasis added).</p> <p>As stated on OSC Payroll Eligibility Guidance dated 8/20/2020 ~ page 2, #5, a, ii and iii: ii. The OSC is interpreting “substantially dedicated” to mean 51% or more time devoted to the COVID-19 public health emergency. The OSC is using this interpretation based on comments from a high-ranking official at the US Department of Treasury. iii. All recipients of CRF CARES Act funds from the Governor’s Office shall use 51% so for “substantially dedicated” so that there are not different interpretations of this term.</p>	<p>SUMMARY: Any personnel OTHER than those working in the departments detailed in “Types of Employees”, who were budgeted for in the most recently approved budget but have been diverted to substantially different functions, due to COVID-19. That means job functions in a job description prior to March 1, 2020 must be substantially, or considerably, different from the job functions in a job description after March 1, 2020.</p> <p>-----</p> <p>As stated in US Treasury Guidance dated 9/2/2020 ~ page 1: Personnel that were budgeted for in the most recently approved budget but which, due entirely to COVID-19 public health emergency, have been diverted to substantially different functions.</p> <p>As stated in US Treasury FAQ dated 9/2/2020 ~ page 1, #3: Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions.</p> <p>Page 9, #48: (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.</p>

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Types of employees	<p>SUMMARY: Employees working in the following departments: Public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.</p> <p>Public safety employees would include 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. Public health employees would include 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.</p>	<p>SUMMARY: Any personnel OTHER than those working in the departments detailed under “Substantially Dedicated”, who were budgeted for in the most recently approved budget have been diverted to substantially different functions, due to COVID-19.</p>
Types of expenses permitted for these employees	<p>SUMMARY: The full amount of payroll and benefits expenses of substantially dedicated employees may be covered using payments from the Fund.</p>	<p>SUMMARY: The portion of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions.</p>
US Treasury Guidance Updated 9/2/2020	<p>Page 5 Substantially dedicated (paraphrased) Within this category of substantially different uses, ...Treasury has included payroll and benefits expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. The full</p>	<p>Page 5 Substantially different use (paraphrased) As stated in the Guidance ...Treasury considers the requirement that payments from the Fund be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020, to be met if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within</p>

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<p>US Treasury Guidance Updated 9/2/2020 (continued)</p>	<p>amount of payroll and benefits expenses of substantially dedicated employees may be covered using payments from the Fund.</p> <p>Page 6 Public health and public safety (paraphrased) In recognition of the particular importance of public health and public safety workers ... to the public health emergency, Treasury has provided, as an administrative accommodation, that a ... 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 30, 2020.</p>	<p>that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.</p> <p>Page 6 Not substantially dedicated (paraphrased) A... government may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently ... This means, for example, that a government <i>could</i> cover payroll expenses allocated on an hourly basis to employees’ time dedicated to mitigating or responding to the COVID-19 public health emergency. This result provides equitable treatment to governments that, for example, instead of having a few employees who are substantially dedicated to the public health emergency, have many employees who have a minority of their time dedicated to the public health emergency.</p>
<p>US Treasury FAQ Updated 9/2/2020</p>	<p>Page 1, #2 The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the “substantially dedicated” condition?</p> <p>The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a</p>	<p>Page 1, #2 3. The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a “substantially different use” for purposes of the Fund eligibility?</p> <p>Costs incurred for a “substantially different use” include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying</p>

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<p>US Treasury FAQ Updated 9/2/2020 (continued)</p>	<p>State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.</p> <p>Page 3, #11 11. The Guidance states that the Fund may support a “broad range of uses” including payroll expenses for several classes of employees whose services are “substantially dedicated to mitigating or responding to the COVID-19 public health emergency.” What are some examples of types of covered employees?</p> <p>The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses. These employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. 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 the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense not accounted for in the budget most recently approved as of March 27, 2020.</p>	<p>corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty’s ordinary responsibilities.</p>



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US Treasury FAQ Updated 9/2/2020 (continued)	<p>Page 9, #47</p> <p><i>47. The guidance provides that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. May Fund payments be used to cover such an employee’s entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?</i></p> <p>As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 30, 2020. An employer may also 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.</p>	<p>Page 9, #48</p> <p><i>48. May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?</i></p> <p>The statute requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As stated in the Guidance, a cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.</p>