



Illinois Department of Commerce & Economic Opportunity

JB Pritzker, Governor

August 10, 2020

Brad Cole
Executive Director
Illinois Municipal League
500 East Capitol Avenue
P.O. Box 5180
Springfield, IL 62705-5180

Dear Mr. Cole:

Thank you for your July 16, 2020 letter to Deputy Director of Legislative Affairs Margaret Croke regarding the Department of Commerce and Economic Opportunity's (DCEO) emergency rulemaking to establish the Local CURE program created by the General Assembly. As you know, the General Assembly created the Local CURE program, which was authorized to administer "grants and expense reimbursement to units of local government, including, but not limited to, local certified public health departments, to cover any costs eligible for payment from federal Coronavirus Relief Fund moneys in accordance with Section 5001 of the federal CARES Act," as part of a broader \$3.5 billion package of Coronavirus Relief Funds (CRF) initiatives that includes \$636 million in business interruption grants (BIG program), \$1.5 billion in state operational costs covering PPE, alternate care sites, & contract tracing programs, and \$396 million for a rental and mortgage assistance program.

Over the course of the past few weeks, we have worked with you and the Illinois Municipal League (IML) via phone and e-mail to make progress on the two issues you raised in your letter: (1) extending and clarifying the deadline for municipalities and counties to submit their plans for utilizing available Local CURE funds to December 1, 2020 and (2) allowing for economic development grant programs outside of the \$636 million BIG program created by the General Assembly for this purpose.

We are pleased to have reached agreement with you on the issue of date extension and to offer a compromise proposal allowing counties and municipalities to seek reimbursement for business interruption grant programs.

On the first issue, DCEO will now initiate a check-in process on November 1st and only reallocate funds starting December 1st if local governments formally report a lapse in the allotment will occur. The amendment clarifies reimbursement may be sought for all costs incurred from March 1 through December 30, 2020 and DCEO seeks to receive all reimbursements from local governments by January 31, 2021.

Regarding the second issue, DCEO is proposing amended rules that will establish a \$15 million business interruption grant program for municipalities and counties. This compromise will allow municipalities and counties to submit applications to DCEO to obtain pre-approval for grant programs and then seek reimbursement once grants are awarded.

In addition, DCEO will ear-mark the first \$15M in unspent funds from the “Allotment A” category of funds reserved for municipalities and counties.

DCEO’s proposed compromise avoids the department taking on the significant burden of ensuring compliance for more than 1,100 grant programs and ensures that the \$200 million in Allotment A funds remain prioritized for critical COVID-response expenditures. Significantly, municipalities and counties will be able to establish programs to reimburse local businesses for public health measures such as PPE purchases, installation of plexiglass barriers, touchless hand sanitizer stations, and other such expenses.

DCEO has proposed this alternative approach over the path preferred by the IML for several reasons.

First, the IML approach would require DCEO to take on the significant administrative burden of ensuring GATA and CRF compliance for potentially more than 1,100 grant programs. While requests for reimbursement for PPE and public health salaries are easily reviewable and can be attributed to the public health emergency, the discretionary nature of fund payments for economic support possess an inherent risk to the State.

To ensure compliance with the Treasury Department’s guidance, DCEO must exercise *reasonable judgment* in the administration of fund payments. For economic support, the use of the Grant Accountability and Transparency Act (GATA) portal and Uniform Intergovernmental Grant Agreement are the necessary tools for mitigating the State’s risk of administering economic support payments. In your August 5, 2020 letter to Joint Committee on Administrative Rules Executive Director Vicki Thomas, you glibly dismiss this due diligence as “bureaucratic excuses and administrative hurdles” representative of a “no we can’t” attitude. As DCEO works to stand up roughly \$1 billion in federal CARES Act funds in the matter of a few short months, following best practices in ensuring these funds are used properly is critically important. Adopting the IML-recommended approach could entail DCEO entering into grant agreements with potentially more than 1,100 municipalities and counties over the course of several weeks. By comparison, DCEO entered into 871 grant agreements in all of fiscal year 2020.

Second, the DCEO proposed compromise ensures fundamental fairness for municipalities and counties of all sizes. This proposal preserves the availability of the \$200 million in Allotment A to meet emergency costs faced by these governments. Permitting the use of Allotment A for economic support favors local governments with available cash reserves and penalizes local governments which are without those funds. The IML-recommended approach would favor wealthier local governments while potentially leaving no additional contingency funds on the table for governments grappling with the COVID-19 response that have costs that exceed their allotments.

To avoid this type of inequity in economic support programs, the General Assembly established the \$636 million BIG program while including fairness mandates, such as requiring that a minimum of \$159 million in grants be awarded to downstate businesses and that at least 30% of funds go to zip codes disproportionately impacted by the COVID-19 pandemic. Additionally, the Pritzker Administration has worked with the legislative Black and Latino Caucuses to identify zip codes that meet the disproportionately impacted area criteria set forth in the law.

Third, DCEO rules allow for a broad range of expense reimbursements and the Department is committed to working with counties and municipalities to fully access the \$200 million available in Allotment A. The emergency rules, consistent with federal guidance, allow for reimbursement for expenses such as public health and safety staff costs, running a public health awareness campaign to encourage social distancing and educate businesses on adopting guidance, and assisting businesses with the costs of adopting public health measures including PPE, plexiglass barriers, hand sanitizer stations, and other costs. Our estimates show that a medium-sized municipality could potentially use up their entire allotment through reimbursement of staff time costs associated with COVID-19 response.

Lastly, IML has repeatedly framed DCEO's rules implementing the General Assembly's Local CURE program as out of step with federal CRF guidelines. We respectfully disagree. U.S. Treasury guidance states that fund payments must be *necessary* and while defined broadly, the Treasury urges the use of "reasonable judgment of the government officials responsible for spending Fund payments." The Illinois General Assembly and Governor Pritzker determined it *necessary* that the Coronavirus Relief Fund establish a dedicated economic support program administered at a statewide level and created the \$636M Business Interruption Grant (BIG) program.

Nationwide, states have adopted different approaches to establishing CRF programs. After an analysis (see the attached memo) of the CRF plans for all 49 states excluding Illinois, DCEO found the following:

- 14 states have established economic support programs at the state-wide level, similar to the approach taken by the Illinois General Assembly in creating the BIG program, without any allowance for local governments to provide economic support.
- 11 states allow for economic support exclusively through local governments, with no statewide program.
- 16 states allow for a hybrid of statewide and local government economic support programs, with no state undertaking as broad or challenging a program to administer as IML proposes.¹

This analysis demonstrates that Illinois is in line with other states in exercising the discretion granted by the Treasury Department guidance to shape its CRF program.

For these reasons, IML's recommended approach to economic support is impractical and would create a compliance risk for state with as many local municipalities as Illinois. That is why we are pleased to have developed a compromise proposal that will allow municipalities and counties to invest \$15 million to support businesses without drawing from funds that should first ensure that our governments can meet costs that arise from the COVID-19 response. And if counties and municipalities are not fully utilizing the funds available in Allotment A, DCEO will reallocate the first \$15 million in unspent funds for a second round of this grant program.

The Department is expediting an amendatory filing of the Local CURE rules with JCAR to fold in both compromise proposals outlined above. We are also engaging with JCAR members about the process taken to develop the amendment and plan to be available as a resource for JCAR members and staff so Local CURE may begin administering fund payments in the coming weeks.

We have appreciated the opportunity to discuss these issues with you. Thank you for your continued leadership of Illinois municipalities and we look forward to working with you to provide additional financial support to communities across the state.

Sincerely,



Michael Negron
Acting Director

¹ Illinois has far more municipalities than any of the states in this group. The state in this group with the most municipalities – Pennsylvania – has chosen to distribute CRF funds only to counties rather than directly to the more than a thousand local governments in the Keystone State, as the IML suggests for Illinois.