



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

PANDEMIC RESPONSE REPORT

21-004

NOVEMBER 2020

Interim Report II - Review of the Office of
Justice Programs' Administration of CARES Act
Funding

AUDIT DIVISION



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OIG Review of \$850 Million in CARES Act Funds

On March 27, 2020, U.S. Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provided over \$2 trillion in funding intended to strengthen the national response to the COVID-19 global pandemic. Of this amount, approximately \$1.007 billion was appropriated to the Department of Justice (DOJ), with \$850 million (84 percent of the total) allocated to DOJ's Office of Justice Programs (OJP) to award Coronavirus Emergency Supplemental Funding (CESF) grants for the purposes of preventing, preparing for, and responding to the Coronavirus.

The DOJ Office of the Inspector General (OIG) is reviewing OJP's administration of CARES Act funding. Our preliminary objectives are to: (1) assess OJP's efforts to: distribute Coronavirus award funding in a timely and efficient manner, and (2) review pre-award activities to determine if Coronavirus awards were made in accordance with applicable laws, regulations, and other guidelines.

On July 9, 2020, the OIG released its first [interim report](#) on OJP's administration of CARES Act funding.¹ That report generally covered activity through the CESF solicitation's initial open period (March 30, 2020 through May 29, 2020). This second interim report provides updates

related to OJP's award activity and summarizes OIG analysis of recipient drawdowns, expenditures, and program activities. The OIG's oversight in this area remains ongoing.

Results in Brief

We found that, as of August 22, 2020, OJP's Bureau of Justice Assistance had awarded 99.7 percent of the \$850 million received under the CARES Act, and that most recipient spending we reviewed appeared allowable under the terms and conditions of the grant award. When concerns were identified related to unallowable spending or a lack of adherence to internal policies and procedures, OJP acted quickly to remedy the issues, as discussed in detail below.

Recipient spending during the first full reporting period (ending June 30, 2020) represented only 9 percent of the total amount available, but that spending appeared to increase significantly as of early September. The approximately 10 percent of recipients who indicated, through an OIG survey, that they faced difficulties administering their awards frequently cited the inability to locate and purchase supplies and equipment, and local challenges such as receiving necessary approvals from state or local governing bodies, as challenges in implementing their awards.

The next round of recipient financial reporting is due on November 30, 2020.² The OIG will provide an update on reported expenditures in a subsequent report.

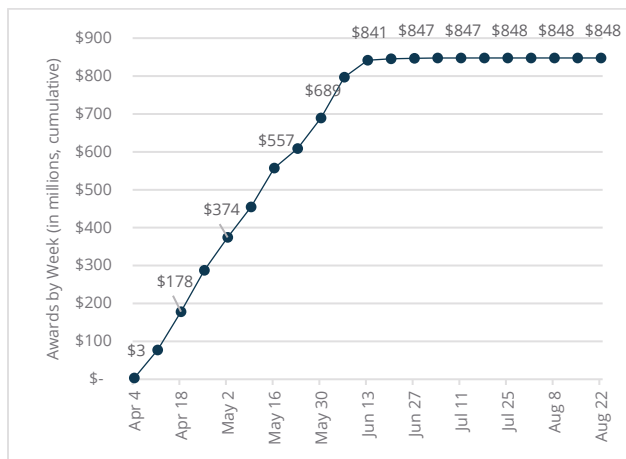
¹ DOJ OIG, [Interim Report – Review of the Office of Justice Programs' Administration of CARES Act Funding](#) Pandemic Response Report 20-079 (July 2020), <https://oig.justice.gov/reports/interim-report-review-office-justice-programs-administration-cares-act-funding> (accessed September 15, 2020).

² OJP extended the Federal Financial Report due date for the period ending 9/30/2020 thirty days from the original deadline of 10/31/2020 to accommodate OJP's mid-October transition to a new online grant management system.

OJP's CESF Award Activity

As of August 22, 2020, OJP made 1,828 awards totaling \$847,715,565 (99.7 percent of the total amount available). As shown below, most awards were made by June 13, 2020 – within 11 weeks of the CESF solicitation's open date.

Figure 1. CESF Total Dollars Awarded by Week
(in millions, cumulative)



Source: OJP's CESF Award Data

The CESF solicitation closed on July 10, 2020, and as of August 26, 2020, OJP does not anticipate making any additional awards.³ OJP officials reported that it is in the process of determining what will be done with the remaining \$2.3 million in unclaimed CESF funds.

As noted in our prior interim report, we did not identify significant concerns with OJP's review of CESF applications. Specifically, we found that OJP made CESF awards quickly and in accordance with CARES Act requirements, and our review of pre-award activities such as review and approval of budget and program narratives did not identify significant concerns.⁴ Because OJP has distributed over 99

percent of funds allocated to it through the CARES Act, we consider our initial review of award distribution to be complete and we make no recommendations to OJP in this area.⁵

CESF Program Background

All CARES Act funding appropriated to OJP will be awarded through the CESF, which aids eligible states, U.S. territories, the District of Columbia, units of local government, and tribes in preventing, preparing for, and responding to the coronavirus. Pursuant to the CARES Act, CESF award allocations are based proportionally on OJP's 2019 Edward Byrne Memorial Justice Assistance Grant Program (JAG) allocations. Allowable uses of CESF funding include, but are not limited to, overtime, equipment (including law enforcement and medical personal protective equipment), hiring, training, supplies (such as gloves, masks, and sanitizer), travel expenses, and addressing the medical needs of inmates in state, local, and tribal prisons. Additional detail on CESF program background can be found in our [first interim report](#).⁶

OIG CESF Recipient Survey

On August 26, 2020, the OIG distributed a survey to 1,804 CESF award recipients to obtain feedback on the CESF program. The survey was open through September 4, 2020, and we received 1,052 responses (a 58 percent response rate). Quantitative portions of the survey allowed us to aggregate recipient ratings indicating overall satisfaction or concern with program areas. The survey also requested narrative responses to assist in identifying specific challenges to award implementation.

³ The solicitation originally closed on May 29, 2020. OJP made two extensions to allow additional time for eligible recipients to apply. The final extension closed on July 10, 2020.

⁴ DOJ OIG, *OJP's Administration of CARES Act Funding*, 1-3.

⁵ The OIG will directly audit use of CESF funds by CESF award recipients. These audits will also include review of recipient budget narratives, program narratives, and grant spending.

⁶ DOJ OIG, *OJP's Administration of CARES Act Funding*, 1-2.

Both quantitative and narrative results are included throughout our interim report, as appropriate.

Drawdowns and Reported Expenditures

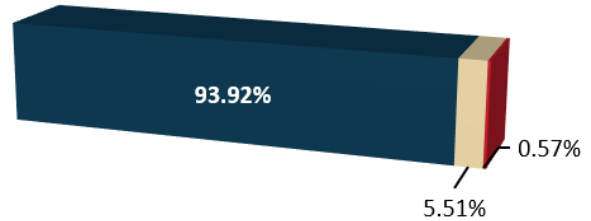
Consistent with the CESF program’s purpose to provide assistance in response to the present national emergency with the coronavirus, OJP determined that eligible recipients may draw down funds either in advance or on a reimbursable basis. Additionally, recipients report grant expenditures using the Federal Financial Report (FFR), which shows the actual funds that have been spent (expenditures), and any bills that will be paid (unliquidated obligations) at the recipient or subrecipient level, both for the reporting period and cumulatively, for each award. To assess CESF drawdowns and expenditures, we reviewed all submitted reports covering activity through June 30, 2020, the end of the first complete CESF reporting period.

As of June 30, 2020, CESF recipients had drawn down a total of \$273,044,373 in grant funds (32 percent of the total amount available under the CESF) and reported expending or obligating a total of \$75,702,823 (9 percent of the total available and 28 percent of the total drawn down). A total of 1,213 recipients, or 66 percent of all CESF recipients, reported no expenditures or unliquidated obligations as of that date.

As part of our survey, we asked recipients if they expected to use the funding received on allowable program activities within the grant period. As shown in Figure 2, approximately 94 percent responded in the affirmative and approximately 6 percent of respondents stated they were unsure if all funding would be used.

Figure 2. Survey Response – Anticipated Use of Funds

Does your organization expect to utilize all CESF funds received on allowable program activities within the grant period (including any possible extensions)?



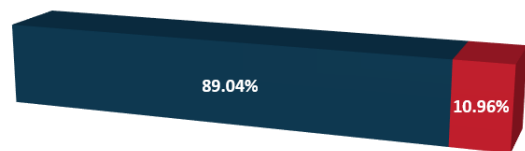
- Yes, our organization expects to utilize all CESF funds received on allowable program activities within the grant period (including any possible extensions).
- At this time, we are unsure if all CESF funds will be utilized.
- No, we do not expect to utilize all CESF funds.

Source: OIG Survey of CESF Award Recipients

Additional information regarding CESF use of funds challenges was evident in the narrative responses to this question, and that shown in Figure 3, below.

Figure 3. Survey Response – Award Administration

Has your organization encountered difficulties in administering your CESF award? If so, please describe.



- No
- Yes

Source: OIG Survey of CESF Recipients

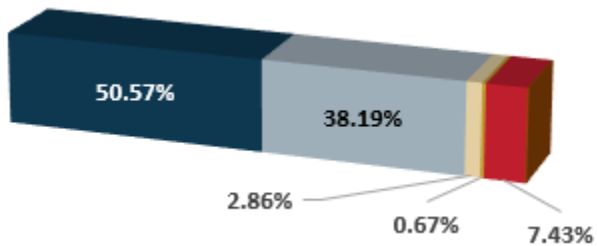
CESF recipient narrative responses demonstrated two general areas of consensus related to challenges in award administration: (1) the lack of supplies or equipment available for purchase, and (2) local challenges, such as receiving approval from state or local governing bodies prior to expending funds or COVID-19 related staffing issues that resulted in fewer

employees available to administer the award. Additionally, while there was not a broad consensus in this area, some recipients noted that they had delayed spending on their CESF awards as they first worked to obligate funding received from other federal agencies, such as the Federal Emergency Management Agency or the U.S. Department of the Treasury.

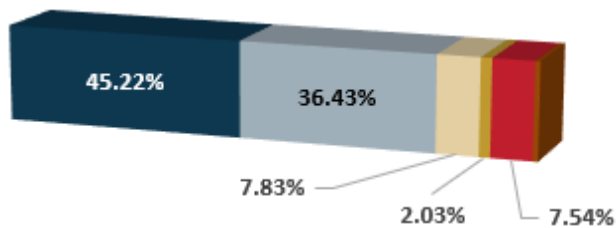
We also asked CESF recipients if the funds had assisted them in combating or preparing for the coronavirus pandemic. As shown in Figure 4, approximately 90 percent reported that the funds have allowed them to combat the current pandemic, and approximately 80 percent stated that the funds will assist in preparing for future outbreaks.

Figure 4. Survey Response – Award Assistance

Question 1: The purpose of the grant (i.e., the allowable activities under the grant terms and conditions) has or will allow us to combat the coronavirus pandemic.



Question 2: The purpose of the grant (i.e., the allowable activities under the grant terms and conditions) has or will allow us to prepare for future coronavirus outbreaks.



- Strongly Agree
- Agree
- Neither Agree nor Disagree
- Disagree
- Strongly Disagree

Source: OIG Survey of CESF Recipients

Of the recipients who expressed concerns, the general area of consensus in narrative responses was the need for additional funding. Other responses also discussed issues related to nationwide supply shortages. The future of the COVID-19 pandemic is unknown, and it is likely that CESF expenditures will increase in the weeks and months ahead as recipients have more time to implement their award, and as supplies become available. As of our survey close date of September 4, 2020, 65 percent of respondents reported that they had used funding, up from 34 percent as of June 30. Careful monitoring of CESF spending therefore must remain a priority, particularly considering the extent to which the CARES Act provided similar funding to state, local, and tribal governments across the country. For example:

- The U.S. Department of the Treasury's \$150 billion Coronavirus Relief Fund includes allocations to state, local, and tribal governments to fund, in part, the acquisition and distribution of medical and protective supplies, including sanitizing products, personal protective equipment, and overtime for applicable workers.
- The Department of Homeland Security's Federal Emergency Management Agency's provides funding to state, tribal, and local governments that funds, in part, training, supplies, equipment, and overtime.
- The Department of the Interior's Bureau of Indian Affairs received \$453 million to address the coronavirus through public safety and justice programs, personal protective equipment, and information technology for teleworking capability.

Each of the other agencies' programs noted above has areas of overlap with OJP's CESF. As previously noted, OJP distributed CESF funding in accordance with CARES Act requirements. However, the unprecedented distribution of similar funding indicates that enhanced monitoring of actual CESF expenditures will be a necessity – for both OJP and the OIG – in the months and years to come.

OIG Review of CESF Recipient Accounting Records

To assess spending, we requested accounting records from 19 CESF recipients who had drawn down CESF funds at the time of our analysis. In total, these recipients requested \$60,860,072 in CESF drawdowns as of August 10, and the grant accounting records supported expenses totaling \$4,407,016 (7 percent of the total drawn down).⁷ While advance drawdowns are allowable under the terms and conditions of the CESF program, OJP should be prepared to carefully monitor any significant disparities in the months and years to come.

We reviewed these accounting records to determine if reported expenditures appeared to be allowable under the terms of the CESF program. While we found that most expenditures appeared reasonable and allowable under program, we identified one area of concern. Specifically, we noted that one State Administering Agency (SAA) in our sample paid \$1,242 in a “special assessment of dues” at the request of a membership-based not-for-profit. This organization represents justice system concerns to the federal government and provides assistance to its member organizations. We contacted OJP regarding the expense, and OJP confirmed that this cost would be considered an unallowable donation. We further informed OJP that we identified 56 SAAs listed on the non-for-profit’s website, indicating that unallowable expenditures may total \$69,552 if each SAA paid the amount requested.⁸ Within 2 days of our communication with OJP officials, they provided

evidence that it created and distributed guidance notifying the CESF community that the cost was unallowable.

OIG Review of CESF Recipient Progress Reports

We also reviewed progress reports for each of the 19 CESF recipients in our initial sample to determine if reported grant activities appeared to be consistent with the goals of the CESF program. In general, state recipients hired administrative staff and contacted stakeholders regarding subawards, and local recipients purchased items that were approved in award documents. We found no indication that reported grant activities were inconsistent with the CESF program.

OIG Review of High-Risk Recipients

As part of its CESF monitoring strategy, OJP included specific special conditions on awards made to high risk recipients. These recipients were required to submit CESF grant accounting records on either a monthly or quarterly basis depending on OJP’s assessment of the recipient’s general responsiveness to prior OJP communications. We reviewed all recipients in this category (14 of the 1,828 total CESF recipients) and found that most had submitted their accounting records, though some submissions were between 2 and 5 days late.

We identified one recipient classified as “High-Risk – Non-Responsive” whose accounting records were not uploaded to OJP’s Grants Management System (GMS) for the months of July or August. We contacted OJP with our concern, and OJP provided evidence that the

⁷ Our initial sample included 50 CESF grant recipients. However, as of August 2020, only 19 of those recipients had made drawdowns against their CESF award. Therefore, we included only those 19 recipients in our review of accounting records.

⁸ Of the 19 organizations reviewed, 9 were states or SAAs, and all were listed on the non-profit’s website. The unallowable “special assessment of dues” expenditure was paid by only one state recipient at the time of our analysis. That recipient is coordinating with OJP to appropriately remedy the costs and make the necessary adjustments to its financial reporting.

accounting records were submitted by the recipient in a timely manner. However, the recipient had emailed the records to an OJP grant manager and the accounting records were then not uploaded to GMS by OJP and were not tracked on the Bureau of Justice Assistance’s internal review spreadsheet that assists OJP in monitoring actions of high-risk recipients. OJP stated that this was an oversight and provided evidence that it had implemented revised policies and procedures to prevent this issue from recurring. Specifically, OJP previously required that grant managers and a first line supervisor verify these submissions; reminders to do so were sent out manually. In response to our inquiry, OJP has updated its guidance to require second line supervisory review and has automated recurring calendar reminders to ensure the review is conducted.

We also identified one recipient classified as “High Risk – Responsive” whose accounting records were submitted 25 days late. We asked OJP why a Grant Adjustment Notice (GAN) to place a hold on funds had not been initiated during the period in which the recipient was delinquent. OJP acknowledged that the GAN should have been initiated. Again, OJP adjusted its policies to require second line supervisory oversight of this requirement and adjusted its newly implemented automated reminder system to reiterate that holds are to be placed within 5 days if the recipient is delinquent. Based on the corrective actions already implemented, we make no recommendations to OJP in this area.

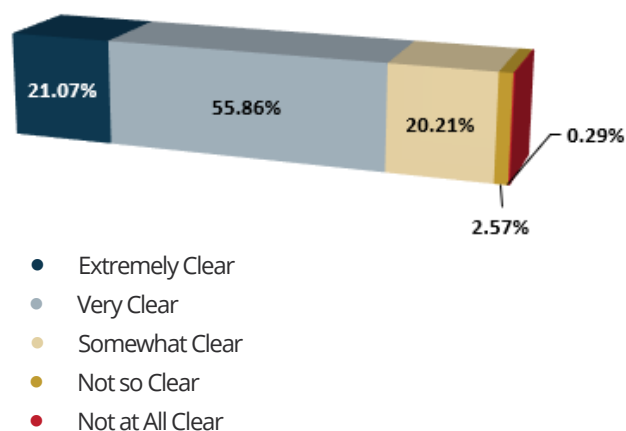
CESF Program Administration

Finally, as part of our survey, we asked recipients general questions regarding OJP’s overall administration of the program. We first asked for recipient feedback on the clarity of the CESF

solicitation. As shown in Figure 5, 97 percent of respondents reported that the solicitation was clear.

Figure 5. Survey Response – Clarity of CESF Solicitation

How clear was the CESF solicitation guidance related to allowable costs and activities?



Source: OIG Survey of CESF Recipients

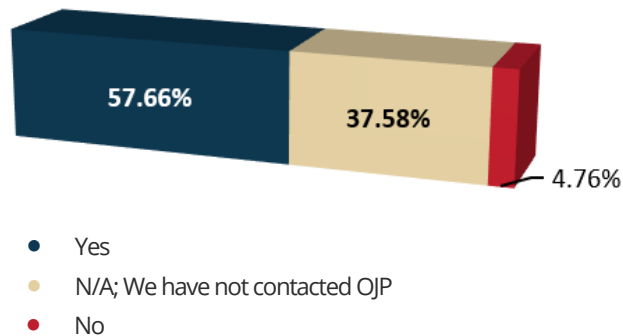
When concerns were expressed, they were frequently related to the broad range of permissible uses of funds under the CESF. Since the CESF’s inception, OJP has continually updated a Frequently Asked Questions (FAQ) document on its public website with additional information on a variety of allowable cost questions.⁹

We also asked CESF recipients if they knew whom to contact at OJP with questions about their CESF award, with 94 percent providing an affirmative response. Further, recipients reported that if they had reached out to OJP with requests for assistance on their award, generally that was provided, as shown in Figure 6.

⁹ OJP, “Bureau of Justice Assistance Fiscal Year 2020 Coronavirus Emergency Supplemental Funding Program Frequently Asked Questions,” July 1, 2020, <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/cesf-faqs.pdf> (accessed September 17, 2020).

Figure 6. Survey Response – OJP Assistance

If you have contacted OJP with questions, concerns, or other issues related to your CESF grant, did OJP assist in resolving the issue?



Source: OIG Survey of CESF Recipients

The concerns expressed in narrative responses did not identify a specific area of consensus, and covered issues related to the initial application period through the initial stages of award implementation. Further, some concerns - such as the allowability of certain costs - may have been resolved had the recipient accessed the previously mentioned FAQ document. Based on the generally low number of recipients who reported issues in this area, we do not make any recommendations to OJP.

Future OIG Oversight of CESF Funds

The OIG has issued two interim reports assessing OJP's administration of the \$850 million allocated to it under the CARES Act. These reports included our review of OJP's actions during the initial application period and through the first full recipient reporting period. As part of our ongoing oversight, we plan future reporting to include updates on drawdowns and the use of CESF funds.

Office of Justice Programs Response to the Draft Report



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

November 5, 2020

MEMORANDUM TO: Michael E. Horowitz
Inspector General
United States Department of Justice

THROUGH: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General
United States Department of Justice

FROM: Katharine T. Sullivan ksullivan
1560793146
Principal Deputy Assistant Attorney General

SUBJECT: Response to the Office of the Inspector General's Draft Interim Report II, *Review of the Office of Justice Programs' Administration of CARES Act Funding*

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This memorandum provides a response to the Office of the Inspector General's (OIG), October 28, 2020 draft interim report entitled, *Interim Report II - Review of the Office of Justice Programs' Administration of CARES Act Funding*. The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on this second interim report, which covers award activity of the Coronavirus Emergency Supplemental Funding (CESF) Program through August 22, 2020.

The second interim draft report does not contain any recommendations to OJP, and provides useful information on CESF recipient drawdowns, expenditures, and program activities, which will be used by the Bureau of Justice Assistance in carrying out its oversight of the CESF Program.

If you have any questions regarding this response, please contact Ralph E. Martin, Director, Office of Audit, Assessment, and Management, at (202) 305-1802.

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