

## Frequently Asked Questions Regarding Governor Justice's Hero Pay Grant Program

(AO) indicates the response given by the Auditor's office.

1. Q: Can the State Auditor's Office advise counties on how to handle/spend the \$100,000?

A: (AO) We have created fund number 206 (COVID 19) which the county commission can adopt to account for all COVID 19 financial transactions. It is up to the county officials to decide if they want to set up a separate checking account or use an existing checking account for this fund. I believe in any instance, you will need to order separate checks, so that this fund will have its own set of check numbers.

Keep in mind, this fund is available to be used for any revenues/expenses that the county has for the COVID-19 pandemic. If you receive other grants or donations either now or in the future from federal, state, or local sources, we encourage you to use this fund for those monies as well.

Our office is somewhat reluctant to give any further advice on the handling and spending of the \$100,000 that the governor's office sent to each county commission. The only information we have concerning this money is what was provided to each county from the governor's office dated April 15, 2020. We would suggest that any detailed questions concerning this matter should be directed to the governor's office.

2. Q: Are there specific spending restrictions that counties need to focus on when determining how funds will be spent?

A: (AO) The Auditor's Office would caution the commissioners to remember some of the restrictions that we have previously discussed in our training sessions. For instance: restrictions on the use of public funds for personal gain of yourself or others, taxable fringe benefits and awarding of bonuses to employees.

3. Q: What about offering any type of incentive/bonus payment to local government employees?

**A: (AO) Article IV Section 38 of the WV Constitution states:**

**6-38. Salaries of officials cannot be increased during official terms.**

No extra compensation shall be granted or allowed to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract made; nor shall any Legislature authorize the payment of any claim or part thereof, hereafter created against the state, under any agreement or contract made, without express authority of law; and all such unauthorized agreements shall be null and void. Nor shall the salary of any public officer be increased or diminished during his term of office, nor shall any such officer, or his or their sureties be released from any debt or liability due to the state: Provided, the Legislature may make appropriations for expenditures hereafter incurred in suppressing insurrection, or repelling invasion.

**WV Code §12-3-13 states:**

**§12-3-13. Salaries not to be paid until services rendered.**

No money shall be drawn from the treasury to pay the salary of any officer or employee before his services have been rendered.

In summary, no extra compensation can be awarded after compensation has been issued and payments cannot be made until the services have been rendered. Please understand this is not a legal opinion; rather, this is our interpretation of the facts as presented. As always, we would advise county commissioners to consult with their legal counsel before making any unusual type of appropriations.

4. Q: Can we provide to our local Health Department? Specifically, with funding overtime, equipment? Can we give them part of this grant money for overtime, if not, can we give them for equipment freeing up other dollars for overtime?

A: (AO) The funding of Health Departments is a legitimate expenditure for county commissions. The use of the "Hero's fund" for this distribution is something that will need addressed by the governor's office.

5. Q: What about purchase and distribution of PPE to non government folks like grocery stores, etc? We are going down the path of a "County Stock Pile" and have the cities kick in and take part. If not now, then when PPE is available and give all communities the inventory sheets.

A: (AO) We are not aware of anything that allows county funds to be expended for private enterprise. Under the current situation that we are in, the governor's office may think this is a legitimate expense of these funds.

6. Q: Can these grant monies be used to give to private business or private citizens within the county?

A: (AO) Once again, we are not aware of anything that allows county funds to be expended for private enterprise. I believe this type of expenditure could be subject to the Ethics Laws which disallows the use of public funds for personal gains of the officials or others. We would suggest that you consult with the Ethics Commission for clarification.

7. Q: Can the monies be given to an entity that already receives funding from the county? Such as a volunteer fire department or other non profit?

A: (AO) Generally speaking this should not be a problem, but once again this question should also be addressed by the governor's office in regards to this particular funding.

8. Q: For counties who are sharing funds with municipalities will those municipalities be required to report to the Governor's Office separately or will counties be required to report for them?

A: (AO) This question will need to be addressed by the governor's office.

9. Q: Will there be an audit in 2021 of how these funds were expended?

A: (AO) All county funds are audited by the Chief Inspector's Division of the State Auditor's office on an annual basis but not necessarily in the 2021 calendar year. We don't know if the governor's office intends to have any other audit performed.

10. Q: Do commissions need to submit a spending plan for this funding to the Governor's Office before being approved?

A: (AO) This question can only be answered by the governor's office.

11. Q: If this money is considered a grant, will potential grantees need to fill out an application and will counties need to keep that on file?

A: This question will need to be answered by the governor's office.

12. Q: Can money be granted to food banks who have done such a big job and are running out of money?

A: (AO) This would appear to be legitimate expenditure of public funds, if deemed so by the county commission. The governor's office will need to address whether Hero funds can be used.

13. Q: Can small awards be given to volunteers who have devoted their time and risked infection helping with the feeding programs?

A: (AO) I believe the Ethics Commission has some opinions concerning the expenditure of funds on volunteer workers. I would suggest they be consulted on this matter, as well as the governor's office.

Any further questions for the Auditor's Office can be sent to: [ora.ash@wvsao.gov](mailto:ora.ash@wvsao.gov).