

## Overview

On March 6, 2020, the US federal government enacted legislation in response to the COVID-19 pandemic, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (H.R. 6074, "Phase I"), providing \$8.3 billion in emergency funding primarily to treat and prevent the spread of coronavirus.

## Small Business Loan Program

Summary: Phase I provides an additional \$20 million to the Small Business Administration ("SBA") "Disaster Loans Programs Account" to help aid affected small businesses with low-cost loans.

### Detail:

- i. Loans are available to small businesses and private, non-profit organizations in accordance with section 7(b) of the Small Business Act.
- ii. The SBA will coordinate with a state's or territory's governor to approve a program (all states and territories are eligible and most state programs have already been approved by the SBA).
- iii. Once an application process is available, a business or non-profit can apply for a loan up to \$2,000,000 to be used to pay fixed debts, payroll, accounts payable, and other bills.
- iv. The loans will carry 3.75% interest annually for small businesses and 2.75% interest annually for non-profits.
- v. Long-term repayment will be made available, up to 30 years. This will be decided on a case-by-case basis by the SBA based on the borrower's ability to repay.
- vi. Visit <https://www.sba.gov/disaster-assistance/coronavirus-covid-19> for more information.
- vii. *Note, the Phase III legislation allows for an additional \$562,000,000 to be appropriated to the SBA's "Disaster Loans Program Account".*

## Prevention of Coronavirus

Summary: Almost all of Phase I's \$8.3 billion of funding went to (i) the Department of Health and Human Services ("HHS") to develop vaccines and make testing more broadly available, (ii) state and local health departments, (iii) CDC emergency funding, and (iv) the United States Agency for International Development ("USAID") to address international containment of the virus and other issues such as evacuations from U.S. embassies and other State Department facilities. Phase I allows HHS to temporarily waive certain Medicare restrictions and other requirements with the use of telehealth services during the ongoing health crisis.

## **Additional Detail—Summary by Section:**

### Title I: Department of Health and Human Services: Food and Drug Administration; Salaries and Expenses

- i. \$61,000,000 to prevent, prepare, and respond to coronavirus domestically and internationally, including to develop countermeasures, such as vaccines.

### Title II: Small Business Administration; Disaster Loans Program Account (Including Transfers of Funds)

- i. \$20,000,000, which may be used for salaries and expenses, to carry out economic injury disaster loans, which operates pursuant to section 7(b) of the Small Business Act.
- ii. None of the funds may be used for indirect administrative expenses.

### Title III: Department of Health and Human Services: Centers for Disease Control and Prevention; CDC-Wide Activities and Program Support (Including Transfer of Funds)

- i. \$2,200,000,000 available until September 30, 2022 to prevent, prepare, and respond to coronavirus domestically or internationally.
- ii. No less than \$950,000,000 shall be grants or agreements to states and localities to carry out surveillance and infection control.
- iii. \$475,000,000 shall be allocated within 30 days of Phase I's enactment.
- iv. Every grantee of a Public Health Emergency Preparedness grant for 2019 shall receive no less than 90% of that grant from these funds.
- v. No less than \$40,000,000 shall be allocated to tribal organizations.
- vi. No less than \$300,000,000 shall be for global disease detection and emergency response.
- vii. \$300,000,000 shall be transferred to and used with amounts in the Infectious Diseases Rapid Response Reserve Fund.
- viii. Funds may be used for grants for construction, alteration, or renovation of non-Federally owned facilities to improve preparedness and response at the state and local level.

### Title III: Department of Health and Human Services: National Institutes of Health; National Institute of Allergy and Infectious Diseases (Including Transfer of Funds)

- i. \$836,000,000 to remain available until September 30, 2024 to prevent, prepare for, and respond to coronavirus domestically or internationally.
- ii. No less than \$10,000,000 shall be transferred to "National Institute of Environmental Health Sciences" for worker-based training to prevent and reduce exposure to healthcare employees.

### Title III: Department of Health and Human Services: Office of the Secretary; Public Health and Social Services Emergency Fund (Including Transfer of Funds)

- i. \$3,100,000,000 to remain available until September 30, 2024 to prevent, prepare for, and respond to coronavirus domestically or internationally, including developing countermeasures and vaccines, technologies and manufacturing platforms, and the purchase of vaccines, therapeutics, diagnostics, and medical supplies.
- ii. The Secretary of HHS shall purchase vaccines.
- iii. Products shall be purchased in accordance with Federal Acquisition Regulation guidance on fair and reasonable pricing.

- iv. The Secretary may take measures to ensure products will be affordable.
- v. At the Secretary's discretion, products purchased may be deposited in the Strategic National Stockpile.
- vi. Funds may be transferred to and used with funds authorized by section 319F-4, the Covered Countermeasure Process Fund of the Public Health Service Act.
- vii. Funds may be used for grants for the construction, alteration, or renovation of non-Federally owned facilities to improve preparedness and response at the state and local level.
- viii. Funds may be used for grants for the construction, alteration, or renovation of non-Federally owned facilities for the production of vaccines, therapeutics, and diagnostics.
- ix. \$100,000,000 shall be transferred to "Health Resources and Services Administration-Primary Health Care" for grants under the Health Centers Program.
- x. \$300,000,000 to remain available until September 30, 2024 for products purchased as described above. The amount shall only be made available if the Secretary of HHS certifies to the Committees on Appropriations that the funds will be obligated imminently and that additional funds are necessary for product purchase.

Title III: General Provisions-This Title (Including Transfer of Funds)

- i. **Sec. 301:**
  - (a) Funds may be available to restore amounts for obligations incurred by agencies of HHS prior to the date of Phase I's enactment. It shall not apply to obligations incurred by the Infectious Disease Rapid Response Reserve.
  - (b) Grants or agreements with states and localities to prevent, prepare for, and respond to coronavirus shall include amounts to reimburse costs incurred between January 20, 2020 and the date of Phase I's enactment.
  - (c) If any funds have been reprogrammed or transferred from an appropriation prior to the date of Phase I's enactment (by a notification submitted by the Secretary on February 2, 2020), such amounts shall be reprogrammed or transferred back to that appropriation within 45 days of Phase I's enactment.
- ii. **Sec. 302:** Funds may be used by the Secretary to appoint candidates needed for positions to perform critical work relating to coronavirus for which (1) public notice has been given and (2) the Secretary has determined that such a public health threat exists.
- iii. **Sec. 303:** Funds may be used to enter into contracts with individuals for the provision of personal services to support the prevention of, preparation for, or response to coronavirus domestically and internationally, subject to prior notification to the Committees on Appropriations.
- iv. **Sec. 304:** Funds may be transferred to and used with other appropriation accounts under other headings in this title, following consultation with the Office of Management and Budget. The Committees on Appropriations shall be notified 10 days in advance.
- v. **Sec. 305:** No later than 30 days after Phase I's enactment, the Secretary of HHS shall provide a detailed spend plan made available to the HHS to the Committees on Appropriations. The plan shall be updated every 60 days until September 30, 2024 and shall be accompanied by a listing of each contract obligation incurred that exceeds \$5,000,000 which has not been previously reported.
- vi. **Sec. 306:** Up to \$2,000,000 of the funds appropriated under "Public Health and Social Services Emergency Fund" shall be transferred to and used with funds made available under "Office of the Secretary, office of Inspector General" and shall remain available until expended. This is to help with oversight of activities and supported with funds appropriated to the HHS in titles I and III.

The Inspector General of HHS shall consult with the Committees on Appropriations prior to obligating such funds.

Title IV: Department of State: Administration of Foreign Affairs; Diplomatic Programs

- i. \$264,000,000 to remain available until September 30, 2022 to prevent, prepare for, and respond to coronavirus, including for maintaining consular operations and reimbursement of evacuation expenses.

Title IV: United States Agency for International Development: Funds Appropriated to the President; Office of Inspector General

- i. \$1,000,000 to remain available until September 30, 2022 for oversight of activities funded by this title and administered by the USAID.

Title IV: Bilateral Economic Assistance: Funds Appropriated to the President; Global Health Programs

- i. \$435,000,000 to remain available until September 30, 2022 to prevent, prepare for, and respond to coronavirus.
- ii. Such funds shall be administered by the Administrator of the USAID.
- iii. No less than \$200,000,000 shall be transferred to and used with funds made available for the Emergency Reserve Fund.

Title IV: Bilateral Economic Assistance: Funds Appropriated to the President; International Disaster Assistance

- i. \$300,000,000 to remain available until expended to prevent, prepare for, and respond to coronavirus.

Title IV: Bilateral Economic Assistance: Funds Appropriated to the President; Economic Support Fund

- i. \$250,000,000 to remain available until September 30, 2022 to prevent, prepare for, and respond to coronavirus, including to address related economic, security, and stabilization requirements.

Title IV: General Provisions-This Title (Including Transfer of Funds)

- i. **Sec. 401:** Funds appropriated shall only be made available subject to the notification procedures of the Committees on Appropriations, except for funds under "International Disaster Assistance".
- ii. **Sec. 402:**
  - (a) Funds under "Diplomatic Programs" may be transferred to and used with funds under the "Consular Border Security Programs" account to maintain consular operations impacted by coronavirus.
  - (b) Up to \$7,000,000 of the funds under "Economic Support Fund" may be transferred to and used with funds appropriated under "Operating Expenses" in Acts making appropriations for the Department of State, foreign operations, and related programs.
  - (c) Funds under "Global Health Programs", "International Disaster Assistance", and "Economic Support Fund" may be transferred to and used with funds appropriated by this title under such headings.
  - (d) Transfer authorities under this section are in addition to transfer authorities provided by law.

- (e) Upon determination that all or part of the funds transferred are not necessary, such amounts may be transferred back to such appropriations.
- (f) No funds shall be transferred unless, at least 5 days prior, the Secretary of State of the Administrator of the USAID notifies the Committees on Appropriations in writing.
- iii. **Sec. 403:** The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2020, is amended to allot "Worldwide Security Protection" up to \$100,000,000. No amounts may be transferred from amounts that were designated by Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985. Exercise of authority is subject to prior consultation with the Committees on Appropriations.
- iv. **Sec 404:** Funds under "Global Health Programs" and "Economic Support Fund" may be made available to international organizations, following consultations with the Committees on Appropriations.
- v. **Sec. 405:** Funds under "Diplomatic Programs", "Global Health Programs", "International Disaster Assistance", and "Economic Support Fund" may be used to reimburse accounts administered by the Department of State and the USAID for obligations incurred relating to coronavirus prior to Phase I's enactment. This does not apply to obligations incurred by the Emergency Reserve Fund.
- vi. **Sec. 406:**
  - (a) Strategy-No later than 15 days after Phase I's enactment, the Secretary of State and the Administrator of the USAID, following consultation with the heads of other relevant Federal agencies, shall jointly submit to the Committees on Appropriations a strategy to prevent, prepare for, and respond to coronavirus abroad.
  - (b) Reporting Requirement-No later than 30 days after Phase I's enactment, the Secretary of State and Administrator of the USAID shall jointly submit to the Committees on Appropriations a report on the proposed uses on a country and project basis. The report shall be updated every 60 days until September 30, 2022, and every 180 days thereafter until all funds have been expended. It shall include information detailing how estimates and assumptions in past reports have changed, including obligations and expenditures on a country and project basis.

#### Title V: General Provisions-This Act

- i. **Sec. 501:** Each amount appropriated by Phase I is in addition to amounts otherwise appropriated for the fiscal year involved.
- ii. **Sec. 502:** No appropriations shall remain available beyond 2020 unless expressly provided.
- iii. **Sec. 503:** The additional amounts appropriated to appropriations accounts shall be available under the authorities and conditions applicable to such appropriations accounts for 2020.
- iv. **Sec. 504:** Except for the following, funds made available may only be used to prevent, prepare for, and respond to coronavirus: (i) section 301(c) of Phase I; (ii) reimbursements made pursuant to Phase I's authority; (iii) funds made available for the Emergency Reserve fund; or (iii) funds made available for the Infectious Diseases Rapid Response Reserve Fund.
- v. **Sec. 505:** No later than 60 days after Phase I's enactment, the Comptroller General shall consult with the Committees on Appropriations on oversight activities supported with appropriated funds.
- vi. **Sec. 506:** "Coronavirus" means SARS-COV-2 or another coronavirus with pandemic potential.
- vii. **Sec. 507:** Each amount designated for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be available (or rescinded or transferred, if applicable) only if the President subsequently designates all such amounts and transmits such designations to the Congress.

- viii. **Sec. 508:** Any amount designated as an emergency requirement, as above, designated by the President, and transferred shall retain such designation.

#### Division B-Telehealth Services During Certain Emergency Periods

- i. **Sec. 101.** Short Title: This division may be cited as the "Telehealth Services During Certain Emergency Periods Act of 2020".
- ii. **Sec. 102:** Secretarial Authority to Temporarily Waive or Modify Application of Certain Medicare Requirements with Respect to Telehealth Services Furnished During Certain Emergency Periods-
- (a) In General-
- (1) Waiver Authority-Language is added to section 1135(b) of the Social Securities Act for telehealth services in an emergency area related to facility fee and the restriction on the use of a telephone for two-way, real-time interactive communication.
- (2) Definition of Qualified Provision: Section 1135(g) is amended by allowing a qualified provider for telehealth services to be a physician or practitioner who furnished to an individual an item or service for which payment was made during the 3-year period ending on the date the telehealth service was furnished or is in the same practice of a physician or practitioner who furnished such an item or service.
- (3) Implementation-The Secretary of HHS may implement the amendments by program instruction or otherwise.
- (b) Clarification of Definitions of Emergency Area and Emergency Period-Para. 1 of section 1135(g) of the Social Security Act is amended to include language that defines "emergency area" as a geographical area in which, and an "emergency period" is the period during which, there exists (1) an emergency or disaster declared by the President pursuant to the Stafford act and (2) a public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act. It also includes the time period declared by the Secretary as a public health emergency on January 31, 2020 and any renewal of that declaration.
- iii. **Sec. 103:** Budgetary Effects:
- (a) Statutory PAYGO Scorecards-Budgetary effects of this division shall not be entered on any PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.
- (b) Senate PAYGO Scorecards-Budgetary effects of this division shall not be entered on either PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).
- (c) Classification of Budgetary Effect-Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines, the budgetary effects of this division shall not be estimated (1) for purposes of section 251 of such Act and (2) for purposes of para. (4)(C) of section 3 of the Statutory Pay-As-You-Go Act of 2010 as being included in an appropriation Act.

For additional insights related to business and legal implications as a result of COVID-19, please visit our [Knowledge Center](#).

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|-------------------|----------------------------------------------------------------------|-------------------|
| Daniel Bartfeld   | <a href="mailto:dbartfeld@milbank.com">dbartfeld@milbank.com</a>     | +1 212.530.5185   |
| Jacqueline Chan   | <a href="mailto:jchan@milbank.com">jchan@milbank.com</a>             | +65 6428.2433     |
| Paul Denaro       | <a href="mailto:pdenaro@milbank.com">pdenaro@milbank.com</a>         | +1 212.530.5431   |
| Dennis Dunne      | <a href="mailto:ddunne@milbank.com">ddunne@milbank.com</a>           | +1 212.530.5770   |
| Erwin Dweck       | <a href="mailto:edweck@milbank.com">edweck@milbank.com</a>           | +1 212.530.5255   |
| Deborah Festa     | <a href="mailto:dfesta@milbank.com">dfesta@milbank.com</a>           | +1 424.386.4400   |
| Drew Fine         | <a href="mailto:dfine@milbank.com">dfine@milbank.com</a>             | +1 212.530.5940   |
| John Franchini    | <a href="mailto:jfranchini@milbank.com">jfranchini@milbank.com</a>   | +1 212.530.5491   |
| Thomas Ingenhoven | <a href="mailto:tingenhoven@milbank.com">tingenhoven@milbank.com</a> | +49 69.71914.3437 |
| Allan Marks       | <a href="mailto:atmarks@milbank.com">atmarks@milbank.com</a>         | +1 424.386.4376   |
| Dara Panahy       | <a href="mailto:dpanahy@milbank.com">dpanahy@milbank.com</a>         | +1 202.835.7521   |
| Suhrud Mehta      | <a href="mailto:smehta@milbank.com">smehta@milbank.com</a>           | +44 20.7615.3046  |
| Benjamin Sayagh   | <a href="mailto:bsayagh@milbank.com">bsayagh@milbank.com</a>         | +1 212.530.5762   |
| Jed Schwartz      | <a href="mailto:jschwartz@milbank.com">jschwartz@milbank.com</a>     | +1 212.530.5283   |
| Mark Shinderman   | <a href="mailto:mshinderman@milbank.com">mshinderman@milbank.com</a> | +1 424.386.4411   |
| Nicholas Smith    | <a href="mailto:nsmith@milbank.com">nsmith@milbank.com</a>           | +1 202.835.7522   |
| David Zemans      | <a href="mailto:dzemans@milbank.com">dzemans@milbank.com</a>         | +65 6428.2555     |

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