

News/Insights

Treasury Confirms Coronavirus Relief Fund (“CRF”) Recipients Need Only Minimal Supporting Records to Substantiate Public Safety and Health Payroll Costs for CRF Compliance

August 31, 2020

Treasury's initial CRF Guidance provided a nonexclusive list of eligible expenditures. Among these eligible expenditures are payroll costs 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 emergency.*”

Treasury later clarified in its Frequently Asked Questions that payroll costs for public health and public safety employees are legally presumed to be “substantially dedicated” to mitigating or responding to the COVID-19 emergency.

According to Treasury's Office of Inspector General (“OIG”), recipients of CRF funds “*can presume that all 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* (emphasis added).” Thus, payroll costs for these employees are presumed to be an eligible CRF expenditure.

Carrington Coleman dubbed this legal presumption for public health and public safety payroll costs as the “Per Se Rule.”

MINIMAL RECORDS

On August 14th, the OIG informally announced on a webinar that it would require only minimal supporting records to substantiate eligibility. On August 28th, the OIG formally confirmed that position.

The only records needed for these Per Se eligible payroll costs are (1) regular payroll/HR records and (2) usual accounting records.

No additional or specially created documentation is required to demonstrate that these per se eligible payroll costs are “substantially dedicated” to the COVID-19 emergency. This underlying policy is intended to reduce the administrative burden that would otherwise exist by parsing through public health and public safety department records to demonstrate, on an individual basis, which employees are substantially dedicated to responding to COVID-19.

TAKEAWAY

CRF fund recipients should embrace, and benefit from, the Per Se Rule. The Per Se Rule will maximize benefits while reducing CRF compliance risk.

