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## September 4, 2020

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### I. State

#### a. COVID-19 Update

Today Governor Murphy announced that there were 478 new positive cases and an additional 7 confirmed deaths resulting from COVID-19. To date, there have been 193,422 confirmed cases, and 14,195 confirmed deaths. The rate of transmission is at 1.03. The positivity rate as of August 31 was 1.81%.

Since our last update, Governor Murphy issued the following executive orders:

[Executive Order 183](#): permitting indoor dining to reopen, with limitations starting 6:00 am Friday, September 4. Under the executive order restaurants would be limited to a maximum capacity of 25% for indoor seating; groups of customers will be limited to eight people, not including direct family members; all staff are required to wear face coverings; customers will not be permitted to order food or drinks from a bar. All orders must be done through a server; and windows must be open to provide for proper airflow to circulate. The changes outlined in this executive order will not affect the current regulations on outdoor dining.

On Wednesday, the Governor updated the Travel quarantine advisory adding Alaska and Montana back on the list bringing the total to 33 states and territories.

For the week ending August 28 New Jersey Labor Department received roughly 20,000 new unemployment application. The state Department of Labor anticipates that the number of claims in the coming weeks may fluctuate in the coming weeks with limited reopening of schools and gyms and the resumption of limited indoor dining.



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**Contact:** Mike Cerra, Executive Director, [mcerra@njlm.org](mailto:mcerra@njlm.org), 609-695-3481 x120.

### b. Governor Signs Coronavirus Relief Bonds Legislation

On Monday, Governor Murphy signed into law [A-3971/S-2475](#), reflecting both the initial intent of the legislation and his recommended changes made through a previous conditional veto. This new law will allow municipalities and counties to issue a special emergency appropriation for the loss of revenue and/or unanticipated expenses directly attributable to the COVID-19 pandemic with appropriate safeguards and Local Finance Board oversight.

In addition, P.L. 2020, c. 74 permits the Division of Local Government Services to issue guidance on the calculation of anticipated revenue for the 2021 budget year. It also permits a local unit or board of education to issue refunding bonds for the repayment of a Federal Emergency Management Agency Community Disaster Loan program executed by a promissory note in 2013.

We anticipate guidance on the approach from the Division of Local Government Services shortly. We understand that operating deficits will include documented COVID-19 revenue loss or over expenditures. Municipalities will need to show their operational gap, but will not need to deplete surplus to take advantage of this limited special emergency tool.

We thank the Governor, Senators Singleton, Gopal, and Scutari, Assemblyman Benson, Assemblyman DeAngelo, Assemblywoman DeCroce, and Speaker Coughlin for partnering with the League and other interested parties in forging this compromise. It is providing local governments with much needed financial flexibility in response to the pandemic.

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### **c. Census 2020 - Time Is Running Out**

The U.S. Census Bureau will stop counting residents in your municipality, and across the State and Nation, in less than four weeks. This year's – this decade's – truncated schedule for in-person contact will end on September 30. Those not counted by that date will not count for the next 10 years, for things like Congressional districting, State Legislative redistricting, qualifying your municipality for a host of federal aid programs, and getting for all your residents all the help they deserve.

We urge you to, please, remind your citizens, friends, family members, co-workers, and neighbors to respond to the 2020 Census. Time is running out! Everyone who lived in the United States on April 1, 2020, is required to be counted.

The time to act is now. The Bureau will continue to accept on-line responses at [2020census.gov](https://2020census.gov), until the end of this month.

Where there are more people, there are more needs—for schools, roads, and services for families, older adults, and children. Communities will miss out on funding for [critical public services](#) for the next 10 years unless everyone is counted. Every response matters!

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## **II. Federal**

### **a. Federal Regulators Release Conflicting New FAQs on CRF Funding Uses**

The March CARES Act provided direct Coronavirus Relief Fund (CRF) assistance to the State of New Jersey and the State's nine most populous counties. The law allowed those direct recipients to 'sub-allocate' some or all of those monies to other local governments, located therein. The Governor has proposed, in the Budget currently being considered by the Legislature, the sub-allocation of some of the State's CRF money to municipalities located in the twelve counties that were denied direct funding, and to those counties.

The following might be important, if your municipality receives a share of CRF assistance from either a direct recipient county, or through the State program, if approved by the Legislature. Repayment of unauthorized spending of CRF funds to the Federal Government could be ordered.

On August 28, the Treasury's Office of Inspector General (OIG) – the independent auditing agency of all Treasury spending - issued a new set of Frequently Asked Questions (FAQs).

Days later, on September 2, the Treasury Department, itself, updated its CRF [Guidance](#), a separate document from the [Department's FAQs](#) and from the Department's OIG's FAQs.

The FAQs from the OIG's office run counter to Treasury's FAQs.

The **Treasury Department's** FAQs read as follows:

***2. The Guidance says that funding can be used to meet payroll expenses 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 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the "substantially dedicated" condition?***

*The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume [underline added for emphasis] that 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, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.*

The **OIG's** FAQs reinterprets the key term: "may presume" in questions 69 and 69(a).

***69) To what level of documentation will a government be held to support the reimbursement of public safety payroll that was "presumed" to be substantially dedicated to mitigating the emergency?***

*The recipient of CRF payments must maintain and make available to Treasury OIG upon request, all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801(d)). Documents/records include payroll records and documentation that support an employee's time dedicated to mitigating the COVID-19 health emergency for the covered period March 1 through December 30, 2020. Records include, but are not limited to (1) general and subsidiary ledgers used to account for the receipt of CRF payments and subsequent disbursements; and (2) payroll, time, and human resource records to support costs incurred for payroll expenses related to addressing the COVID-19 health emergency. Please refer to the Treasury OIG memorandum, Coronavirus Relief Fund Reporting and Record Retention Requirements (OIG-20-021; July 2, 2020).*

***69(a) Will government have to demonstrate/substantiate that an employee's function/duties were in fact substantially dedicated to mitigating the emergency?***

*Yes, through documentation and financial records as defined above and any other documents/records that support employee's function/duties and/or time was substantially dedicated to mitigating the COVID-19 emergency.*

The "may presume" position taken by the Treasury in earlier and in the current FAQ

is essentially superseded by the new burden of OIG's question 69(a) to demonstrate and substantiate that an employee was substantially dedicated to mitigating the emergency. Governments had been relying on "may presume" language in the Treasury's FAQs for months in the absence of guidance from the Treasury.

Both Treasury's guidance and the OIG's FAQs require documentation to prove that an employee's time was 'substantially dedicated'. The OIG's requirements, however, are going to be more onerous.

This is a very confusing situation with many contradictions, but our federal partner, the National League of Cities (NLC), is working hard to try to sort through it. NLC is taking the lead in drafting a letter to the OIG's office about this issue in conjunction with other relevant state and local organizations.

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## **b. Federal Election Risk Profile Tool Released**

On Wednesday, the [Federal Cybersecurity and Infrastructure Security Agency](#) (CISA) released the [Election Risk Profile Tool](#), a user-friendly assessment tool to equip election officials and federal agencies in prioritizing and managing cybersecurity risks to the Election Infrastructure Subsector.

The new tool aids state and local election officials in understanding the range of risks they face and how to prioritize mitigation efforts. It also addresses areas of greatest risk, ensures technical cybersecurity assessments and services are meeting critical needs, and provides a sound analytic foundation for managing election security risk with key partners at the federal, state and local level.

The Election Risk Profile Tool:

- Is a user-friendly assessment tool for state and local election officials to develop a high-level risk profile across a jurisdiction's specific infrastructure components;
- Provides election officials a method to gain insights into their cybersecurity risk and prioritize mitigations;
- Accepts inputs of a jurisdiction's specific election infrastructure configuration; and
- Outputs a tailored risk profile for jurisdictions, which identifies specific areas of highest risk and recommends associated mitigation measures that the jurisdiction could implement to address the risk areas.

The *Election Risk Profile Tool* is intended to guide CISA's prioritization of election security efforts, as well as provide election officials a method to understand the range of risks they face and how to prioritize mitigation efforts. It is designed to enhance the security and resilience of the Nation's elections in 2020 and beyond.

The Election Risk Profile Tool is available on the [EAC website](#). The tool can also be found at [www.cisa.gov/protect2020](http://www.cisa.gov/protect2020).

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### III. 2020 Annual League Conference - Early registration pricing ends October 1

The 105<sup>th</sup> Annual NJLM Conference has transitioned to a virtual event the week of November 16 through November 20. [Read the full announcement.](#)

#### a. Registration


Registration is open! The 2020 Virtual Conference will provide the same benefits that attendees have come to expect from attending the League's Annual Conference - all from the convenience of your hometown. Earn CEUs, learn about new vendor solutions, and network with peers.

A session schedule will be available mid-October, and in 2020 the Conference Program will be an insert in the November issue of *NJ Municipalities* magazine. Look for your copy in early November.

[Register now](#) to take advantage of the early registration discount and join us this November, or view more [details on the registration process](#) on the League's website.

Those who registered for the Conference before August 14 should have received a letter with the details on the transition to a Virtual Conference.




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New Jersey State League of Municipalities


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