



October 5, 2020

Hon. Holly J. Mitchell, Chair
Joint Legislative Budget Committee
Room 5080, State Capitol
Sacramento, California 95814

Dear Senator Mitchell:

In a letter dated September 28, 2020, the Department of Finance (DOF) notified the Joint Legislative Budget Committee (JLBC) of its request to reallocate \$200 million of Coronavirus Relief Funds (CRF) to Project Homekey. If approved, the request would result in an increase of General Fund expenditures—relative to the enacted level in the *2020-21 Budget Act*—of \$200 million. The administration cited the authority provided in Section 11.90 of the *2020-21 Budget Act* in making this request.

Background

State Budget Allocated \$9.5 Billion in CRF Funding. Congress allocated \$9.5 billion in CRF monies to California's state government. These funds may be used for “necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019” that are incurred between March 1 and December 30, 2020. In the state budget, the Legislature allocated the CRF monies to a number of purposes. In particular, relevant to this letter, the budget allocated \$2.7 billion in CRF to the state, to offset General Fund costs associated with the pandemic, and \$550 million to the Department of Housing and Community Development for Project Homekey.

Section 11.90 Gives the Administration Some Discretion to Reallocate Funds. Under federal law and U.S. Treasury policy, if any states' CRF funds are unspent at the end of 2020, they must revert back to the U.S. Treasury. The budget authorized DOF to reallocate the funding to other allowable activities if CRF funds are not spent before September 1, 2020. The intent of Section 11.90 was to prevent the state from reverting CRF monies back to the U.S. Treasury if, for example, one of the intended offsets or recipients did not have the capacity to spend all of its allocated CRF monies before the deadline.

Reallocation Would Shift Funding From General Fund Offset to Project Homekey. The administration's proposed reallocation would reduce the General Fund offset for pandemic-related costs from \$2.7 billion to \$2.5 billion. CRF funding for Project Homekey would increase from \$550 million (\$600 million total funds) to \$750 million (\$800 million total funds). As a result, General Fund costs would be \$200 million higher than the enacted *2020-21 Budget Act* absent additional reallocations in the future.

Analyst's Comments

Proposal Is Premature. The Legislature appropriated \$2.7 billion in CRF monies to offset General Fund expenditures, for instance, to pay for increased caseload in California Work Opportunity and Responsibility to Kids (CalWORKs) as a result of coronavirus disease 2019 (COVID-19) or to pay for direct COVID-19 related expenditures. Some of these expenditures are subject to uncertainty. For example, we do not know precisely what the level of CalWORKs caseload will be through December 30, 2020. It is possible that the state will not be able to achieve the full \$2.7 billion in state offsets with allowable uses under federal guidance. Information from DOF indicates almost \$900 million in CRF offsets were identified so far. DOF continues to work to identify additional costs that can be offset with CRF funds and we understand that they still maintain it is possible to achieve \$2.7 billion in General Fund offsets. We believe it is too early to know whether the full offset will be achieved or not. As such, we think the request to shift \$200 million from state offsets to Project Homekey is premature.

Proposal Violates Intent of Section 11.90 Process. Section 11.90 was created to allow DOF to reallocate funds among CRF eligible uses, as necessary, to ensure all of the funds could be spent by the end of the year. This proposal, however, asks the JLBC to authorize a discretionary reallocation of \$200 million in CRF monies. We believe reallocating funds on a discretionary basis—before knowing whether the original allocations can be spent—goes beyond the Legislature’s intent. Consequently, we believe this request violates the intent of the Section 11.90 process.

Proposal Sets a Concerning Precedent. This proposal would reduce the amount of CRF funds that the Legislature dedicated to state offsets. This increases General Fund costs for 2021-22 by the same amount. Essentially, the administration proposes to unilaterally appropriate General Fund money—on a discretionary basis—with a JLBC notification. Yet the State Constitution entrusts the legislative branch with the power of appropriation. As such, we have serious concerns about the precedent set by such a proposal, both in the context of the Section 11.90 process and more broadly.

Conclusion

Recommend Rejecting the Request Without Prejudice. California is experiencing a homelessness crisis. As we outlined earlier this year in our report, *The 2020-21 Budget: The Governor’s Homelessness Plan*, we recommend the state commit to a clear strategy to address that crisis. That strategy could involve additional funding for converting hotels into permanent housing—as this proposal would commit—or pursue other strategies. That said, we are not sure whether providing additional funding for project Homekey at this time aligns with the Legislature’s priorities for addressing homelessness. We also have serious concerns about the process by which this funding was proposed, as outlined earlier. In light of these concerns, we recommend that you reject the request without prejudice.

Recommend Legislature Establish a Process to Allocate Possible Unused CRF Funds. While we think it is premature to reallocate CRF funds at this time, we also think it would be prudent to consider a plan for reallocating those funds in the near future should there not be sufficient offsets. The administration should be able to determine, in the next month or so, how

much reallocation of CRF funds is necessary to fully expend the funds. The Legislature could hold hearings in late October or early November to establish its own priorities and communicate those priorities to the administration for reallocation under Section 11.90.

Sincerely,



Gabriel Petek
Legislative Analyst

Enclosure

cc: Members of the Joint Legislative Budget Committee