

AUGUST 15, 2020

COVID-19 Funding Overview

PRESENTED TO:

Senate Budget and Fiscal Review Committee
Hon. Holly J. Mitchell, Chair



LEGISLATIVE ANALYST'S OFFICE

State Funding to Respond to the Novel Coronavirus Disease 2019 (COVID-19) Pandemic

<i>(In Billions)</i>			
Funding Source	Allocated	Planned	Total
2019-20			
DREOA transfers	\$1.4	\$1.8	\$3.2
Allocated Control Section 36	0.8	—	0.8
Unallocated Control Section 36	—	0.2	0.2
Subtotals	(\$2.2)	(\$2.0)	(\$4.2)
2020-21			
9901 Budget Item	—	\$1.5	\$1.5
Subtotals	(—)	(\$1.5)	(\$1.5)
Two Year Totals	\$2.2	\$3.5	\$5.7

DREOA = Disaster Response Emergency Operations Account.

\$5.7 Billion Allocated and Planned Funding

- **Control Section (CS) 36** was created in March just before the Legislature went on recess. The Legislature appropriated \$1 billion for COVID-19 response available through CS 36 upon 72-hour notification to the Joint Legislative Budget Committee (JLBC). The administration has allocated \$827 million through CS 36.
- **Disaster Response Emergency Operations Account (DREOA)** provides the administration access to funding from a state reserve account—the Special Fund for Economic Uncertainties (SFEU)—for response and recovery operation costs incurred by state agencies in responding to a declared emergency. Funds transferred into DREOA are continuously appropriated for emergency response activities. The administration is required to notify JLBC of transfers into DREOA, but the administration does not consistently inform the Legislature after the transfers regarding actual allocations or expenditures of DREOA funds. The administration notified JLBC of three transfers, totaling \$3.2 billion, into DREOA to respond to COVID-19.



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- **9901 (Various Departments) Budget Item** sets aside \$1.5 billion as part of the 2020-21 budget package to fund expected COVID-19 response at various departments. These funds will be allocated to departments by the administration for COVID-19 response as needed.

\$716 Million SFEU Set Aside

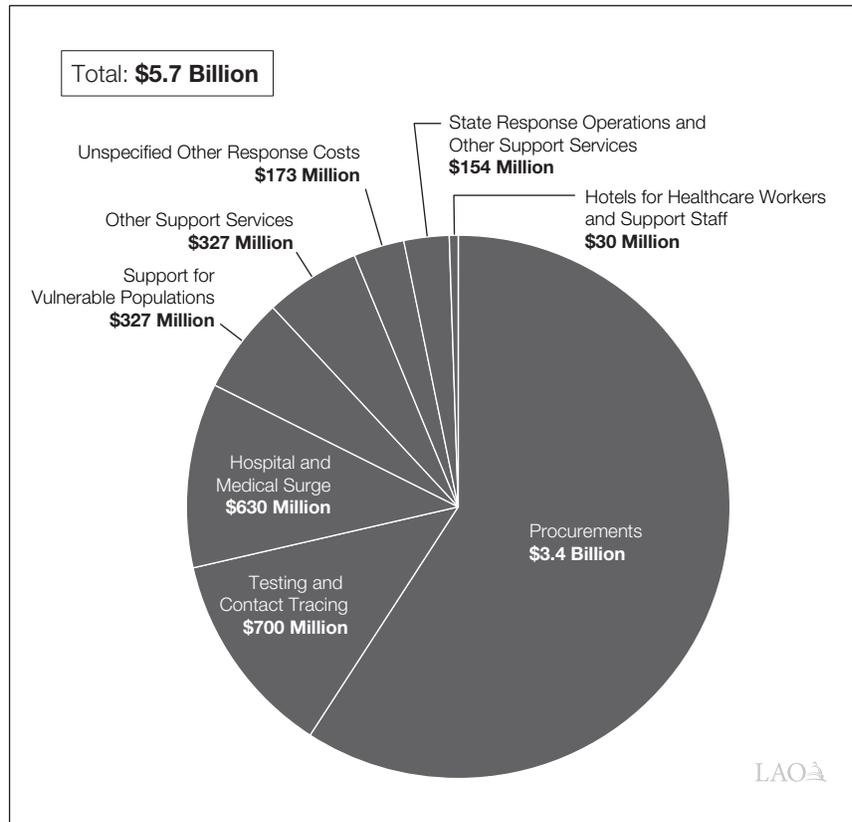
- **COVID-19 Contingencies Funded in SFEU.** The 2020-21 budget authorized a discretionary reserve balance in the SFEU of \$2.6 billion. Of this total, \$716 million is set aside for responding to COVID-19. This amount represents the state's 25 percent share of cost of the total \$2.9 billion in estimated contingency funds needed by the administration, with the remaining amount assumed to come from federal reimbursements. (This SFEU set aside was established as an alternative to providing the total \$2.9 billion in estimated additional costs through the CS 36 process.) The administration can access these funds through the DREOA process.

Potential Additional Spending Authority

- **Emergency Services Act.** The California Emergency Services Act (CESA) provides broad spending authorities to the administration during a declared emergency. Key authorities include: (1) spending legally available funds beyond the level of funding provided specifically for emergencies, (2) redirecting funding provided to departments for other purposes to a department's emergency response, and (3) redirecting funding provided for CESA purposes. If the administration employed such authority, it could further increase the level of spending on COVID-19 response.



Uncertainty About Expected Uses of COVID-19 Response Funds



- **Actual Use of \$5.7 Billion Subject to Uncertainty.** At the time the budget was enacted, the administration had identified broad categories of the types of expenditures it made and/or expected to make with the \$5.7 billion in allocated and planned funding. However, the actual use of the funds is uncertain. First, the broad categories provided lacked detail on how the funds would actually be spent. For example, \$3.4 billion was expected to fund procurement, but the mix of items to be purchased was not comprehensively identified. Second, the administration did not identify how it would spend portions of the funding, such as the \$173 million for unspecified other response costs. Lastly, the administration has the flexibility to reallocate funds between the various spending categories, or into new spending categories, based on its priorities.



Uncertainty About Expected Uses of COVID-19 Response Funds

(Continued)

- ***Use of \$2.9 Billion in Estimated Additional Funding Uncertain.***

At the time the budget was enacted, the administration had not identified the expected uses of the \$716 million SFEU set aside to support the \$2.9 billion in estimated additional expenditures. While the administration has not yet requested access to the SFEU set aside, on August 14, 2020 the Department of Finance (DOF) provided a fiscal update detailing its expected uses of all COVID-19 response funds, including the set aside funds. Specifically, the August update indicates that DOF had initially developed plans for spending the full \$2.9 billion that would be supported by the SFEU set aside. However, the administration has revised its internal plans and now identifies expected uses for \$1.7 billion of the funding supported by the set aside. It is not clear when the administration might request access to the SFEU set aside funds for the potential additional expenditures.

- ***Administration's Expected Uses of Funds Has Changed***

Significantly. On May 21, 2020 the administration provided a description of its planned uses of COVID-19 response funds to the Legislature. Less than three months later, the August 14, 2020 update provides significantly different estimates of the administration's funding estimates and priorities. For example, the administration now anticipates spending about \$1.1 billion on state response operations, about \$900 million more than the level of funding identified in May. Similarly, the August update anticipates spending \$575 million on hotels for healthcare workers, or \$545 million more than previously identified.



Issues for Legislative Consideration

Additional Information Needed to Facilitate Oversight of Recent COVID-19 Funding

- ▶ **Flexibility Provided to Administration Increases Need for Oversight**
 - ***Administration Has Significant Flexibility to Determine How to Allocate and Spend Funds.*** Existing law gives the administration considerable flexibility in allocating funds during a declared emergency. For example, CESA allows expenditures from any legally available fund to support response activities during an emergency. Notably, these powers will extend for months or potentially even years under the COVID-19 emergency declaration. Given the uncertainty surrounding actual COVID-19 response costs and needs, the Legislature appropriately gave the administration significant levels of flexibility over COVID-19 response funds. For example, the \$1.5 billion included in Budget Item 9901 for 2020-21 is available for a variety of COVID-19 response activities. Beyond this, the \$716 million SFEU set aside to support the state's share of the \$2.9 billion in estimated additional costs is available for additional response activities.
 - ***Legislature Lacks Adequate Information.*** The most recent information on how the administration plans to allocate funds was provided on August 14, 2020 and identifies significantly different spending levels and priorities than those identified only a few months ago when the Legislature was making budget decisions. Moreover, the administration has not provided comprehensive information on how funds allocated for COVID-19 response have actually been spent.



Issues for Legislative Consideration

(Continued)

- **Additional Information Is Needed for Oversight.** Having regularly updated information on the administration’s planned allocation of funds will be important for the Legislature to conduct oversight of the administration’s priorities and overall approach to responding to the COVID-19 emergency. Similarly, understanding the actual expenditure of funds will be important for oversight of COVID-19 response for several reasons.
 - The pace at which the administration is spending COVID-19 response funds will be important to track. For example, if spending is occurring rapidly, it could point to the need for funding beyond the level budgeted for 2020-21. On the other hand, if spending is relatively slow, it could point to potential administrative barriers to the state’s COVID-19 response.
 - The Legislature will want to understand how actual expenditures align with the planned uses of funds and whether expenditures are eligible for federal reimbursement and the pace of receiving those reimbursements.
 - The Legislature will also want to assess how the administration’s spending decisions impact the overall effectiveness of the state’s response to the emergency.

► Options to Improve Oversight of Planned Allocation of Funds

- To improve its oversight of how COVID-19 response funds are allocated, the Legislature may want to consider options for increasing the information it receives on the allocations. Some potential options include:
 - **Member Briefings.** The Legislature could request the administration offer a briefing to interested members prior to awarding major contracts. For example, the California Department of Corrections and Rehabilitation has periodically updated some members and staff on its COVID-19 response activities.



Issues for Legislative Consideration

(Continued)

- **Written Notification.** The Legislature could require or request formal written notification to JLBC related to allocations. For example, formal notification could be provided periodically to update the Legislature on the allocation of total funding between the broad categories of uses. Alternatively, or in addition, formal notification could inform the Legislature of individual allocations or contracts of particular interest, such as those over a certain dollar threshold.

► Options to Improve Oversight of Actual Expenditures

- The Legislature could consider options for requesting or requiring the administration to report information on actual expenditures. Some options include:
 - **Monthly or Quarterly Expenditure Reports.** Since early April, DOF has required all state agencies to report monthly on COVID-19-related costs. Requesting DOF periodically to share a summary of the information, such as by providing a monthly or quarterly report to the Legislature, would be reasonable. This could be combined with a periodic update on the planned allocation of funds.
 - **Reports Based on Percentage of Funds Spent.** Another option would be for the administration to report each time it reaches a certain expenditure threshold, such as expending 25 percent, 50 percent, and 75 percent of funds allocated for specific purposes.



Issues for Legislative Consideration

(Continued)

Emergency Spending Authorities Merit Further Review in the Future

- The use of emergency spending authorities for COVID-19 response, as well as other recent emergencies, highlights the state's numerous and overlapping emergency spending authorities.
- The various emergency spending authorities appear to create different mechanisms of spending authority that could allow for significantly different levels of transparency and legislative oversight of emergencies depending on the disaster spending authority used by the administration in each particular emergency.
- The Legislature may want to consider evaluating current emergency spending authorities and consider more broad and long-term changes to oversee future emergency response.

