Congressional Research Service
Informing the legislative debate since 1914

Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (P.L. 116-123): First Coronavirus Supplemental

March 25, 2020

Congressional Research Service
https://crsreports.congress.gov
R46285

CRS REPORT
Prepared for Members and
Committees of Congress

Congressional Research Service
Informing the legislative debate since 1914

SUMMARY

R46285

March 25, 2020

Kavya Sekar, Coordinator
Analyst in Health Policy

Agata Dabrowska
Analyst in Health Policy

Bruce R. Lindsay
Analyst in American National Government

Sarah A. Lister
Specialist in Public Health and Epidemiology

Karen E. Lynch
Specialist in Social Policy

Emily M. Morgenstern
Analyst in Foreign Assistance and Foreign Policy

Sara M. Tharakan
Analyst in Global Health and International Development

Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (P.L. 116-123): First Coronavirus Supplemental

In the early months of 2020, the federal government began to express concern over the global outbreak of Coronavirus Disease 2019 (COVID-19). COVID-19 is a viral respiratory illness caused by a novel coronavirus. By late January, the Secretary of the U.S. Department of Health and Human Services (HHS) had invoked certain authorities to direct existing funds to respond to the COVID-19 outbreak. The HHS Secretary declared COVID-19 to be a Public Health Emergency, effective January 27, 2020.

On February 24, 2020, the Trump Administration submitted an initial emergency supplemental appropriations request to Congress. The Administration requested $1.25 billion in new funds for the HHS Public Health and Social Services Emergency Fund (PHSSEF) to support COVID-19 response efforts. The request included a number of other proposals, mostly related to repurposing existing funds from across the government toward response activities. All told, the Administration estimated needing to allocate about $2.5 billion toward COVID-19 response efforts.

On March 4, 2020, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (H.R. 6074), was introduced in the House. The bill was passed by the House (415-2) on March 4 and by the Senate (96-1) on March 5. The bill was signed into law (P.L. 116-123) on March 6. This supplemental appropriations act is the first such act to be enacted in the aftermath of the COVID-19 outbreak. Any subsequent such actions are beyond the scope of the report.

According to the Congressional Budget Office (CBO), Division A of P.L. 116-123 provides roughly $7.8 billion in discretionary supplemental appropriations. (CBO estimates that provisions in Division B will cost roughly $490 million, but those provisions are not the focus of this report.) The funds in Division A of P.L. 116-123 are primarily intended to prevent, prepare for, and respond to the coronavirus. (For purposes of the bill, the term *coronavirus* refers to SARS-CoV-2, the virus that causes COVID-2019, or another coronavirus with pandemic potential.)

The majority of the funds in Division A are appropriated to HHS agencies and accounts. In total, the bill appropriates $6.5 billion to HHS, representing 84% of all funds in the bill. In general, these funds are for health emergency prevention, preparedness, and response activities related to COVID-19. Funds largely support domestic activities, but certain accounts include funds that may be allocated for global health activities. The HHS funds are distributed as follows:

- The PHSSEF receives almost half of all funds in Division A, with appropriations totaling $3.4 billion when including $300 million in appropriations that are contingent upon future actions by HHS. PHSSEF funds are provided for the development of countermeasures and vaccines, as well as for the purchase of vaccines, therapeutics, diagnostics, necessary medical supplies, medical surge capacity, and administrative activities.
- The Centers for Disease Control and Prevention (CDC) receives the next-largest share of all funds in the supplemental: $2.8 billion, accounting for more than a quarter of all funds in Division A. In general, these funds are intended to support core public health functions, including surveillance, laboratory capacity, infection control, and other activities. The funds are also for

global disease detection and emergency response, as well as for activities carried out using the Infectious Diseases Rapid Response Reserve Fund (IDRRRF).

- Remaining HHS funds are appropriated to the Food and Drug Administration ($61 million) and the National Institutes of Health ($836 million).

In addition to amounts appropriated to HHS, the supplemental provides $20 million in administrative funds for the Disaster Loans Program Account within the Small Business Administration (SBA). The supplemental also includes provisions clarifying that SBA disaster loans and economic injury disaster loans may be made in response to COVID-19. Finally, the supplemental provides nearly $1.3 billion (about 16% of all funds in Division A) to support foreign operations activities across several agencies and funding mechanisms. This includes funding to help the Department of State maintain consular operations, reimburse for evacuation expenses, and support emergency preparedness. Additional funds are provided for global health, international disaster assistance, economic support, and certain oversight activities.

Contents

Introduction 1
Lead-Up to Enactment 1
Overview of the Supplemental 2
Health and Human Services (HHS) 3
Food and Drug Administration (FDA) 3
Centers for Disease Control and Prevention (CDC) 4
National Institutes of Health (NIH) 5
Public Health and Social Services Emergency Fund (PHSSEF) 5
HHS General and Other Provisions 6
Use of Funds to Restore Prior Obligations 6
HHS Spend Plans, Transfers, and Reporting and Notification Requirements 7
Small Business Administration 8
Foreign Operations 8
Department of State 9
Bilateral Assistance 9
Foreign Operations General Provisions 10

Tables

Table 1. FY2020 Supplemental Appropriations for COVID-19 Preparedness and Response (P.L. 116-123, Division A) 2

Contacts

Author Information 11

Introduction

By late February and early March 2020, the global outbreak of Coronavirus Disease 2019 (COVID-19), a viral respiratory illness caused by a novel coronavirus, had entered a new phase, with community spread occurring in many countries and several U.S. states. Concerns grew over the potential for the disease to spread widely, leading to increased hospitalizations and deaths. On March 6, 2020, Congress and the President enacted the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (P.L. 116-123), to provide emergency supplemental appropriations to prevent, prepare for, and respond to the coronavirus outbreak. This report provides an overview of appropriations in Division A and relevant policies and requirements pursuant to the supplemental.[1] Funding in Division A is designated as being provided as an emergency requirement.

For the purposes of the supplemental, the term "coronavirus" refers to SARS-CoV-2, the virus that causes COVID-2019, or another coronavirus with pandemic potential. For an overview of congressional reporting requirements in the act, see CRS Insight IN11236, *Oversight Provisions in H.R. 6074, the Coronavirus Preparedness and Response Supplemental Appropriations Act*, by Ben Wilhelm.

Lead-Up to Enactment

Prior to the enactment of P.L. 116-123, domestic health coronavirus preparedness and response activities were primarily supported by the U.S. Department of Health and Human Services (HHS) using certain existing funding streams and transfer authorities. For instance, on January 25, 2020, the HHS Secretary determined that COVID-19 response activities would be supported by an allotment of $105 million from existing balances in the Infectious Disease Rapid Response Reserve Fund (IDRRRF; see the "Centers for Disease Control and Prevention (CDC)" section of this report). In addition, on February 2, 2020, HHS reportedly notified Congress of its intention to transfer up to $136 million to COVID-19 response efforts from other existing HHS accounts.[2]

On February 24, 2020, the Administration asked Congress for emergency supplemental appropriations of $1.25 billion for the HHS Public Health and Social Services Emergency Fund (PHSSEF) to support COVID-19 response efforts. The Administration's request included a number of other proposals, mostly related to repurposing existing funds from across the government, including HHS funds for current Ebola response activities.[3] All told, the Administration estimated needing to allocate about $2.5 billion toward COVID-19 repose efforts.

---

[1] P.L. 116-123 also includes Division B, which addresses telehealth services furnished during certain emergency periods. For more information, see related discussion in CRS Report R46239, *Telehealth and Telemedicine: Frequently Asked Questions*.

[2] Yasmeen Abutaleb and Erica Werner, "HHS Notifies Congress that It May Tap Millions of Additional Dollars for Coronavirus Response," *Washington Post*, February 3, 2020. Annual appropriations acts give the HHS Secretary limited authority to transfer funds from one budget account to another within the department. For instance, a provision in the FY2020 HHS Appropriations Act (P.L. 116-94, Division A, Title II, §205) generally allows the Secretary to transfer up to 1% of the funds from any given account. In general, a recipient account may not be increased by more than 3%. Congressional appropriators must be notified in advance of any transfer. Another FY2020 appropriations provision (P.L. 116-94, Division A, Title V, §514) addresses the Secretary's authority to reprogram funds from one program, project, or activity in a given budget account to a different program, project, or activity within the same budget account. This provision places certain limits on such actions and clarifies the circumstances in which appropriations committees must be consulted in advance.

[3] Russell T. Vought, Acting Director, White House Office of Management and Budget, letter to the Honorable Michael

The supplemental appropriations bill, H.R. 6074, was introduced and passed in the House on March 4, 2020; passed in the Senate on March 5, 2020; and signed into law (P.L. 116-123) by the President on March 6, 2020.

Overview of the Supplemental

Division A of P.L. 116-123 provides a total of $7.767 billion in supplemental appropriations to aid in the U.S. and global coronavirus preparedness and response. This total includes $6.497 billion for the HHS (including contingent amounts), $20 million for the Small Business Administration, and $1.250 billion for foreign operations activities provided across several agencies and funding mechanisms.[4] The funding is largely intended to aid in the domestic public health response to the outbreak, with limited amounts available for global health, diplomatic programs, and domestic and international economic assistance activities. Division B, which addresses telehealth services, is covered in CRS Report R46239, *Telehealth and Telemedicine: Frequently Asked Questions*.

Table 1 displays funds appropriated in Division A. The table is organized by each federal department or agency, with funds further broken down by account, program, or activity. The text below the table is organized in the same order and includes more detailed information on the purposes and specified uses of these funds.

Table 1. FY2020 Supplemental Appropriations for COVID-19 Preparedness and Response (P.L. 116-123, Division A)

Department or Agency, Program or Account	Amount (in $U.S. millions)	Availability
Titles I and III—Department of Health and Human Services (HHS)		
FDA, Salaries and Expenses	61	until expended
CDC, CDC–Wide Activities and Program Support	2,200	until Sept. 30, 2022
Transfer to Infectious Diseases Rapid Response Reserve Fund (IDRRRF) (non-add)	*300*	*(as above)*
NIH, National Institute of Allergy and Infectious Diseases (NIAID)	836	until Sept. 30, 2024
Transfer to NIH National Institute of Environmental Health Sciences (NIEHS) (non-add)	*10*	*(as above)*
OS, Public Health and Social Services Emergency Fund (PHSSEF), appropriated	3,100	until Sept. 30, 2024
Transfer to HRSA, Primary Health Care (Health Centers Program) (non-add)	*100*	(as above)
Transfer to HHS Office of the Inspector General (OIG) (non-add)	2	*(as above)*
OS, PHSSEF, additional contingent amount[a]	300	until Sept. 30, 2024
HHS Subtotal (includes contingent amount)	**6,497**	
Title II—Small Business Administration (SBA)		
Disaster Loans Program Account	20	until expended
SBA Subtotal	**20**	

R. Pence, President of the Senate, February 24, 2020.

[4] The amounts provided to HHS include $300 million in appropriations contingent upon future actions by HHS. This $300 million is referred to as a "contingent amount" in this report. For more information about the conditions of availability that apply to these funds, see the "Public Health and Social Services Emergency Fund (PHSSEF)" section of this report.

Department or Agency, Program or Account	Amount (in $U.S. millions)	Availability
Title IV—Foreign Operations		
Department of State, Diplomatic Programs	264	until Sept. 30, 2022
U.S. Agency for International Development (USAID), Office of Inspector General	1	until Sept. 30, 2022
Bilateral Economic Assistance—Global Health Programs	435	until Sept. 30, 2022
Transfer to the Emergency Reserve Fund	*200*	*(as above)*
Bilateral Economic Assistance—International Disaster Assistance	300	until expended
Bilateral Economic Assistance—Economic Support Fund	250	until Sept. 30, 2022
Transfer to Operating Expenses	*7*	*(as above)*
Foreign Operations Subtotal	**1,250**	
Total (includes HHS contingent amount)	**7,767**	

Source: Compiled by the Congressional Research Service based on amount specified in Division A of P.L. 116-123. The table does not include amounts associated with provisions in Division B of P.L. 116-123 that address certain telehealth services furnished during certain emergency periods. The Congressional Budget Office (CBO) estimated that the provisions in Division B would cost roughly $490 million over the course of FY2020-FY2022. See the CBO cost estimate for H.R. 6074, as posted on March 4, 2020, at https://www.cbo.gov/system/files/2020-03/hr6074.pdf.

Notes: FDA = Food and Drug Administration. CDC = Centers for Disease Control and Prevention. NIH = National Institutes of Health. OS = HHS Office of the Secretary. HRSA = Health Resources and Services Administration. PHSSEF = Public Health and Social Services Emergency Fund. For amounts shown as transfers, the bill text in some cases specifies a transfer of the exact amount shown; in other cases, bill text specifies transfers of *not less than* or *up to* the amount shown.

a. These funds may be used to purchase medical products (e.g., vaccines, therapeutics, and diagnostics). However, the availability of these appropriations is contingent upon future actions by HHS. Specifically, HHS must certify to the appropriations committees that funds from the initial $3.1 billion in PHHSEF appropriations that had been allotted for purchase of such products will be obligated imminently and that the additional $300 million is necessary to purchase vaccines, therapeutics, or diagnostics to adequately address the public health need.

Health and Human Services (HHS)

Titles I and III of P.L. 116-123 provide a total of about $6.5 billion in appropriations to the Department of Health Human Services (HHS) for health emergency response activities related to COVID-19.[5] The funds in these titles are provided to "prevent, prepare for, and respond to coronavirus, domestically or internationally." Funds largely support domestic activities, but certain accounts have available funding for HHS global health activities. (For information on additional international funding, see the "Foreign Operations" section of this report.)

Food and Drug Administration (FDA)

Title I provides $61 million to FDA for domestic and international efforts "to prevent, prepare for, and respond to coronavirus" to be used for activities such as development of medical

[5] Title I contains funds for the Food and Drug Administration (FDA), an agency that is typically funded in the annual Agriculture, Rural Development, Food and Drug Administration, and Related Agencies (AG) Appropriations Act. Title III contains funding for several HHS agencies and accounts typically funded in the annual Departments of Labor, Health and Human Services, and Education, and Related Agencies (LHHS) Appropriations Act.

countermeasures (e.g., therapeutics, vaccines, and diagnostics), advanced manufacturing for medical products, monitoring of medical product supply chains, and related administrative activities.

Centers for Disease Control and Prevention (CDC)

Title III makes $2.2 billion available to CDC for domestic and international preparedness and response activities, including the following:

- Not less than $950 million is for grants or cooperative agreements to "States, localities, territories, tribes, tribal organizations, urban Indian health organizations, or health service providers." (The bill calls for HHS to allocate at least half of these funds within 30 days of enactment.) The funds are for core public health functions, including surveillance, laboratory capacity, infection control, and other activities. Per the bill, each grantee that received a Public Health Emergency Preparedness (PHEP) grant for FY2019 shall receive 90% of that amount (totaling $561 million).[6] In addition, not less than $40 million shall be allocated to tribes and tribal organizations. The bill requires certain grantees receiving these funds to submit a spend plan to the CDC not later than 45 days after the date of enactment.
    - Several days after enactment, on March 11, 2020, CDC announced almost $600 million in awards to state and local PHEP grantees, additional funding to the cities of Houston and Philadelphia, and $750,000 to the Cherokee Nation, for a total of $605 million.[7]
    - On March 20, HHS announced that the CDC was preparing to provide an additional $80 million in funding to tribes, tribal organizations, and urban Indian organizations for response activities. In total, the $81 million to tribes and tribal organizations exceeds the required allocation in the supplemental.[8]
    - Based on these initial reports, CRS estimates that, as of the date of this report, about $265 million remains to be used at the CDC Director's discretion to target funds for certain jurisdictions or organizations, research, public health activities, and administrative functions.
- Not less than $300 million is for global disease detection and emergency response.
- $300 million shall be transferred to the CDC Infectious Disease Rapid Response Reserve Fund (IDRRRF). Amounts in the IDRRRF may be used to prevent, prepare for, and respond to an infectious disease emergency, as authorized by several titles of the Public Health Service Act,[9] and may be transferred by the

[6] Total FY2019 Public Health Emergency Preparedness funding was $623 million; 90% of this amount is approximately $561 million. CDC, "PHEP Budget Period 1 (Fiscal Year 2019) Funding," https://www.cdc.gov/cpr/readiness/00_docs/PHEP_Budget_Period_1_FY_2019_Funding_Table_August_2_2019.pdf.

[7] HHS, "CDC to Award Over $560 Million to State & Local Jurisdictions in Support of COVID-19 Response," press release, March 11, 2020, https://www.hhs.gov/about/news/2020-news-releases/index.html.

[8] HHS, "HHS announces upcoming action to provide funding to tribes for COVID-19 response," press release, March 20, 2020, https://www.hhs.gov/about/news/2020/03/20/hhs-announces-upcoming-action-to-provide-funding-to-tribes-for-covid-19-response.html.

[9] The IDRRRF was established in 2018 by P.L. 115-245 and is codified at 42 U.S.C. §247d-4a. Funds may be used to carry out titles II, III, and XVII of the Public Health Service Act (PHSA), which include broad authorities related to the research, public health prevention, and emergency response for infectious diseases.

CDC Director between CDC, the National Institutes of Health (NIH), and the Public Health and Social Services Emergency Fund (PHSSEF) accounts. Funds may be used for domestic and global activities.

In addition to the activities detailed above, the supplemental specifies that the funds appropriated to the CDC may be used for grants for the construction, alteration, or renovation of nonfederally owned facilities to improve preparedness and response capability at the state and local level.

National Institutes of Health (NIH)

Title III makes $836 million available to the National Institute of Allergy and Infectious Diseases (NIAID) at NIH. These funds are for preparedness and response to COVID-19. NIAID supports scientific research on COVID-19 and other coronaviruses, as well as product development for medical countermeasures (e.g., vaccines) that could be used to curb the spread of the virus and/or to lessen its health impact. The bill specifies that

- of the total provided to NIAID, not less than $10 million is to be transferred to National Institute of Environmental Health Sciences (NIEHS) for worker-based training to prevent and reduce exposure of hospital employees, emergency first responders, and other workers who are at risk of exposure to coronavirus through their work duties. NIEHS is the primary NIH institute for environmental health research.

Public Health and Social Services Emergency Fund (PHSSEF)

The Public Health and Social Services Emergency Fund is an account used in appropriations acts to provide the HHS Secretary with one-time or emergency funding, as well as annual funding for the office of the HHS Assistance Secretary for Preparedness and Response (ASPR). Title III of P.L. 116-123 makes $3.1 billion available to the PHSSEF for domestic and international coronavirus preparedness and response. PHSSEF funds may support a variety of activities, including

- product development and manufacturing for medical countermeasures (vaccines, diagnostics, and therapeutics) prioritizing platform-based technologies with U.S.-based manufacturing capabilities;
- the development of manufacturing platforms for such products;
- the purchase of medical countermeasures and medical supplies;[10]
- the expansion of medical surge capacity;
- grants to improve nonfederally owned facilities to improve preparedness and response capabilities at the state and local level; and
- grants to improve nonfederally owned facilities for the production of medical countermeasures.

[10] All purchases are to be made in accordance with Federal Acquisition Regulation guidance on fair and reasonable pricing (48 C.F.R. §15.404-1). At the discretion of the HHS Secretary, these products may be deposited in the Strategic National Stockpile authorized by PHSA Section 319F-2.

Title III also states that the HHS Secretary may take actions authorized under current law to ensure that products developed with provided funding will be affordable in the commercial market; however, the Secretary cannot take actions that delay the development of such products.[11]

The bill specifies that, out of the $3.1 billion

- $100 million is to be transferred to the Health Resources and Services Administration (HRSA) Bureau of Primary Health Care for grants under the Health Centers Program.
- Up to $2 million is to be transferred to, and merged with, funding for the HHS Office of Inspector General for the oversight of the activities supported with funds appropriated to HHS in titles I and III.
- An unspecified amount may be transferred to, and merged with, the Covered Countermeasure Process Fund. This fund may compensate eligible individuals who suffer injuries as a result of a medical countermeasure administered or used under a declaration of the Public Readiness and Emergency Preparedness Act (PREP Act).[12]

In addition to the $3.1 billion appropriation to the PHSSEF, the supplemental provides another $300 million in PHSSEF appropriations that are contingent upon future actions by HHS. The contingent funds may be used to purchase medical products (e.g., vaccines, therapeutics, and diagnostics). However, in order for the additional $300 million to become available, HHS must certify to the House and Senate Appropriations Committees that (1) funds from the initial $3.1 billion that had been allotted for purchase of such products will be obligated imminently and (2) the additional funds are necessary to purchase vaccines, therapeutics, or diagnostics in quantities that will adequately address the public health need.

HHS General and Other Provisions

Title III contains a number of general and other provisions that provide further guidance or additional requirements associated with the supplemental funds. For example, these provisions give HHS certain hiring and contract flexibilities. In addition, they authorize HHS to use funds to restore certain prior obligations, and they establish certain expectations with respect to spend plans, transfers, and reporting and notifications to Congress.

Use of Funds to Restore Prior Obligations

Title III includes general provisions authorizing HHS to use amounts appropriated in this title to restore certain obligations incurred by HHS prior to the date of enactment for activities related to coronavirus preparedness and response.[13] In some cases, HHS is required to reverse these actions. Specifically, HHS is directed to restore any amounts that had been transferred or reprogrammed for these purposes pursuant to a notice to appropriations committees on February 2, 2020.

Title III general provisions also specify that funds for certain grant awards or cooperative agreements to states, localities, and other entities are to include amounts to reimburse those

[11] This language could refer to a number of authorities, among them the march-in rights provisions of Bayh-Dole (35 U.S.C. 203) and general federal use rights of 28 U.S.C. 1498. See CRS Legal Sidebar LSB10422, *COVID-19 Medical Countermeasures: Intellectual Property and Affordability*, by Kevin J. Hickey.

[12] PHSA Section 319F-4. See also HHS, "Public Readiness and Emergency Preparedness Act," https://www.phe.gov/Preparedness/legal/prepact/Pages/default.aspx.

[13] Excludes obligations incurred by the CDC Infectious Disease Rapid Response Reserve Fund (IDRRRF).

entities for costs incurred for relevant public health and other preparedness and response activities between January 20, 2020, and the date of enactment.

HHS Spend Plans, Transfers, and Reporting and Notification Requirements

Titles III includes the following reporting and notification requirements for HHS, generally, and for specific HHS agencies:

- **Spend Plan:** HHS must provide a spend plan to the House and Senate Appropriations Committees not later than 30 days after the date of enactment. The spend plan must address anticipated uses of all funds made available to HHS in the supplemental. The spend plan must be updated and submitted to these committees every 60 days until September 30, 2024, and must include a list of each contract obligation in excess of $5 million that has not previously been reported.
- **Transfer Authority:** HHS must notify the House and Senate Appropriations Committees 10 days in advance of a transfer made between CDC, NIH, and PHSSEF accounts. HHS may transfer nearly all amounts appropriated in Title III to these specified agencies and accounts, provided the transfers are made to prevent, prepare for, and respond to coronavirus, domestically or internationally.
- **Contracting:** HHS must notify the House and Senate Appropriations Committees prior to using funding provided under Title III to enter into contracts with individuals for the provision of personal services to support coronavirus preparedness and response.[14]
- **Infectious Disease Rapid Response Reserve Fund (IDRRRF):** The HHS Secretary, in consultation with the CDC Director, shall provide a report to the House and Senate Appropriations Committees every 14 days for a full year after the Secretary has made certain determinations with respect to the IDRRRF.[15] Specifically, these reports must be made if the Secretary, pursuant to Section 231 of P.L. 115-245, has made IDRRRF funds available (1) after declaring a Public Health Emergency or (2) determining that an infectious disease emergency has significant potential to imminently occur and to affect national security or the health and security of U.S. citizens. In the case of the COVID-19 outbreak, the HHS Secretary issued a determination allowing for the allotment of funds from the IDRRRF on January 25, 2020.[16] The Secretary subsequently declared COVID-19 to be a Public Health Emergency Public Emergency effective January 27, 2020.[17] The report to the appropriations committees must detail IDRRRF commitment and obligation information in excess of $5 million and upon request of the committees.

[14] Personal service contracts are as described in 48 C.F.R. §37.104. The authority to enter into such contracts with funds provided in the supplemental expires on September 30, 2024.

[15] This requirement is included the CDC appropriations language, not in the Title III general provisions, but is discussed in this section because it deals with HHS spend plans and reporting requirements.

[16] CQ Newsmaker Transcripts, "Health and Human Services Secretary Azar Holds News Conference on Coronavirus," January 28, 2020, https://plus.cq.com/doc/newsmakertranscripts-5822133?8&searchId=XGVQS7c5press release.

[17] HHS, "Secretary Azar Declares Public Health Emergency for United States for Coronavirus Disease 2019," press release, January 31, 2020, https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html.

Small Business Administration

Title II of P.L. 116-123 provides the Small Business Administration (SBA) with $20 million until expended for administrative expenses to carry out the SBA Disaster Loan Program.[18] Title II also deems the coronavirus outbreak a disaster under Section 7(b)(2)(D) of the Small Business Act. Prior to the amendment, some questioned whether the coronavirus outbreak would meet the Small Business Act's legal definition of a disaster. The amendment addresses this question and clarifies that SBA Economic Injury Disaster Loans (EIDL) can be made available.

Title II does not provide additional funding to the SBA for disaster loans, including SBA EIDL. Instead, SBA EIDL loan funding in response to the coronavirus outbreak (as well as SBA disaster loan funding for other incidents) is to be funded by roughly $1.2 billion in disaster loan credit subsidy, which includes just over $1.1 billion in disaster loan credit subsidy carried over from previous years. This is possible because the Disaster Loan Account is a "no-year" account. No-year funding does not lapse at the end of the fiscal year. Rather, it is carried over to the next fiscal year.

A summary of the supplemental released by the House Appropriations Committee noted that the SBA is expected to make $1 billion in credit subsidy available to support the cost of anticipated defaults and related expenses of about $7 billion in EIDL loans.[19] Still, the $1.2 billion in loan subsidy may be of concern to some if EIDL assistance in response to the outbreak becomes significant, if there is an uptick in 2020 disasters, or both. Consequently, Congress could consider providing additional supplemental funding through another appropriations package.

In addition, though the coronavirus outbreak is now considered by the SBA to be a disaster, SBA EIDL is not being made automatically available to businesses. Instead, EIDL must be requested by the state or territory governor by requesting one of the following types of declarations: (1) a major disaster declaration under the under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended);[20] (2) an SBA EIDL declaration under the Small Business Act (P.L. 83-163);[21] (3) an SBA EIDL declaration under the Small Business Act based on the determination of a natural disaster by the Secretary of Agriculture;[22] or (4) an SBA EIDL declaration based on the determination of the Secretary of Commerce that a fishery resource disaster has occurred.[23]

Foreign Operations

Title IV of P.L. 116-123 provides a total of $1.25 billion for Department of State, Foreign Operations, and Related Programs (SFOPS) appropriations accounts, $264 million of which is to be managed by the Department of State and $971 million of which is to be managed by the U.S. Agency for International Development (USAID).

[18] For more information about the SBA Disaster Loan Program, see CRS Report R44412, *SBA Disaster Loan Program: Frequently Asked Questions*, by Bruce R. Lindsay.

[19] The title-by-title bill summary was released by the majority on March 4, 2020, and can be found as part of a press release made available at https://appropriations.house.gov/news/press-releases/house-passes-coronavirus-supplemental.

[20] Tribal leaders are also authorized to request major disasters. Major disaster assistance is contingent on the President granting the request for a major disaster.

[21] SBA EIDL declarations are issued by the SBA Administrator.

[22] This type of declaration makes SBA EIDL available to eligible small business cooperatives.

[23] This type of declaration makes SBA EIDL available to eligible fisheries.

Department of State

Title IV designates $264 million for the Department of State's Diplomatic Programs account, which is the department's principal operating account. Generally, the account provides for human resources functions, overseas programs, security programs, and diplomatic policy and support. P.L. 116-123 indicates that the emergency funds for Diplomatic Programs are meant to support consular operations, reimburse evacuation expenses, and bolster emergency preparedness measures.

Bilateral Assistance

The act specified the provision of $971 million across a number of bilateral assistance appropriations accounts. These include the following:

- **Office of Inspector General.** $1 million to USAID's Office of Inspector General to support oversight of COVID-19-related programming.
- **Global Health Programs.** $435 million to the Global Health Programs (GHP) account, with which USAID intends to prioritize the following interventions in developing countries affected by and at-risk of COVID-19:
  - screening at points of entry and exit;
  - the purchase of key health commodities (e.g., diagnostics, personal protective equipment, and disinfectants);
  - the prevention and control of infections in critical health facilities; readiness to identify, diagnose, manage, and treat cases rapidly;
  - the identification and follow-up of contacts;
  - awareness-raising in populations through risk-communication and community-engagement;
  - the implementation of health measures for travelers;
  - logistics and supply-chain management;
  - global and regional coordination; and
  - country-level readiness and response.

  According to USAID, the "funding will help address the threat of COVID-19 in the following high-priority countries: The Islamic Republic of Afghanistan; the Republics of Angola, Indonesia, Iraq, Kazakhstan, Kenya, South Africa, Tajikistan, The Philippines, Turkmenistan, Uzbekistan, Zambia, and Zimbabwe; the People's Republic of Bangladesh; Burma; the Kingdom of Cambodia; the Federal Democratic Republic of Ethiopia; the Kyrgyz Republic; the Lao People's Democratic Republic; Mongolia; the Federal Republic of Nepal; the Federal Republic of Nigeria; the Islamic Republic of Pakistan; the Kingdom of Thailand; and the Socialist Republic of Vietnam."[24]

  The supplemental specifies that, out of the total appropriated to the GHP account, $200 million is to be transferred into USAID's Emergency Reserve Fund (ERF) to support coronavirus-related programs, including pandemic prevention, preparedness, and control. The ERF was established under the GHP account within final FY2017 appropriations

[24] USAID, *Novel Coronavirus (COVID-19)*, March 18, 2020.

(P.L. 115-31) "to enable the United States and the international public health community to respond rapidly to emerging health threats."

- **International Disaster Assistance.** $300 million for coronavirus response efforts through the International Disaster Assistance (IDA) account. Broadly, the account is used for relief and recovery efforts in the wake of disasters—both natural and human-induced.
- **Economic Support Fund.** $250 million in emergency funds for addressing coronavirus-related "economic, security, and stabilization requirements" through the Economic Support Fund (ESF). The ESF account supports myriad objectives, ranging from more traditional development activities to those that advance U.S. political and strategic goals.

Foreign Operations General Provisions

In the general provisions of Title IV of P.L. 116-123, Congress primarily offers guidance and requirements on transfer authorities, the Administration's strategy for fighting COVID-19 on an international scale, and the intervals in which Congress requires reporting.

- **Transfer Authorities.** The act provides broad transfer authorities across GHP, IDA, and ESF, in an effort to grant flexibility to USAID in its COVID-19 response. However, five days prior to transferring funds, the Secretary of State or USAID Administrator must notify the House and Senate Appropriations Committees of the transfer's details.
- **Strategy.** The act requires the Secretary of State and USAID Administrator to issue a joint strategy to "prevent, prepare for, and respond to coronavirus abroad" within 15 days of the supplemental's enactment.
- **Reporting.** In addition to regular reporting requirements for each appropriations account, the act includes a provision that requires additional reporting for the supplemental funds.[25] The act requires the Secretary of State and USAID Administrator to jointly submit to the House and Senate Appropriations Committees a report detailing the use of the supplemental funds within 30 days of enactment. Following submission of the report, it is required to be updated every 60 days until September 30, 2022, and then every 180 days after that until all funds have been expended. This reporting structure is relatively consistent with other SFOPS supplemental appropriations measures that have been enacted in the past decade.
- **Use of Funds to Restore Prior Obligations.** The act specifies that supplemental funds appropriated to certain accounts (Diplomatic Programs, GHP, IDA, and ESF) may be used to reimburse accounts administered by the Department of State and the USAID for obligations incurred prior to enactment for activities to prevent, prepare for, and respond to coronavirus. (Certain limitations are placed on use of these funds for certain obligations previously incurred by ESF.)

[25] Regular reporting requirements can be found in FY2020-enacted appropriations, P.L. 116-94, Divison G.

Author Information

Kavya Sekar, Coordinator
Analyst in Health Policy

Agata Dabrowska
Analyst in Health Policy

Bruce R. Lindsay
Analyst in American National Government

Sarah A. Lister
Specialist in Public Health and Epidemiology

Karen E. Lynch
Specialist in Social Policy

Emily M. Morgenstern
Analyst in Foreign Assistance and Foreign Policy

Sara M. Tharakan
Analyst in Global Health and International Development

Acknowledgments

The authors acknowledge CRS Research Assistant Isaac Nicchitta for his assistance in summarizing HHS provisions.

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.