



OFFICE OF  
INSPECTOR GENERAL

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

September 12, 2023

**MEMORANDUM FOR JESSICA MILANO  
ACTING CHIEF RECOVERY OFFICER**

**FROM:** Deborah L. Harker /s/  
Assistant Inspector General for Audit

**SUBJECT:** Interim Audit Update – Audit of American Samoa’s Uses of  
Coronavirus Relief Fund Payment (OIG-23-031)

On July 31, 2020, we initiated an audit of American Samoa’s use of Coronavirus Relief Fund (CRF) proceeds under Title VI of the *Social Security Act*, as amended by Title V, Division A of the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act).<sup>1,2</sup> The objective of our audit is to assess whether the American Samoa Government (ASG) used CRF proceeds in accordance with subsection 601(d) of the *Social Security Act*, as amended (42 U.S.C. 801(d)); and the Department of the Treasury’s (Treasury) *Coronavirus Relief Guidance for State, Territorial, Local, and Tribal Governments* (Guidance) and *Coronavirus Relief Fund Frequently Asked Questions* (FAQ).<sup>3</sup> The scope of our audit includes uses of all CRF proceeds from the date of payment on April 21, 2020, through March 31, 2021. This interim update is to report on ASG’s use of \$1.5 million of CRF proceeds to purchase the MV Pago Pago vessel and related barge (collectively referred as the MV Pago Pago).

As part of our audit work to date, we reviewed applicable laws, regulations, and guidance including: (1) the CARES Act; (2) the *Consolidated Appropriations Act, 2021* (CAA, 2021);<sup>4</sup> and (3) Treasury’s Guidance and Frequently Asked Questions (FAQs). As it pertains to the use of CRF proceeds for the MV Pago Pago purchase,

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<sup>1</sup> P. L. 116-136 (March 27, 2020).

<sup>2</sup> The CARES Act assigned the Department of the Treasury (Treasury) Office of Inspector General (OIG) with the responsibility to conduct monitoring and oversight of the receipt, disbursement, and use of CRF payments.

<sup>3</sup> The Guidance and FAQs were published in the Federal Register, Volume 86, No. 10 (January 15, 2021).

<sup>4</sup> P. L. 116-260 (December 27, 2020) amended the CARES Act by extending the covered period for recipients of CRF payments to use proceeds through December 31, 2021.

we reviewed the following documentation: (1) ASG’s responses to our inquiries regarding the purchase of the MV Pago Pago (responses dated March 2, 2021, March 16, 2021, April 16, 2021, December 5, 2021, and May 19, 2022); (2) “COVID-19 Expenditure Request Form” (COVID-19 ERF) and the supporting voucher package used by ASG departments to request approval for an expenditure to be covered with CRF proceeds; (3) documents related to the MV Manu’atele vessel repair to include the “Grant and Cooperative Agreement” with the Department of the Interior, contracts with vendors, and related invoices; (4) check images for each of ASG’s three payments, totaling \$1.5 million, for the purchase of the MV Pago Pago; (5) the “American Samoa Government: Executive Summary Final Budget Fiscal Year 2020” from the accounting system (dated August 21, 2019) covering the period of October 1, 2019 through September 30, 2020; (6) the external appraisal of the MV Pago Pago vessel (August 2020); (7) the bill of sale between the seller and ASG for the MV Pago Pago purchase; and (8) ASG’s responses, dated April 16, 2021 and March 8, 2022, to our inquiries regarding the status of repairs to the MV Manu’atele vessel. We also interviewed key ASG personnel responsible for administering ASG’s CRF payments.<sup>5</sup>

Based on our audit work to date, and due to the importance of transparency and accountability surrounding the use of CRF, we are sharing our initial finding and recommendation in this interim report prior to completion of all audit work related to our overall audit objective. Our work continues related to the audit of ASG’s use of CRF proceeds.

## **Background**

### **CARES Act**

Title VI of the *Social Security Act*, as amended by Title V of the CARES Act (42 U.S.C. 801(d)), established the CRF and appropriated \$150 billion for States, Tribal governments, the District of Columbia, U.S. territories, and qualifying units of local government. The CARES Act allocated \$3 billion of the \$150 billion for the District of Columbia and U.S. Territories. Payments were distributed based on the 2019

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<sup>5</sup> We attempted to interview former COVID-19 Task Force members responsible for reviewing and approving the MV Pago Pago purchase. However, they moved off island and could not be located to answer our inquiries.

population data from the U.S. Census Bureau<sup>6</sup> and formulas stipulated in the CARES Act. Treasury was required to issue CRF payments no later than 30 days after the enactment (i.e. by April 27, 2020). Subsection 601(d) of the *Social Security Act*, as amended (42 U.S.C. 801(d)), requires that CRF proceeds be used to cover only those costs that: (1) are necessary expenditures incurred due to the public health emergency with respect to COVID-19, (2) were not accounted for in the budget most recently approved as of March 27, 2020, and (3) were incurred during the period that begins on March 1, 2020, and ends on December 31, 2021,<sup>7</sup> as extended by CAA, 2021.

Treasury issued initial CRF Guidance and FAQs on April 22, 2020, which were updated on September 2, 2020, and on October 19, 2020, respectively. The Guidance and FAQs were published together in the Federal Register on January 15, 2021.

## American Samoa

American Samoa, a U.S. Territory, received a CRF payment of \$35,173,620 on April 21, 2020. In response to the COVID-19 public health emergency, the Governor in place at that time (former Governor) developed the COVID-19 Task Force on March 10, 2020, which includes heads of different ASG departments and agencies including, but not limited to, the Department of Health, the Department of Education, and the Director of the Veterans Affairs Clinic. On January 3, 2021, new members were assigned to the COVID-19 Task Force by the newly elected Governor's administration. Prior to January 13, 2021, when an ASG department requested use of CRF proceeds, the department/agency/office was required to submit the COVID-19 ERF including a description and justification for expenditures. The COVID-19 ERF would be reviewed and signed by former officials to include the COVID-19 Task Force Chairman, the Territorial Coordinating Officer, the Treasurer, as well as the former Governor. After January 13, 2021, ASG's review/approval process for use of CRF changed and the COVID-19 ERF was replaced by the Emergency Operations Center Request Form, which is prepared by the department/agency/office and requires only two signed approvals from the Territorial Coordinating Officer and the Governor's Authorized Representative.

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<sup>6</sup> Treasury used data from the U.S. Census Bureau's International Programs for determining the population of American Samoa.

<sup>7</sup> The CARES Act initially allowed recipients of Coronavirus Relief Fund proceeds to cover costs and expenditures that were incurred between March 1, 2020 and December 30, 2020.

Additionally, the COVID-19 Compliance Review Committee (CRC), created under the former Governor, was charged with ensuring that every COVID-19 expenditure was justified and complied with the grant's terms and conditions.

### MV Pago Pago

The former COVID-19 Task Force Chairman approved and signed the COVID-19 ERF for the \$1.5 million purchase of the MV Pago Pago on September 18, 2020. The former Treasurer approved and signed the form on October 6, 2020, and the former Governor approved and signed it but did not date his signature. The first payment for the MV Pago Pago was on September 17, 2020, which was prior to the COVID-19 Task Force Chairman's COVID-19 ERF signed approval on September 18, 2020. ASG subsequently made the second and third payments on October 7, 2020, and October 28, 2020, respectively. From April to May 2020, prior to the purchase of the MV Pago Pago in September 2020, ASG leased the vessel from the seller as substitute transportation for supplies and goods while one of ASG's other vessels, the MV Manu'atele, was being repaired. The MV Manu'atele was used for transportation of supplies, goods, and passengers; whereas, the MV Pago Pago was used to transport goods and supplies only. The MV Pago Pago was not certified for passenger transport.

### Interim Audit Results

We determined that ASG's use of \$1.5 million of CRF proceeds to purchase the MV Pago Pago occurred within the covered period (March 1, 2020 through December 31, 2021) and was not previously budgeted as of March 27, 2020, but ASG officials were unable to justify the use of CRF proceeds as necessary in response to the COVID-19 public health emergency. As a result, we question the \$1.5 million of CRF proceeds used for the purchase of the MV Pago Pago vessel in violation of subsection 601(d) of the *Social Security Act*, as amended (42 U.S.C. 801(d)), as well as, Treasury's Guidance and FAQs, as described in the following finding.

#### **Finding: ASG's Purchase of the MV Pago Pago Was Not Necessary in Response to the COVID-19 Public Health Emergency**

ASG's purchase of the MV Pago Pago did not comply with the use of funds requirements under subsection 601(d) of the *Social Security Act*, as amended (42

U.S.C. 801(d)) and Treasury's Guidance and FAQs as the vessel was not a necessary expenditure in response to the COVID-19 public health emergency. Between April and May 2020 (prior to the first payment for the MV Pago Pago on September 17, 2020), ASG leased the MV Pago Pago from the seller using non-CRF proceeds while the MV Manu'atele vessel (used for passenger, supplies, and goods transport) was being repaired. At the time of the MV Pago Pago purchase, the MV Manu'atele vessel was still being repaired. However, ASG also owned other marine vessels, to include the MV Sili, Segaula, and the Uila Ole Sami utility vessel, that were used as alternative vessels for travel and as public transportation.<sup>8</sup> The MV Pago Pago was not certified for passenger transport. Furthermore, the seller's proposal to the American Samoa Department of Public Safety for Maritime Patrol (dated June 25, 2020) cited uses of the MV Pago Pago that were non-COVID-19 related activities to include: (1) maritime search and rescue; (2) marine patrol and marine sanctuary; (3) illegal, unreported, and unregulated fishing monitoring; and (4) drug surveillance.

The COVID-19 CRC reviewed the MV Pago Pago purchase on December 24, 2020, and identified the purchase as a questioned cost in its documentation. Specifically, the COVID-19 CRC concluded that there was no justification for the purchase, no assessment of the MV Pago Pago's current value, and the purchase was not COVID-19 related. Additionally, the COVID-19 CRC recommended that other options be considered, such as leasing the vessel to transport needed medical supplies to American Samoa.

According to subsection 601(d) of the *Social Security Act*, as amended (42 U.S.C. 801(d)), CRF proceeds must be used to cover costs and expenditures that:

- Are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
- Were not accounted for in the budget most recently approved as of March 27, 2020; and
- Were incurred between March 1, 2020, and December 31, 2021, as extended by CAA, 2021.

Treasury clarifies in its Guidance:

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<sup>8</sup> The MV Sili was later determined to be unsafe.

“The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.”

Additionally, Treasury’s FAQ A.58 addresses purchase of equipment as follows:

*May payments from the Fund be used for real property acquisition and improvements and to purchase equipment to address the COVID-19 public health emergency?*

“...as with all uses of payments from the Fund, the use of payments to acquire or improve property is limited to that which is necessary due to the COVID-19 public health emergency. In the context of acquisitions of real estate and acquisitions of equipment, this means that the acquisition itself must be necessary. In particular, a government must (i) determine that it is not able to meet the need arising from the public health emergency in a cost-effective manner by leasing property or equipment or by improving property already owned and (ii) maintain documentation to support this determination.”

When we inquired as to how the purchase was necessary in response to the COVID-19 public health emergency, current ASG officials could not explain. They were also unsure whether the former COVID-19 Task Force members considered cost effective alternatives such as using and/or improving vessels already owned or leased prior to the MV Pago Pago purchase. Furthermore, the former COVID-19 Task Force members moved off island and could not be located to answer our inquiries.

Accordingly, we concluded that ASG used CRF proceeds for unallowable expenditures in violation of subsection 601(d) of the *Social Security Act*, as

amended (42 U.S.C. 801(d)), as well as Treasury’s Guidance and FAQs.<sup>9</sup> As such, we question ASG’s use of \$1.5 million of CRF proceeds for the MV Pago Pago purchase. See appendix 1 for the definition and schedule of questioned cost.

## **Treasury Office of Inspector General (OIG) Recommendation**

1. We recommend that the Chief of the Treasury Office of Recovery Programs works with the OIG to ensure that the ASG Treasurer returns to Treasury the \$1.5 million of CRF proceeds that were used to purchase the MV Pago Pago in violation of subsection 601(d) of the *Social Security Act*, as amended (42 U.S.C. 801(d)), as well as Treasury’s Guidance and FAQs. To the extent funds are not returned, Treasury OIG will seek recoupment under its authority assigned by the CARES Act.

### **ASG Management’s Response**

As part of our reporting process, we provided ASG management an opportunity to comment on a draft of this report. In a written response, ASG management stated they understood the finding and agreed to pay back the \$1.5 million of CRF proceeds that were used to purchase the MV Pago Pago. ASG management’s response, in its entirety, is included as appendix 2.

### **Treasury Management’s Response**

Treasury management concurred with our recommendation and agreed that ASG should return the \$1.5 million in CRF award funds to Treasury. Management stated they coordinated a repayment plan with ASG and have received \$1 million as of September 7, 2023. Management also stated they will continue to work with ASG to ensure repayments are submitted in a timely manner. Treasury management’s response, in its entirety, is included as appendix 3.

### **Treasury OIG Comment**

Treasury management’s planned corrective actions meet the intent of our recommendation. Management will need to record an estimated completion

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<sup>9</sup> Based on ASG’s final submission of the *OIG Financial Progress Report* in the grant reporting system as of September 30, 2022, the MV Pago Pago purchase was still a reported expenditure. Furthermore, ASG had obligated and expended all CRF proceeds and completed its CRF reporting requirement.

date for these actions in Treasury’s Joint Audit Management Enterprise System (JAMES).

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We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

As part of our audit, we reviewed Government Accountability Office’s (GAO) *Standards for Internal Control in the Federal Government*<sup>10</sup> to assess internal control and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we determined that the internal control components: *Control Environment, Risk Assessment, Control Activities, and Information and Communication*<sup>11</sup> were significant to the audit objective. However, our review of the internal control components and underlying principles at the time of this letter may not have disclosed all internal control deficiencies that may have existed.

Additionally, we performed data reliability procedures with respect to the systems and documents related to the MV Pago Pago purchase in accordance with GAO’s *Assessing Data Reliability* guidance and reconciled ASG’s payment listing template (illustrates CRF expenditures by transaction) to its certified Cycle 4, *OIG Financial Progress Report, Revision #1* (reflecting cumulative use of CRF expenditures through March 31, 2021). We reviewed and matched the following supporting documents within the MV Pago Pago voucher package to each other to determine completeness and accuracy: (1) the seller’s invoices, (2) Accounts Payable vouchers, (3) the COVID-19 ERF, (4) the seller’s “Intent to Sell” letter, (5) the International Tonnage Certificate, (6) the seller’s proposal to American Samoa Department of Public Safety for Maritime Patrol dated June 25, 2020, (7) and

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<sup>10</sup> GAO-14-704G (September 2014).

<sup>11</sup> The underlying principles related to internal control components that were significant to the audit objective include (1) Establish Structure, Responsibility, and Authority; (2) Demonstrate Commitment to Competence; (3) Define Objectives and Risk Tolerances; (4) Identify, Analyze, and Respond to Risks; (5) Assess Fraud Risk; (6) Identify, Analyze, and Respond to Change; (7) Design Control Activities; (8) Implement Control Activities; (9) Use Quality Information; (10) Communicate Internally; and (11) Communicate Externally.

check images illustrating three separate payments. We noted no concerns over the completeness and accuracy of data related to the MV Pago Pago purchase.

We appreciate the courtesies and cooperation provided by your staff. If you have any questions or require further information, please contact me at (202) 486-1420, or a member of your staff may contact Lisa DeAngelis, Deputy Assistant Inspector General for Audit, at (202) 487-8371.

cc: American Samoa Government

Treasurer  
Chief of Staff  
Chief Accountant

Department of the Treasury

Treasury Secretary  
Deputy Secretary  
Chief Compliance and Finance Officer, Office of Recovery Programs  
Treasury Audit Liaison  
Office of Strategic Planning and Performance Improvement  
Office of the Deputy Chief Financial Officer, Risk and Control Group

Office of Management and Budget

OIG Budget Examiner

United States Senate

Committee on Homeland Security and Government Affairs  
Committee on Finance  
Committee on Banking, Housing, and Urban Affairs  
Committee on Appropriations  
Committee on the Budget  
Committee on Energy and Natural Resources

United States House of Representatives

Committee on Oversight and Accountability  
Committee on Financial Services  
Committee on Appropriations  
Committee on the Budget  
Committee on Natural Resources

## Appendix 1: Schedule of Questioned Cost

A questioned cost is a cost that is questioned by the auditor because of an audit finding: (1) which resulted from an alleged violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds; (2) where the costs, at the time of the audit, are not supported by adequate documentation; or (3) where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.<sup>12</sup> Questioned costs will also be included in the next Office of Inspector General Semiannual Report to Congress.

<u>Recommendation Number</u>	<u>Questioned Cost</u>
Recommendation 1	\$1,500,000

The questioned cost relates to the use of CRF proceeds for an unallowable expenditure in violation of subsection 601(d) of the *Social Security Act*, as amended (42 U.S.C. 801(d)), as well as Treasury's Guidance and FAQ. As discussed in this report, ASG used CRF proceeds for the purchase of the MV Pago Pago that was not a necessary expenditure due to the COVID-19 pandemic health emergency.

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<sup>12</sup> 23 2 CFR § 200.84 – Questioned Cost

## Appendix 2: ASG Management Response



**LEMANU P. MAUGA**  
GOVERNOR

**TALAUEGA ELEASALO**  
**ALE**  
LT. GOVERNOR

**DEPARTMENT OF TREASURY**  
American Samoa Government  
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**MALEMO L. TAUSAGA**  
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**LEVI REESE**  
DEPUTY TREASURER

July 14, 2023

Serial No.: 200-23

Kenna Stroop, CPA  
Auditor-in-Charge, CARES ACT Audits  
U.S. Department of the Treasury  
Office of Inspector General

Dear Ms. Kenna Stroop:

Thank you for Wednesday's exit conference call.

We have no technical comments to add to the interim audit update. We understand the finding and agree to pay back the \$1.5 million of CRF proceeds that were used to purchase the MV Pago Pago.

Sincerely,



Malemo Tausaga  
ASG Treasurer  
Department of Treasury  
American Samoa Government

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## Appendix 3: Treasury Management Response



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

September 7, 2023

Deborah L. Harker  
Assistant Inspector General for Audit  
U.S. Department of the Treasury – Office of the Inspector General  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Ms. Harker:

I am writing regarding the Office of the Inspector General's (OIG) draft *Audit of American Samoa's Uses of Coronavirus Relief Fund Payment*, which reviewed the American Samoa Government's (ASG) use of Coronavirus Relief Funds (CRF) award funds. The U.S. Department of the Treasury (Treasury) Office of Recover Programs (ORP) appreciates OIG's efforts.

ORP agrees with the OIG's recommendation for ASG to return to Treasury CRF award funds in the amount of \$1.5 million. As noted in the audit report, these funds were used to purchase the MV Pago Pago in violation of section 601(d) of the *Social Security Act*, as added by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and codified as 42 U.S.C. 801(d) and Treasury's *Coronavirus Relief Fund Program Guidance* ([86 FR 4182](#)) as published in the Federal Register on January 15, 2021.

ASG agreed with the OIG's findings and voluntarily agreed to return the CRF award funds to Treasury. ORP coordinated a repayment plan with ASG as provided below. ASG agreed to the below schedule to repay the CRF award funds and has repaid \$1 million to ORP as of the submission of this letter.

Payment Dates	Amount
Wednesday, July 19, 2023	\$500,000
Friday, Aug 18, 2023	\$500,000
Tuesday, Sept 19, 2023	\$500,000
<b>Total</b>	<b>\$1,500,000</b>

ORP will continue to work with ASG to ensure repayments are submitted in a timely manner.

Treasury appreciates OIG's work on this engagement. We look forward to continuing to work with you to protect the integrity of this and other recovery programs.

Sincerely,

Jessica Milano  
Chief Program Officer