



February 22, 2021

The Hon. Phil Mendelson and Councilmembers
Council of the District of Columbia
1350 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Chairman Mendelson and Councilmembers:

I write to follow up on conversations with several Councilmembers and staff about the legislature's role in allocating COVID-19 federal relief funds in the expectation that the District will receive well over two billion dollars in additional federal funds based on Congressional action prior to March 14, 2021. If the Council chooses to give itself a role in allocating new funds you may wish to do so at the March 2, 2021 legislative meeting, given the expected Congressional timetable.

The Office of the D.C. Auditor issued a report in May 2020, [COVID-19 Federal Funding Streams Available to the District of Columbia](#), in anticipation that the Council would closely track the expenditure of emergency federal funds. Although I am not aware of hearings for that specific purpose, the four 2020 bills authorizing the funds included extensive requirements for federal reporting on the expenditures and this information is available on a variety of federal websites including the [Pandemic Response Accountability Committee](#) and also available through organizations to which the Council belongs including the National Conference of State Legislatures which has a daily federal [tracker](#).

In recent days Councilmembers and staff have asked me about options the Council has to *approve* as well as *oversee* upcoming expenditures, a step taken by a number of state legislatures in 2020 to be certain the legislature's voice was clearly heard in pandemic response efforts. Some of the options include:

- Mandating through emergency legislation the submission of a supplemental FY21 budget explicitly for COVID-19 expenditures contained in the upcoming Congressional legislation which the Council could then revise and approve, giving it the force of law. D.C. Code § 1-204.42 on the Council's authority to direct the Mayor on the time and format of the annual budget submission also includes this provision:

(d) The Mayor shall prepare and submit to the Council a proposed supplemental or deficiency budget recommendation under subsection (c) of this section if the Council by resolution requests the Mayor to submit such a recommendation.

- Requiring through emergency legislation a spending plan for all or part of the upcoming federal funding which the Council would be required to approve in order for the Office of the Chief Financial Officer to release the funds for the stated purpose which could be an up or down vote, or could be amended depending on the language of the emergency legislation. Several state legislatures last year mandated a cooperative effort to make spending decisions with panels including representatives of the legislature and the governor's office.
- Requiring through emergency legislation that the Council approve expenditures of the State and Local Fiscal Recovery Fund slated to be a direct appropriation from the U.S. Treasury to the District of Columbia similar to the Coronavirus Relief Fund. At \$495 million, that was the largest allocation and the only direct appropriation last year. The upcoming package as currently drafted would provide the District with \$2.2 billion in a direct appropriation and is expected to include funds to make up for the fact that the District did not get the full allocation for states included in the CARES Act last spring.
- Requiring through emergency legislation that the Council approve expenditures of the new Education Stabilization Fund which totals \$170 billion and for which the District's allocations is not yet published. This is likely to be the second largest allocation to the District from the new COVID-19 federal funding legislation.

The Congressional package as proposed by President Biden will include significant other funds for specific purposes, many provided through existing funding streams and grant programs, as we described in our May 2020 report on funds received by the District. An argument could be made to limit the Council's direct role in spending decisions to the \$2.2 billion in State and Local Fiscal Recovery Funds since that is a direct appropriation without the level of federal oversight and rulemaking the majority of other funding through existing programs will have.

I hope this information is useful to the Council and I would be happy to provide any additional information. Thank you for your consideration.

Sincerely yours,

A handwritten signature in blue ink that reads "Kathleen Patterson". The signature is fluid and cursive, with the first name being more prominent.

Kathleen Patterson
District of Columbia Auditor

cc: Councilmembers
Officers of the Council