

EXECUTIVE ORDER NO. 267

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which all are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19, which have been strengthened and expanded upon in subsequent Executive Orders, including Executive Order Nos. 105-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, No. 200, Nos. 203-204, No. 207, and Nos. 210-211 (2020), and Nos. 214-216, Nos. 219-220, Nos. 222-223, No. 225, Nos. 228-235, Nos. 237-244, No. 246, Nos. 251-253, Nos. 263-264, and No. 266 (2021), the facts and circumstances of which are adopted by reference herein; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency pursuant to his constitutional and statutory powers, including those granted by Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq., and consistent with Section 1135 of the Social Security Act, as amended, 42 U.S.C. § 1320b-5; and

WHEREAS, also on March 13, 2020, the President determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant a nationwide emergency declaration under Section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance

Act ("Stafford Act"), 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, on March 25, 2020, the President determined that the COVID-19 pandemic in New Jersey was of sufficient severity and magnitude to warrant a major disaster declaration under Section 401 of the Stafford Act, 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, on July 17, 2020, I issued Executive Order No. 166, the facts and circumstances of which are adopted by reference herein, which set forth a compliance framework to ensure that the State expended and distributed COVID-19 emergency and relief funds in accordance with federal and State rules and regulations and in a way that guarded against fraud, waste, and abuse; and

WHEREAS, the distribution of emergency and relief funds to local government units, businesses, non-profit organizations, and the general public is a priority of my Administration, and the waste, fraud, or abuse of those funds would frustrate that purpose; and

WHEREAS, the federal government has created and continues to create numerous sources of federal funding for state and local governments, businesses, non-profit organizations, and members of the public to support pandemic response and economic recovery, including but not limited to the American Rescue Plan Act of 2021 ("American Rescue Plan"), with state and local governments serving as intermediaries for the distribution of significant portions of those funds; and

WHEREAS, the American Rescue Plan includes approximately \$10 billion in "COVID-19 State and Local Fiscal Recovery Funds" ("SLFRF") that are available from the United States Department of the Treasury ("United States Treasury") to the State and to each

of its twenty-one (21) counties and five hundred and sixty-five (565) municipalities; and

WHEREAS, the SLFRF have the same eligibility criteria and potential uses for State and local governments, thereby requiring unprecedented cooperation and coordination among State and local governments to avoid creating duplicative programs and projects across State-funded and local government-funded programs; and

WHEREAS, the United States Treasury requires state, county and municipal recipients of the SLFRF to report program, sub-recipient, obligation, and expenditure details into a system designated and managed by the United States Treasury as stated in United States Treasury SLFRF Compliance and Reporting Guidance dated June 17, 2021; and

WHEREAS, the reports submitted to the United States Treasury on the uses of SLFRF should contain details on which State, county, and municipal programs may potentially provide duplicate benefits across each level of government; and

WHEREAS, to ensure the proper expenditure of funds, the recipients of federal funding are required to institute procedures to guard against the duplication of benefits across programs and across entities within the same jurisdiction that would violate provisions of the Stafford Act; and

WHEREAS, the State, in order to maximize the impact of federal COVID-19 federal funding, and in compliance with Executive Order No. 166 (2020) and its federal obligations, seeks to minimize the risk of creating improper duplicate benefits by fostering cooperation and coordination across State, county, and municipal COVID-19 relief programs; and

WHEREAS, the Department of Community Affairs ("DCA"), Division of Disaster Recovery & Mitigation ("DDRM") has been designated as the grant manager responsible for the oversight and proper expenditure of the SLFRF; and

WHEREAS, the DCA, Division of Local Government Services ("DLGS") is the State's primary point of coordination with all county and local governments within the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. County and municipal recipients of SLFRF must provide copies of all reports filed with the United States Treasury to the DCA, DLGS. The DLGS will serve as the State's central point of contact and receipt for copies of the filings from county and municipal governments with the United States Treasury. Pursuant to this Order, the DLGS is required to issue a Local Finance Notice related to the SLFRF to outline the details pertaining to the collection of the aforementioned filings. At minimum, the Local Finance Notice must include:

- a. The method of transmitting the United States Treasury reports to the DLGS;
- b. The format of the aforementioned reports;

- c. Dates when the aforementioned reports must be submitted to the DLGS; and
- d. Information as to how SLFRF recipients can request program and benefit data, including an email address to which the request shall be sent, so the program recipients can prevent potential Duplication of Benefit awards and disbursements.

2. The DCA, DDRM is directed to review county and municipal reports collected pursuant to Paragraph 1 of this Order to identify potential duplicative State programs. As New Jersey's State Fiscal Recovery Funds grant manager, the DCA, DDRM will accumulate information pertinent to and oversee all programs and activities funded by SLFRF.

3. The DDRM is directed to perform an analysis based on the United States Treasury reporting received by the DGLS from county and municipal Local Fiscal Recovery Funds recipients, and to flag any potentially duplicative funding that may create a violation of the Stafford Act. Pursuant to this review, the Division of Disaster Recovery & Mitigation is directed to:

- a. Identify any State, county, and/or municipal SLFRF program that may provide duplicative benefits to the same individual and/or entity;
- b. Notify the county and/or municipal State and Local Fiscal Recovery Funds recipient of the potential duplicative programs; and
- c. Provide State and Local Fiscal Recovery Funds recipients with access to a copy of the State program or beneficiary State Fiscal Recovery Fund data as necessary.

4. The DLGS shall be authorized to call upon any county or local government agency of this State to supply them with any information, personnel, or other assistance necessary to discharge their duties under this Order.

5. The DDRM shall be authorized to call upon any department, office, division, or agency of this State to supply them with any information, personnel, or other assistance necessary to discharge their duties under this Order.

6. Each department, office, division, and agency of this State, along with each county and local government entity within this State, is hereby required, to the extent not inconsistent with law, to cooperate fully with the DCA, DLGS and DDRM to provide them with such information and assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

7. This Order shall take effect immediately.

GIVEN, under my hand and seal this
8th day of October,
Two Thousand and Twenty-one,
and of the Independence of
the United States, the Two
Hundred and Forty-Sixth.

[seal]

/s/ Philip D. Murphy
Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor