



LEDOs & Local Governments access to CARES Act Funds

Ohio Economic Development Association (OEDA)

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What We'll Cover Today



CARES Act

Overview of the CARES Act: Coronavirus Relief Fund, EDA, HUD & Federal Reserve Board



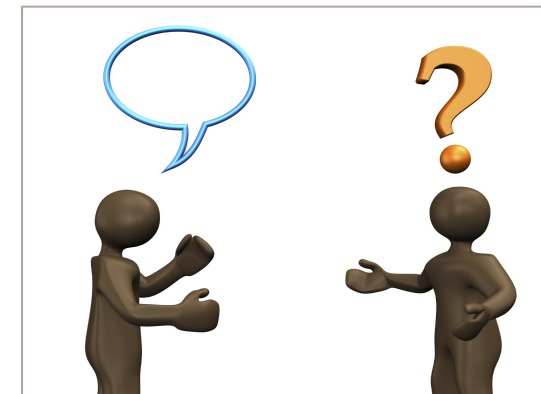
Eligibility & Use of Funds

Eligibility & Uses of CARES Act's Different Funding Streams



Ohio House Bill 481

Overview of Ohio House Bill 481
(formerly Senate Bill 310)



Q & A

Time for Questions and Answers

The CARES ACT



The Coronavirus Aid, Relief, and Economic Security (CARES) Act

- [Public Law 116-136](#) signed into law on March 27, 2020
- Established & appropriated **\$150B to Coronavirus Relief Fund**
 - U.S. Treasury to make payments from the Coronavirus Relief Fund to:
 - States
 - **\$4.532B total state allocation** to Ohio
 - Eligible units of local government
- **\$1.5B to U.S. Economic Development Administration**
- **\$5B to federal Housing & Urban Development agency**
- **\$75B equity investment in Federal Reserve Board's Main Street SPV (Sect. 4027)**

Coronavirus Relief Fund & Ohio House Bill 481: Local Gov't Distributions

Purpose of Coronavirus Relief Fund



To “provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency.”

Eligible Units of Local Government

- Cities and counties in Ohio with **population exceeding 500,000 (2019)**
 - 6 jurisdictions eligible for **\$778MM in direct payments from Coronavirus Relief Fund**
 - Full list: <https://home.treasury.gov/system/files/136/Eligible-Units.pdf>
 - Funds distributed in May
 - *City of Columbus* (\$157MM)
 - *Cuyahoga County* (\$215MM)
 - *Franklin County* (\$76MM)
 - *Hamilton County* (\$143MM)
 - *Montgomery County* (\$93MM)
 - *Summit County* (\$94MM)
- Remaining **\$3.75B to State of Ohio**
 - Of which, **\$1.2B for local governments**
 - Ohio House Bill (HB) 481 appropriates **\$350MM to local governments**
 - Constituent subdivisions can receive subawards from the 6 directly paid jurisdictions + HB 481 allocations
 - State legislators holding back **\$2.49B** in further response to pandemic
- Must be appropriated & spent by **December 30, 2020**

Eligible Uses of Funds – All Recipients (incl. downstream)



Payments from the Coronavirus Relief Fund **can only be used** to finance 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 for the State or government; *and*
3. Were **incurred** during the period beginning **March 1, 2020** and ending **December 30, 2020**

Summary: “government[s] may use payments from the Fund only to cover previously unbudgeted costs of necessary expenditures incurred due to the COVID-19 public health emergency during the covered period.”

Eligible Uses of Funds – U.S. Dept. of Treasury Guidance (06.30. 2020)



(1) Necessary expenditures incurred due to public health emergency

- Costs incurred to respond directly to the emergency
 - Addressing **medical or public health** needs
 - Examples: COVID-19-related expenses of public hospitals, providing testing
- Costs incurred to respond to second-order effects of the emergency
 - Providing **economic support** to address employment or business interruptions due to COVID-19-related business closures
- GOVERNMENTS: **Not to be used to fill shortfalls in gov't revenue**
- Expenditures must be **necessary**
 - U.S. Dept. of Treasury interprets this term “**broadly**” to mean “*expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.*”

Eligible Uses of Funds – U.S. Dept. of Treasury Guidance (06.30. 2020)



(2) **Costs not accounted for in budget most recently approved** as of March 27, 2020

- Ohio OBM’s “basic eligibility requirement”:
 - Cost either **can’t lawfully be funded** using a line item, allotment, or allocation within that approved budget; *or*
 - It’s for a **substantially different use** from any expected use of funds in such line item, allotment, or allocation
- **“Most recently approved”** is the original **enacted budget** for the government’s relevant fiscal period
 - This reference does not include *supplemental appropriations* or other *budget adjustments* made after March 27 in response to COVID-19
- Just because COVID-19 related cost **could be** covered by rainy day fund **does not mean it was accounted for** in original budgeting efforts

Eligible Uses of Funds – U.S. Dept. of Treasury Guidance (06.30. 2020)



- (3) Cost incurred during **period that begins 03.01.2020 & ends 12.30.2020**
- For cost to be incurred, **performance or delivery** must occur during **“covered period”**
 - Note: **payment of funds** need not be made during covered period...
 - ... but generally payment to occur w/in 90 days
 - Ineligible: good / service received but not needed until after 12.30.2020
 - OK: **goods purchased in bulk** & delivered during covered period but otherwise impractical to track
 - OK: **durable good** used during covered period & in subsequent periods
 - **Reasonableness** standard

Eligible v. Ineligible Expenditures



Eligible Expenditures – with formal determination

- **Medical expenses** such as:
 - Testing, operating telemedicine
 - **Public health expenses** like:
 - PPE & enforcing health orders
 - **Entire payroll cost of public safety & health care workers**
 - *Presumed eligible* unless determined otherwise
 - “Substantially dedicated” to COVID-19
 - IT improvements for **distance learning & public employees’ telework arrangements**
 - CARES Act **grant administration**
- Expenses associated with provision of **economic support** in connection w/ COVID-19:
 - **Providing grants to small businesses** to reimburse costs of interruption from closing
 - Local government’s **payroll support program** for its employees
 - State’s or employers’ **payments to unemployment insurance or workers’ compensation funds** (if not reimbursed by feds)

Eligible v. Ineligible Expenditures



Eligible Expenditures – with formal determination

“Any other COVID-19-related expenses **reasonably necessary** to the function of government that satisfy the Fund’s eligibility criteria.”

Keep records sufficient to demonstrate that the Fund payments have been used in accordance with the CARES Act.

Eligible v. Ineligible Expenditures



Ineligible Expenditures

- Payroll or benefits expenses for **public employees** whose work duties are **not substantially dedicated** to responding to COVID-19
- Expenses that have been or will be **reimbursed under any federal program**
- Severance pay
- Legal settlements
- **Capital improvement projects not related to COVID-19 mitigation**
- Damages covered by insurance
- Expenses for the state share of Medicaid
- Reimbursement to donors for donated items or services
- Workforce bonuses other than hazard pay or overtime
- To cover **owners' property tax obligations**

Am. Sub. House Bill 481



To authorize the conveyance of state-owned real property and to provide for the distribution of some federal coronavirus relief funding to local subdivisions . . .

UNCODIFIED SECTION 28.

- Appropriates **\$350MM of federal Coronavirus Relief Fund** to those counties, townships, or municipalities not receiving direct federal payments

UNCODIFIED SECTION 27.

- Ohio Office of Budget & Management (OBM) Director to distribute Fund payments to each County Auditor according to 2019 Local Government Fund distribution formula
- Each County Auditor to distribute Fund payments to each constituent subdivision so long as legislative authority adopts Resolution / Ordinance

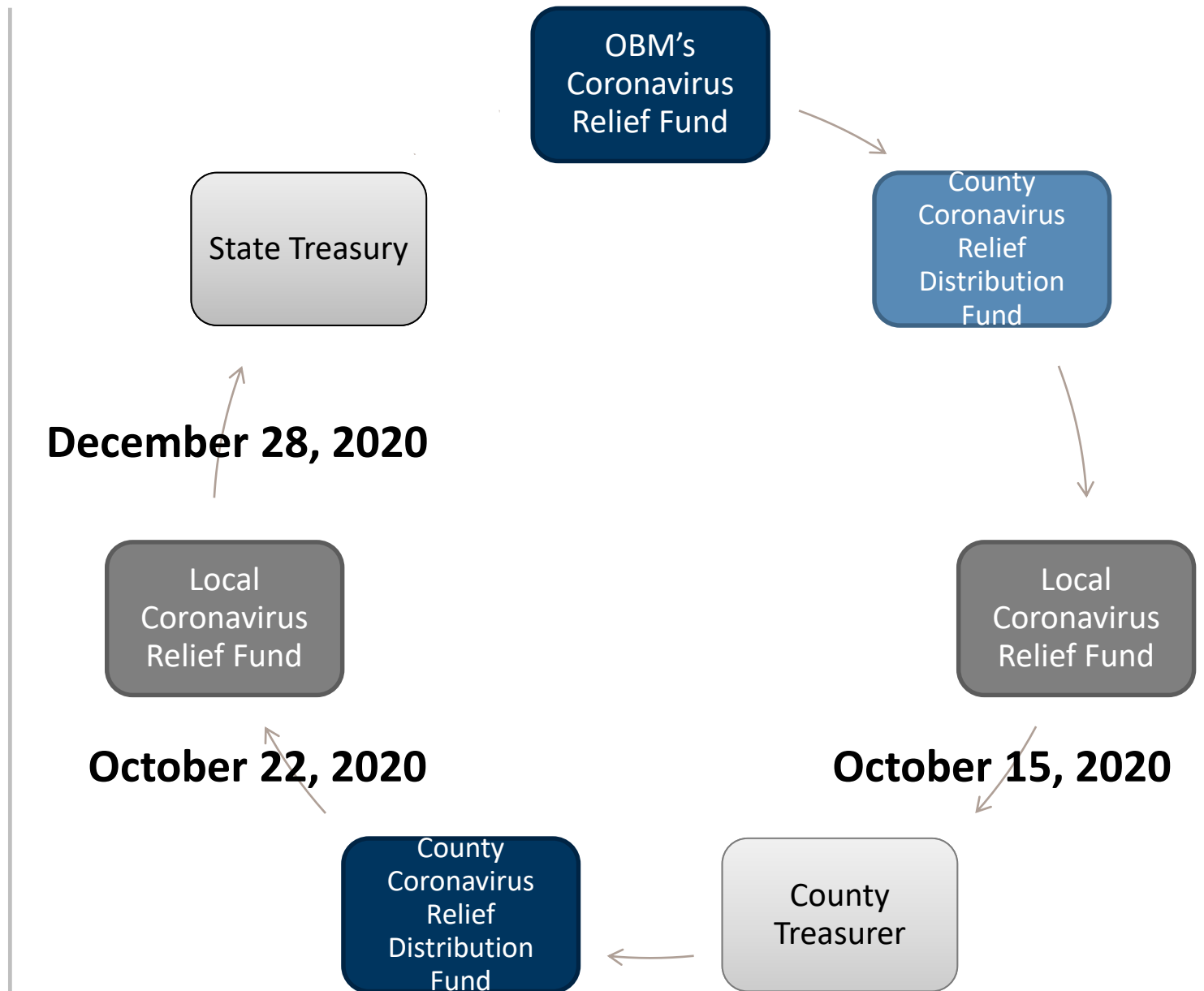
Am. Sub. House Bill 481



UNCODIFIED SECTION 27(D).

- **Prior to receiving any Fund payment**, county, township and municipal legislative authorities **must adopt legislation** affirming that funds received may be expended **only to cover costs consistent with section 5001 of the CARES Act, and applicable regulations**
 - Adopt this blanket statement to receive Fund payments from County...
 - ... and then adopt separate legislation to formally declare expenditures necessary due to COVID-19 public health emergency
 - Once blanket statement adopted, County to distribute payment w/in 7 days
 - Certify copy of legislation to County Auditor & OBM
 - Send electronic copy to Ohio Grants Partnership: grants@obm.ohio.gov

Am. Sub. HB 481: **Local government Coronavirus Relief Fund payment cycle**



U.S. Economic Development Administration

The CARES ACT



The Coronavirus Aid, Relief, and Economic Security (CARES) Act

- Division B, Title II appropriated **\$1.5B** to the U.S. Economic Development Administration
- Economic Development Assistance Programs to **prevent, prepare for, and respond to coronavirus**
 - Incl. *necessary expenses for responding to economic injury as a result of coronavirus*
- Funds avail. under EDA's Economic Adjustment Assistance program (EAA)
- Public Works and Economic Adjustment Assistance **Notice of Funding Opportunity**
 - FY20 PWEAA NOFO + Addendum
 - Competitive & non-competitive funding (i.e., existing EDA grantees)

Eligible Applicants

- Unchanged from traditional (i.e., pre-COVID) type EAA applicants:
 - State of Ohio
 - Counties
 - Cities
 - Townships
 - Special purpose government units engaged in economic development
 - Think CICs in “agency” with local jurisdictions
 - Consortia of governments
 - Institutions of higher education, and
 - Public / private non-profits acting in cooperation with officials of political subdivisions

Forms of EDA – CARES Act Assistance



- EAA is primary funding line administered by EDA
 - Compare **Public Works** program
 - NOFO Addendum: “will also fund” Public Works projects so long as applicant eligible for EAA
- EAA provides investments for **construction & non-construction**
- Subject to federal regulations:
 - **Title 13, Chapter III, Part 307 of the Code of Fed Regulations**
- Regs divide EDA’s grant funding into **two types**:
 - **Strategy grants** support developing, updating, refining region’s Comprehensive Economic Development Strategy (“CEDS”)
 - **Implementation grants** to execute activities identified in CEDS
 - Incl. infrastructure construction, capitalizing revolving loan funds (“RLF”), technical assistance, and other activities

Eligible Uses of Funds - Construction



- Implementation-type grants involving **public works and facilities to support economic recovery, including broadband , roads, water & sewer**
- EDA-cited **examples**
 - NOFO:
 - Funding to a city to support the construction of a publicly owned multi-tenant business and industrial facility to house early-stage businesses
 - CFR:
 - Site acquisition, site preparation & rehabilitation and equipping of facilities
- Projects must be **completed w/in 5 years** from award date
- Must include an **environmental impact statement** prepared under NEPA + public notice period + comments from SHPO
- **Applicant as NGO** (e.g., local nonprofit)?
 - Local political subdivision afforded 15 days to review application

Eligible Uses of Funds – Non-construction



- **Implementation grants** for design & engineering & (re-)capitalizing RLFs
- **Strategy grants** for planning & strategy development
- NOFO hints that projects to be **completed w/in 3 years**
- Robust opportunity for indirect cost recovery (i.e., **grant administration expenses**)
- **RLFs** get special mention under CARES Act appropriation
 - **EDA waiving typical requirements through May 2021**
 - Minimum interest rate charged for business & public infrastructure lending
 - 1:2 lending requirement for loan portfolios, whereby \$1 of EDA funds must leverage at least \$2 of add'l capital
 - Credit otherwise unavailable (i.e., borrower being first rejected elsewhere)

Available EDA – CARES Act funding



- CARES Act appropriated **\$1.5B to EDA**
 - Avail. thru September 2022
 - Chicago Regional Office allocated **\$225MM** to fund projects in Illinois, Indiana, Michigan, Minnesota, Ohio & Wisconsin
- Pre-COVID: EAA grant awards typically sized **\$150k to \$1M**
- CARES Act: agency now expects “to receive applications that **exceed the historical averages**” on a case-by-case basis
- Applicants should **consider substantial grant amount requests**
- EDA generally to award up to **80% of total project’s cost**

U.S. Housing & Urban Development

The CARES ACT - HUD



The Coronavirus Aid, Relief, and Economic Security (CARES) Act

- Title XII of the CARES Act appropriated **\$5B** to the Housing & Urban Development agency's Community Development Fund
- Available for **activities** that prevent, prepare for, and respond to coronavirus
 - *Not projects!*
- Funds avail. under **Community Development Block Grant (CDBG)** program
- Federal Register Notice to be published soon with more information

CARES Act – HUD's CDBG Allocations



- **\$5B** split into 3 tranches:
 - **\$2B**: dist'd to State, county, local & tribal grantees
 - Pursuant to Section 106 of the Housing and Community Development Act
 - Allocations pursuant to FY2020 formula
 - **\$1B**: allocated directly to States & certain other insulated areas to address conditions related to COVID-19
 - **\$2B**: dist'd, on a rolling basis, directly to State or local governments
 - Prioritize areas that are at higher risk of transmission of coronavirus or
 - Have more severe economic and housing market disruptions

Eligible Projects – CDBG-CV

- Activities must “**prepare, prevent, respond to coronavirus**”
- CDBG funds activities, not specific projects
- 25+ eligible activity categories:
 - Wide range of public **services**, including providing food and health services for low-income elderly persons and children
 - Small business assistance or emergency housing **payments** for entities and families impacted by economic/housing market disruptions
 - **Acquisition and rehabilitation** of structures for health facilities, food banks, or public improvements needed to support community coronavirus response, preparation, or prevention
- <https://files.hudexchange.info/resources/documents/Quick-Guide-CDBG-Infectious-Disease-Response.pdf>

CDBG Funding Available – Authorized Uses and Limitations



- Grantees must have policies in place to **prevent “duplication of benefits”**
 - As with Coronavirus Relief Fund, cannot use another source of federal financial assistance for the same project/activity
- Funds can be provided to **reimburse for previous costs**
 - Not much information yet on how this will work or limitations – federal register notice will clarify
- Grantees can **amend citizen participation requirements** (i.e. suspend the requirement to have in-person hearings) to allow the funding process to proceed more quickly
- Grantees can submit action plans up **until August 16, 2021**

Federal Reserve Board Main Street Loan Program

Federal Reserve Board's Main Street Loan program

- Established out of the **Federal Reserve Bank of Boston**
- Fed supports bank lending to businesses thru **purchase of participations in bank business loans**
- Department of the Treasury to make **\$75B equity investment to support \$600B in business loans**
- Designed to provide support to “small and medium-sized businesses”
 - Help companies in **sound financial condition prior to** the onset of the COVID-19 pandemic maintain operations & payroll until conditions normalize
- Encourage banks to **make loans they may not make on their own**

Eligible Borrowers/Loan Terms

- **Eligible Borrower** defined very broadly:
 - ✓ Be a **U.S. business**; and
 - ✓ **Either** have:
 - 15,000 employees or fewer; or
 - 2019 revenues < \$5B
- Borrowers apply through **Eligible Lenders**, which make the actual loans
 - Regulated US depository institutions – sell loans to Fed
- 3 separate loan programs, **all with similar terms**:
 - Bank participation: 5%
 - 5-year maturity
 - Interest: LIBOR (1 month = 0.0016) + 0.03
 - Interest deferred for Year 1
 - Principal deferred for Years 1 – 2, then amortized during Years 3 - 5

Form of Federal Reserve Board – Main Street Loan Assistance



New Loan Facility:

- Targets: small & medium-sized businesses w/o substantial debt
- Eligible Lenders extend **new five-year term loans** to Eligible Borrowers
- Minimum loan (lowered in April): \$250,000
- Maximum loan: \$35MM // 4X's Eligible Borrower's adj. 2019 *earnings before interest, taxes, depreciation, and amortization* (**EBITDA**)

Priority Loan Facility:

- Targets: small & medium-sized businesses w/ larger debt loads
- **New five-year term loans**, which can be used to **refi existing debt**
- Minimum loan: \$250,000
- Maximum loan: \$50MM // 6X's Eligible Borrower's 2019 EBITDA

Form of Federal Reserve Board – Main Street Loan Assistance



Expanded Loan Facility:

- Targets: larger firms w/ significant debt
 - Large, below-investment grade borrowers
- Intended to **“upsize” existing loan agreements**
- Minimum loan: \$10MM
- Maximum loan: \$300MM // 6X's the Eligible Borrower's 2019 EBITDA

OEDA's Questions Posed to Bricker

Question 1

Is it correct the CARES Act funds could be used for some type of an economic relief program for local businesses that were required to close during the pandemic?

Answer:

YES. U.S. Department of Treasury guidance & FAQs are clear in allowing for grant relief (and in some cases, loans) from local government's Coronavirus Relief Fund payment to respond to "second-order effects" by supporting businesses as a response to COVID-19 interruptions.

Question 2

If Yes, would it be appropriate to use CARES Act funds as a grant or loan program that could be used by businesses to cover rent/mortgage payments, PPE and other social distancing measures, or other pandemic related expenses as long as it is not to replace revenue?

Answer:

YES. Treasury guidance goes into detail in the use of grant programs, funded by Coronavirus Relief Fund payments, to support businesses as they respond to COVID-19 interruptions. Loans may be provided as well, but repayments likely must be paid back to U.S. Treasury (consider EDA grant instead for local loan programs).

Question 3

Would the OEDA membership need further written guidance from the Ohio OBM as to specific economic development-use requirements for the CARES Act funds?

Answer:

Federal guidance: NO. Treasury guidance states, “governments are responsible for making determinations as to what expenditures are necessary due to the COVID-19 public health emergency.” No proposed expenditures need to be submitted. Treasury relies on reasonable judgment of those government officials responsible for spending Coronavirus Relief Fund payments that expenditure is reasonably necessary for its intended use.

State guidance: YES, IF SUBDIVISION RECEIVED FUND PAYMENT FROM OBM. If intended use appears “on the bubble” – and unit of government did not receive its Fund payment directly from Treasury – best practice to pose question of eligibility to Ohio Grants Partnership via email at grants@obm.ohio.gov. Any response should be noted in file for Auditor of State’s eventual review during regular audit.

Question 4

Can CARES Act funds received by a local government be given to a local nonprofit such as a CIC or another political subdivision such as a port authority to be used for some type of an economic relief program for local businesses?

Answer:

YES. Treasury guidance notes specifically that non-profits, like a CIC or port authority, may be used to distribute funds. This may take shape as a CIC assisting local businesses with financial needs caused by COVID-19 by offering grants to offset businesses' costs of sanitizing and PPE, increased unemployment insurance & workers comp expenses.

Question 5

Can CARES Act funds received by a local government be used for broadband planning or infrastructure expenses to expand broadband capacity?

Answer:

Coronavirus Relief Fund – broadband infrastructure expenses **only permissible** if they are required by the COVID-19 emergency and if they will increase capacity during the emergency. Planning expenses are thus likely ineligible unless they would increase capacity by December 30.

CARES Act - EDA – Broadband infrastructure expenses are **eligible**, and are **specifically called out in the NOFO as appropriate uses** of EDA's CARES Act fund appropriation.

Additional Questions and Answers



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