

**LEGISLATIVE SUMMARY SHEET**

**Tracking No. 0283-20**

**DATE:** November 10, 2020

**TITLE OF RESOLUTION:** AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION CARES FUND CHAPTER DISTRIBUTION EXPENDITURE PLAN ENACTED BY CS-73-20

**PURPOSE:** This resolution, if approved, will amend the CARES Fund Chapter Distribution Expenditure Plan to allow direct allocations to the Chapters.

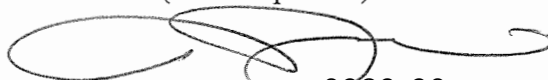
**This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.**

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24<sup>th</sup> NAVAJO NATION COUNCIL – Second Year, 2020

INTRODUCED BY

(Prime Sponsor)



TRACKING NO. 0283-20

AN ACTION

**RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL;  
AMENDING THE NAVAJO NATION CARES FUND CHAPTER DISTRIBUTION  
EXPENDITURE PLAN ENACTED BY CS-73-20**

**BE IT ENACTED:**

**SECTION ONE. AUTHORITY**

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. §102(A).
- B. Pursuant to 2 N.N.C. §164 (A)(16), “[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council.” 2 N.N.C. §164 (A)(16).

**SECTION TWO. FINDINGS**

- A. The World Health Organization (WHO) declared a Public Health Emergency of International Concern related to the outbreak of coronavirus (COVID-19) on January

1 30, 2020, the U.S. Department of Health and Human Services declared a Public Health  
2 Emergency related to COVID-19 on January 31, 2020 and the WHO declared a global  
3 pandemic on March 11, 2020.

4 B. The Navajo Nation Commission on Emergency Management, with the concurrence of  
5 Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency  
6 on the Navajo Nation on March 11, 2020 due to COVID-19. Resolution No. CEM 20-  
7 03-11. The Navajo Nation Department of Health subsequently issued numerous Public  
8 Health Emergency Orders. Public Health Orders 2020-001 through 2020-025 are  
9 incorporated by reference into this resolution.

10 C. As of November 1, 2020, the Navajo Nation Health Command Operations Center has  
11 confirmed 11,828 COVID-19 cases and 581 COVID-19-related deaths on the Navajo  
12 Nation. Confirmed COVID-19 cases and COVID-19-related deaths on the Navajo  
13 Nation have not subsided and continue to rise.

14 D. On March 27, 2020, the United States Congress enacted the Coronavirus Aid, Relief  
15 and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020 (the “CARES  
16 Act”), which set aside \$8 billion in emergency aid to Tribal governments for the  
17 COVID-19 pandemic.

18 C. As of June 30, 2020, the Navajo Nation received \$714,189,631.47 Navajo CARES  
19 Fund as the Nation’s share of the U.S. Treasury’s initial distributions of the CARES  
20 Act.

21 D. Pursuant to Navajo Nation Council Resolution No. CS-73-20, attached as **Exhibit A**,  
22 the Navajo Nation enacted the Navajo Nation CARES Fund Chapter Distribution  
23 Expenditure Plan, attached as **Exhibit A-2**, to provide ninety million dollars  
24 (\$90,000,000) to Navajo Nation Chapters (both LGA Certified and non-certified),  
25 through the Division of Community Development, to respond to the COVID-19  
26 pandemic and ensure that Navajo communities have access to the funding necessary to  
27 ensure that community members are adequately protected from exposure to COVID-  
28 19 and able to comply with the Center for Disease Control (CDC) COVID-19  
29 prevention guidance necessary to mitigate the spread of the virus.

- 1 E. The Chapter Distribution Expenditure Plan, **Exhibit A-2**, sets forth that the funds shall  
2 be provided to assist Navajo Nation Chapters (both LGA Certified and non-certified)  
3 through an on-line portal administered by the Division of Community Development.
- 4 F. Resolution No. CS-73-20, specifically states that “[a]s set forth in Navajo Nation  
5 Council Resolution No. CJY-67-20, the progress of all Navajo Nation CARES Fund  
6 Expenditure Plans, which shall now include the Chapter Distribution Expenditure Plan,  
7 shall be reviewed by the Budget and Finance and Naabik’íyáti’ Committees during the  
8 month of October 2020. The funding for any project that has not made enough progress  
9 to demonstrate that it will be fully completed by December 30, 2020 will be reallocated  
10 to the Hardship Assistance Expenditure Plan enacted by CJY-67-20 through  
11 Naabik’íyáti’ Committee resolution.” **Exhibit A**, CS-73-20, Section Three (F).
- 12 G. On October 30, 2020, the Naabik’íyáti’ Committee adopted Resolution No. NABIO-  
13 49-20, attached as **Exhibit B**, which states that “[a]ny remaining CS-73-20, CJY-67-  
14 20 and/or CJN-46-20 CARES Fund Expenditure Plan funds not fully expended, not  
15 including encumbered and obligated funds, by November 30, 2020, regardless of  
16 recipient or intended recipient, shall be automatically reallocated to the Hardship  
17 Assistance Expenditure Plan. Funds still encumbered as of December 15, 2020, shall  
18 be unencumbered and unobligated and automatically reallocated to the Hardship  
19 Assistance Expenditure Plan if the goods or services have not been delivered. The  
20 Office of Management and Budget and Office of Controller shall implement these  
21 reallocations without the need for further authorization.”
- 22 H. Despite best efforts by the Division of Community Development and the Office of the  
23 Controller, release and expenditure of the Chapter Distribution Expenditure Plans  
24 through the on-line portal has been repeatedly delayed and the delay is putting the  
25 assistance to the Chapters to mitigate the spread of the COVID-19 at risk. *See, e.g.,*  
26 **Exhibit C**.
- 27 I. Given the federal deadline for expending CARES Funds, the failure to release and  
28 expend the Chapter Distribution Expenditure Plan funds has resulted in an emergency  
29 situation threatening disaster relief to the Navajo people in need of direct services from  
30 the Navajo Nation government.



1 J. Resolution No. CS-73-20 “may be amended by a two-thirds majority vote of the Navajo  
2 Nation Council subject to action of the President of the Navajo Nation under 2 N.N.C.  
3 §221 (B) and the budget line-item veto authority delegated to the President by vote of  
4 the People in 2009.” **Exhibit A**, CS-73-20, Section Five.

5 K. The Navajo Nation Council has determined that it is in the best interest of the Navajo  
6 People and the Navajo Nation government’s response to the COVID-19 pandemic to  
7 amend the Chapter Distribution Expenditure Plan, as set forth in **Exhibit D**, to allow the  
8 Chapters to receive the Chapter Distribution Expenditure Plan funds directly and to opt-  
9 out of or by-pass the on-line portal administered by the Division of Community  
10 Development.

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12 **SECTION THREE. APPROVAL OF AMENDED NAVAJO NATION CARES FUND**  
13 **CHAPTER DISTRIBUTION EXPENDITURE PLAN**

14 A. The Navajo Nation hereby approves **Exhibit D** amending the CS-73-20 Navajo Nation  
15 CARES Fund Distribution Expenditure Plan to allow Chapters to receive their  
16 respective CARES Funds directly and to opt-out or by-pass the on-line portal  
17 administered by the Division of Community Development.

18 B. The Chapter Distribution Expenditure Plan funds, whether administered by the  
19 Division of Community Development’s or the Chapters, shall remain subject to all  
20 Navajo Nation laws, regulations and policies, including laws, regulations and policies  
21 governing the expenditures, reallocations and reversions of Navajo Nation CARES  
22 Funds, specifically including NABIO-49-20.

23  
24 **SECTION FOUR. EFFECTIVE DATE**

25 This Action is effective upon its approval pursuant to 2 N.N.C. § 221(B) and 2 N.N.C. §  
26 164 (A)(17), as amended by CS-68-20 (overriding the Presidential veto of CJY-26-20).

27  
28 **SECTION FIVE. SAVING CLAUSE**

29 Should any provision of this legislation be determined invalid by the Navajo Nation  
30 Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo

1 Nation Supreme Court, those portions of the legislation which are not determined invalid  
2 shall remain the law of the Navajo Nation.  
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# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



October 9, 2020



Hon. Seth Damon  
Office of the Speaker  
Post Office Box 3390  
Window Rock, AZ 86515

RE: CS-73-20, *An Action Relating to Resources and Development, Budget and Finance, and Naabik'iyati' Committees, and the Navajo Nation Council; Approving and Adopting the Navajo Nation CARES Fund Chapter Distribution and Office of Controller CARES Funds Implementation Expenditure Plans; Amending Navajo Nation CARES Fund Broadband Telecommunication Expenditure Plan Adopted by CJY-67-20*

Dear Speaker Damon,

There are a number of matters we reviewed to ensure the appropriated funds will meet the criteria set out by the CARES Act. As you heard from the Office of the Controller on numerous occasions, the concern is the proper spending of the funds. With the known history of spending by certain Chapters, we agree with the Navajo Nation Controller, Ms. Pearline Kirk, on the attention needed for the Chapter appropriation and we appreciate the Council awarding the funds to the Division of Community Development, along with the foresight to provide the Division with funds to help manage the Chapter distribution.

We applaud the efforts of Council Delegate Kee Allen Begay for moving the broadband and telecommunications funding forward. We may not always agree on issues but when we see the need for collaboration we will support the project. This pandemic has highlighted the needs of our Nation; one such need is internet access for our children, our employees who work from home, and law enforcement. One plan we have supported is mobile internet access for law enforcement officers who need such technology to have quick access to the information they need during times of crisis or on regular patrol. We need projects like this.

The Office of the Controller is now in the forefront of the implementation phase of the CARES Act funds. The Executive Branch Division Directors and Programs will support the Office of the Controller in every way possible. As with the past seven months, we have to keep our regular government services in full operation and we are asking all our Divisions to pay attention to day-to-day operations, just as we ask our Division of Finance to keep up with their regular duties. We know how much work has been put into the last seven months, but we cannot let up now.

As we have said before, we ask our Legislative Branch to allow our Divisions to focus on the next three months in implementing the projects and completing the assignments given to them.

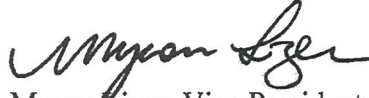
Our full attention now will be on working with the Chapters, outside entities, and internal operations to meet the CARES Act deadline. Time spent on reports to Committees is time taken from completing the assigned projects. Please allow us to complete our work.

Thank you 24<sup>th</sup> Navajo Nation Council. We appreciate your efforts and we are looking forward to providing the services to the Navajo People. We sign CS-73-20 into law.

Sincerely,



Jonathan Nez, President  
THE NAVAJO NATION



Myron Lizer, Vice President  
THE NAVAJO NATION

RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
24<sup>th</sup> NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION  
RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND  
NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; APPROVING  
AND ADOPTING THE NAVAJO NATION CARES FUND CHAPTER DISTRIBUTION AND  
OFFICE OF CONTROLLER CARES FUNDS IMPLEMENTATION EXPENDITURE PLANS;  
AMENDING NAVAJO NATION CARES FUND BROADBAND TELECOMMUNICATION  
EXPENDITURE PLAN ADOPTED BY CJY-67-20

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).
- B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).
- C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council with the enumerated powers to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds and to promulgate rules and regulations related to contracting and financial matters. 2 N.N.C. §§ 300(B)(1) and (2).
- D. The Resources and Development Committee is a standing committee of the Navajo Nation Council empowered to provide legislative oversight on matters involving Chapter activities. 2 N.N.C. § 500(C).

SECTION TWO. FINDINGS

- A. The World Health Organization (WHO) declared a Public Health Emergency of International Concern related to the outbreak of coronavirus (COVID-19), a highly contagious and sometimes

fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on March 11, 2020.

- B. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency on the Navajo Nation on March 11, 2020 due to COVID-19. Resolution No. CEM 20-03-11. The Navajo Nation Department of Health subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2020-014 are incorporated by reference into this resolution.
- C. As of August 18, 2020, the Navajo Nation Health Command Operations Center has confirmed 9,486 COVID-19 cases and 484 COVID-related deaths on the Navajo Nation.
- D. The U.S. Congress on March 27, 2020, enacted the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (the "CARES Act"), which, at Title V, §5001, entitled "Coronavirus Relief Funds," attached as **Exhibit 1-A**, sets aside \$8 billion in emergency aid for Tribal governments for the COVID-19 pandemic.
- E. The CARES Act provides the Coronavirus Relief Fund shall be used to cover only those costs that:
  - a. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
  - b. are not accounted for in the Tribal budget most recently approved as of March 27, 2020; and
  - c. are incurred from March 1, 2020 through December 30, 2020.
- F. The U.S. Treasury on April 22, 2020 issued "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments" ("Treasury Guidance") related to the permissible uses of the Coronavirus Relief Fund. **Exhibit 1-B**.

- G. On May 28, 2020, the U.S. Treasury issued "Coronavirus Relief Fund Frequently Asked Questions" ("Treasury FAQ"), attached as **Exhibit 1-C**.
- H. As of June 30, 2020, the Navajo Nation has received seven hundred fourteen million one hundred eighty-nine thousand six hundred thirty-one dollars and forty-seven cents (\$714,189,631.47) as the Nation's share of the U.S. Treasury's initial distributions of the Coronavirus Relief Fund.
- I. The Navajo Nation has determined that immediately providing funding for Navajo Nation Chapters to combat the effects of COVID-19 and mitigate the future spread at the community level is vital in sustaining a comprehensive response to the COVID-19 public health emergency and mitigating the effects of the pandemic.
- J. The purpose of the Navajo Nation CARES Fund Chapter Distribution Plan, attached as **Exhibit 2**, is to immediately provide ninety million dollars (\$90,000,000) for Navajo Nation Chapters (both LGA Certified and non-certified), through an online portal developed by the Office of the Controller and administered by the Division of Community Development, to respond to the COVID-19 pandemic and ensure that Navajo communities have access to the funding necessary to ensure that community members are adequately protected from exposure to COVID-19 and able to comply with the Center for Disease Control (CDC) COVID-19 prevention guidance necessary to mitigate the spread of the virus.
- K. The purpose of the Navajo Nation Office of the Controller CARES Funds Implementation Expenditure Plan, attached as **Exhibit 4**, is to immediately provide twenty million, eight thousand, seven hundred ninety-eight dollars (\$20,008,798) to the Office of Controller to secure the necessary resources to expedite the implementation of the Navajo Nation CARES Fund Expenditure Plans and ensure that entities and communities have access to funding necessary to mitigate the effects of the COVID-19 pandemic.

**SECTION THREE. APPROVAL AND ADOPTION OF THE CARES FUND CHAPTER DISTRIBUTION EXPENDITURE PLAN**

- A. The Navajo Nation hereby approves and adopts the CARES Fund Chapter Distribution Expenditure Plan, as outlined in **Exhibit 2**, and hereby allocates a total of ninety-two million dollars (\$92,000,000) with ninety million dollars (\$90,000,000) for Navajo Nation Chapters (both LGA Certified and non-certified), through an online portal developed by the Office of the Controller and administered by the Division of Community Development, pursuant to 12 N.N.C. § 820 (O)'s 50/50 Chapter Distribution formula and two million dollars (\$2,000,000) to the Division of Community Development for the resources necessary to implement the Expenditure Plan. Subject to technical correction by the Office of Management and Budget, the amounts allocated to each Chapter are set forth at **Exhibit 3**.
- B. Chapter Distribution Expenditure Plan funds shall not be released to a Chapter, including LGA Certified chapters, until the respective chapter has submitted a Community Needs Assessment to the Division of Community Development.
- C. The Navajo Nation hereby approves and adopts the Office of the Controller CARES Funds Implementation Expenditure Plan, as outlined in **Exhibit 4**, and hereby allocates twenty million, eight thousand, seven hundred ninety-eight dollars (\$20,008,798) to the Office of Controller for the purposes set forth in **Exhibit 4**.
- D. The Navajo Nation hereby adds an additional fifteen million dollars (\$15,000,000) allocation to the Broadband-Telecommunications Project Expenditure Plan adopted by CJY-67-20, attached as **Exhibit 5**; and amends the Purpose section of the Broadband-Telecommunications Project Expenditure Plan as follows:

Fifteen Million Dollars (\$15,000,000) of the Broadband Telecommunications Expenditure Plan funds shall be used to fund non-tribal owned Eligible Telecommunication Carriers (ETC) or internet service providers that are certified by the Federal Communication Commission (FCC) for the purpose



of extending broadband and telecommunication infrastructure to previously unserved and underserved Chapters of the Navajo Nation by December 30, 2020 and shall fund only the deployment costs (not on-going operating costs, including administrative personnel projects) of projects that support Internet Services. Permissible broadband and telecommunication infrastructure improvements that may be funded include the following:

- A. Wireless tower and other network infrastructure necessary to provide mobile and fixed broadband to residents including backhaul, system upgrades, middle mile and last mile services.
- B. Middle-Mile fiber and microwave infrastructure for connectivity to schools, Chapter Houses, government facilities, and businesses.
- C. Network capacities upgrades necessary to provide 4G services, such as FirstNet, Amber Alerts, and NG911, as well as Telehealth, Education, and Commerce applications to mobile and home bound residents.

The Navajo Nation Department of Information Technology (DIT) with the assistance of Navajo Nation Telecommunication and Utilities shall devise an application process for the distribution of the \$15,000,000 to non-tribal owned ETCs, ETCs shall only receive funding if it provides Internet service, which is defined as the portion of broadband service that delivers an internet connection to an end user that lacks access to a voice and broadband services at measurable speeds of 4/1 Mbps or greater for unreserved areas, and 10/1 Mbps or greater for underserved areas. After reviewing the applications for eligibility, DIT shall be responsible for selecting and monitoring the ETCs that are receiving funding and the amount of such funding,

- E. The Coronavirus Relief Funds are externally restricted funds and the Navajo Nation Appropriations Act, 12 N.N.C. §§ 800 et seq., as applicable to externally restricted funds, shall apply to the Expenditure Plans set forth herein; detailed Expenditure Plan budgets shall not be subject to further legislative

approval and shall, instead, be developed and implemented through expedited budget procedures developed by the Office of Management and Budget in conjunction with the Office of the Controller and Division of Community Development.

- F. As set forth in Navajo Nation Council Resolution No. CJY-67-20, the progress of all Navajo Nation CARES Fund Expenditure Plans, which shall now include the Chapter Distribution Expenditure Plan, shall be reviewed by the Budget and Finance and Naabik'íyáti' Committees during the month of October 2020. The funding for any project that has not made enough progress to demonstrate that it will be fully completed by December 30, 2020 will be reallocated to the Hardship Assistance Expenditure Plan enacted by CJY-67-20 through Naabik'íyáti' Committee resolution.

#### **SECTION FOUR. APPROVAL AND ADOPTION OF THE CHAPTER DISTRIBUTION EXPENDITURE PLAN ADMINISTRATION**

- A. All entities receiving Navajo Nation CARES Fund funding herein shall ensure that all funds allocated under the Chapter Distribution Expenditure Plan are only expended for the purposes set forth in **Exhibit 2**.
- B. The Navajo Nation has determined that the fastest and most efficient way to distribute funds and expedite procurements is through a centralized online portal. To that end, the Office of the Controller shall work with the Division of Community Development to develop criteria that ensures the intent of this Expenditure Plan can be accomplished and complied with through an online portal process.
- C. The Office of the Controller shall release the funding allocated for a Chapter's expenditure(s) once the respective Chapter has completed the on-line portal process.
- D. The Navajo Nation hereby approves and adopts the Office of the Controller CARES Funds Implementation Expenditure Plan, as outlined in **Exhibit 4**, and hereby allocates twenty million, eight thousand, seven hundred ninety-eight dollars (\$20,008,798) to the Office of Controller for the purposes set forth in **Exhibit 4**.

- E. All entities receiving Navajo Nation CARES Fund funding herein shall ensure that all funds allocated under their respective Expenditure Plans shall be incurred and expended by no later than December 30, 2020.
- F. All entities receiving Navajo Nation CARES Fund funding herein shall ensure that no funds allocated under their respective Expenditure Plans are incurred or expended for costs accounted for in the approved Fiscal Year 2020 Navajo Nation Comprehensive Budget approved by Navajo Nation Council Resolution No. CS-30-19.
- G. The CARES Fund Expedited Procurement Rules and Procedures, enacted through CJY-67-20, shall apply to procurement activities for the Expenditure Plan set forth herein.
- H. The funds allocated under the Navajo Nation CARES Fund Expenditure Plan set forth herein shall be used exclusively and only for the permissible uses set forth in the following:
  - 1. This Resolution approving the Navajo Nation CARES Fund Chapter Distributions Expenditure Plan.
  - 2. The Coronavirus Relief Fund which allows only those costs that:
    - a. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
    - b. are not accounted for in the Navajo Nation Fiscal Year 2020 Comprehensive Budget.
    - c. are incurred from March 1, 2020 through December 30, 2020;
  - 3. Consistent with the eligible uses described in the Treasury Guidance which includes the following guidance:
    - a. expenditures must be incurred "due to" the public health emergency which means that expenditures must be used for actions taken to respond to the public health emergency; these expenditures may include expenditures

incurred to allow the 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;

- b. expenditures must be "necessary"; the Department of the Treasury interprets this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Coronavirus Relief Fund payments;
  - c. expenditures may only be made to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation with the budget; or (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation; and
  - d. expenditures must be for costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. A cost is "incurred" when the responsible unit of government has expended funds to cover the cost.
- 4. Consistent with the eligible uses described in the U.S. Treasury Frequently Asked Questions (FAQ).
  - 5. Consistent with the eligible uses as may be described in any and all future guidance, rules, or regulations of the Department of the Treasury or the Department of the Interior related to the Coronavirus Relief Fund pursuant to Title V of the CARES Act.
  - 6. Consistent with Navajo Nation laws, rules and regulations.

- I. All entities receiving Navajo Nation CARES Act Expenditure Plan funding herein expressly agree and affirm that by requesting drawing down or receiving any of the funds allocated under their respective Expenditure Plan:
- a. the requested funds shall only be used for the purposes specified in Title V of the federal CARES Act and the Navajo Nation CARES Fund Act;
  - b. the administration, management, and implementation of this Expenditure Plan shall be consistent with the Navajo Nation CARES Fund Act, this legislation, and other applicable laws and regulations of the Navajo Nation; and
  - c. the costs to be covered under this Expenditure Plan are not included in the Navajo Nation Fiscal Year 2020 Comprehensive Budget, approved by Navajo Nation Council Resolution No. CS-30-19.
- J. All recipients of Navajo Nation funds from the Navajo Nation CARES Fund must follow and apply Generally Accepted Accounting Principles (GAAP), as established by the Governmental Accounting Standards Board (GASB) for governmental entities, and by the Financial Accounting Standards Board (FASB) for public and private companies and non-profits.
- K. If the Department of Justice, Office of the Controller, and Office of Management and Budget concur that a proposed expenditure in the Expenditure Plans included herein is an ineligible cost under the Navajo Nation CARES Fund, Coronavirus Relief Fund or U.S. Treasury guidance, the amount of such proposed expenditure shall be returned to the Navajo Nation CARES Fund after written notice, including analysis, to the Office of the President and Vice-President and Naabik'íyáti' Committee.
- L. The Budget and Finance Committee and Resources and Development Committee of the Navajo Nation Council shall serve as the oversight committees for the Navajo Nation Cares Fund Chapter Distribution Expenditure Plan.

M. The Chapter Distribution Expenditure Plan and expenditures made there under shall be governed by and construed in accordance with the laws and regulations of the Navajo Nation.

#### **SECTION FIVE. AMENDMENT**

This Resolution may be amended by a two-thirds majority vote of the Navajo Nation Council subject to action of the President of the Navajo Nation under 2 N.N.C. § 221 (B) and the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009.

#### **SECTION SIX. EFFECTIVE DATE**


This Resolution is effective upon its approval pursuant to 2 N.N.C. § 221(B) and the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009.

#### **SECTION SEVEN. SAVING CLAUSE**

Should any provision of this legislation be determined invalid by the Navajo Nation Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those portions of the legislation which are not determined invalid shall remain the law of the Navajo Nation.

#### **CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 21 in Favor, and 00 Opposed, on this 24<sup>th</sup> day of September 2020.

  
Honorable Rickie Nez, Speaker Pro Tem  
24<sup>th</sup> Navajo Nation Council

09-30-2020


DATE

Motion: Honorable Pernell Halona  
Second: Honorable Raymond Smith, Jr.

Speaker Pro Tem Rickie Nez not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 09th day of October, 2020.

  
Jonathan Nez, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this \_\_\_\_\_ day of \_\_\_\_\_, 2020 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009, on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation

maximum total compensation received by the officer or employee from the air carrier or contractor in calendar year 2019; and

(3) no officer or employee of the eligible business whose total compensation exceeded \$3,000,000 in calendar year 2019 may receive during any 12 consecutive months of such period total compensation in excess of the sum of—

(A) \$3,000,000; and

(B) 50 percent of the excess over \$3,000,000 of the total compensation received by the officer or employee from the eligible business in calendar year 2019.

(b) **TOTAL COMPENSATION DEFINED.**—In this section, the term "total compensation" includes salary, bonuses, awards of stock, and other financial benefits provided by an air carrier or contractor to an officer or employee of the air carrier or contractor.

#### SEC. 4117. TAX PAYER PROTECTION.

The Secretary may receive warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by recipients of financial assistance under this subtitle which, in the sole determination of the Secretary, provide appropriate compensation to the Federal Government for the provision of the financial assistance.

#### SEC. 4118. REPORTS.

(a) **REPORT.**—Not later than November 1, 2020, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Financial Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the financial assistance provided to air carriers and contractors under this subtitle, including a description of any financial assistance provided.

(b) **UPDATE.**—Not later than the last day of the 1-year period following the date of enactment of this Act, the Secretary shall update and submit to the Committee on Transportation and the Committee on Financial Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate the report described in subsection (a).

#### SEC. 4119. COORDINATION.

In implementing this subtitle the Secretary shall coordinate with the Secretary of Transportation.

#### SEC. 4120. DIRECT APPROPRIATION.

Notwithstanding any other provision of law, there is appropriated, out of amounts in the Treasury not otherwise appropriated, \$32,000,000,000 to carry out this subtitle.

### TITLE V—CORONAVIRUS RELIEF FUNDS

#### SEC. 5001. CORONAVIRUS RELIEF FUND.

(a) **IN GENERAL.**—The Social Security Act (42 U.S.C. 301 et seq.) is amended by inserting after title V the following:

#### "TITLE VI—CORONAVIRUS RELIEF FUND —SEC. 501. CORONAVIRUS RELIEF FUND.

"(a) **APPROPRIATION.**—

"(1) **IN GENERAL.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for making payments to States, Tribal governments, and units of local government under this section, \$150,000,000,000 for fiscal year 2020.

"(2) **RESERVATION OF FUNDS.**—Of the amount appropriated under paragraph (1), the Secretary shall reserve—

"(A) \$3,000,000,000 of such amount for making payments to the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

"(B) \$8,000,000,000 of such amount for making payments to Tribal governments.

"(b) **AUTHORITY TO MAKE PAYMENTS.**—

"(1) **IN GENERAL.**—Subject to paragraph (2), not later than 30 days after the date of enactment of this section, the Secretary shall pay each State and Tribal government, and each unit of local government that meets the condition described in paragraph (2), the amount determined for the State, Tribal government, or unit of local government, for fiscal year 2020 under subsection (c).

"(2) **DIRECT PAYMENTS TO UNITS OF LOCAL GOVERNMENT.**—If a unit of local government of a State submits the certification required by subsection (c) for purposes of receiving a direct payment from the Secretary under the authority of this paragraph, the Secretary shall reduce the amount determined for that State by the relative unit of local government population proportion amount described in subsection (d)(5) and pay such amount directly to such unit of local government.

"(c) **PAYMENT AMOUNTS.**—

"(1) **IN GENERAL.**—Subject to paragraph (2), the amount paid under this section for fiscal year 2020 to a State that is 1 of the 50 States shall be the amount equal to the relative population proportion amount determined for the State under paragraph (3) for such fiscal year.

"(2) **MINIMUM PAYMENT.**—

"(A) **IN GENERAL.**—No State that is 1 of the 50 States shall receive a payment under this section for fiscal year 2020 that is less than \$1,250,000,000.

"(B) **PRO RATA ADJUSTMENTS.**—The Secretary shall adjust on a pro rata basis the amount of the payments for each of the 50 States determined under this subsection without regard to this subparagraph to the extent necessary to comply with the requirements of subparagraph (A).

"(3) **RELATIVE POPULATION PROPORTION AMOUNT.**—For purposes of paragraph (1), the relative population proportion amount determined under this paragraph for a State for fiscal year 2020 is the product of—

"(A) the amount appropriated under paragraph (1) of subsection (a) for fiscal year 2020 that remains after the application of paragraph (2) of that subsection; and

"(B) the relative State population proportion (as defined in paragraph (4)).

"(4) **RELATIVE STATE POPULATION PROPORTION DEFINED.**—For purposes of paragraph (3)(B), the term "relative State population proportion" means, with respect to a State, the quotient of—

"(A) the population of the State; and

"(B) the total population of all States (excluding the District of Columbia and territories specified in subsection (a)(2)(A)).

"(5) **RELATIVE UNIT OF LOCAL GOVERNMENT POPULATION PROPORTION AMOUNT.**—For purposes of subsection (b)(2), the term "relative unit of local government population proportion amount" means, with respect to a unit of local government and a State, the amount equal to the product of—

"(A) 45 percent of the amount of the payment determined for the State under this subsection (without regard to this paragraph); and

"(B) the amount equal to the quotient of—

"(i) the population of the unit of local government; and

"(ii) the total population of the State in which the unit of local government is located.

"(6) **DISTRICT OF COLUMBIA AND TERRITORIES.**—The amount paid under this section for fiscal year 2020 to a State that is the District of Columbia or a territory specified in subsection (a)(2)(A) shall be the amount equal to the product of—

"(A) the amount set aside under subsection (a)(2)(A) for such fiscal year; and

"(B) each such District's and territory's share of the combined total population of the District of Columbia and all such territories, as determined by the Secretary.

"(7) **TRIBAL GOVERNMENTS.**—From the amount set aside under subsection (a)(2)(B) for fiscal year 2020, the amount paid under this section for fiscal year 2020 to a Tribal government shall be the amount the Secretary shall determine, in consultation with the Secretary of the Interior and Indian Tribes, that is based on increased expenditures of such such Tribal government (or a tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019 by the Tribal government (or tribally-owned entity) and determined in such manner as the Secretary determines appropriate to ensure that all amounts available under subsection (a)(2)(B) for fiscal year 2020 are distributed to Tribal governments.

"(8) **DATA.**—For purposes of this subsection, the population of States and units of local governments shall be determined based on the most recent year for which data are available from the Bureau of the Census.

"(d) **USE OF FUNDS.**—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—

"(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);

"(2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and

"(3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

"(e) **CERTIFICATION.**—In order to receive a payment under this section, a unit of local government shall provide the Secretary with a certification signed by the Chief Executive for the unit of local government that the local government's proposed uses of the funds are consistent with subsection (d).

"(f) **INSPECTOR GENERAL OVERSIGHT; RECOVERY.**—

"(1) **OVERSIGHT AUTHORITY.**—The Inspector General of the Department of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under this section.

"(2) **RECOVERY.**—If the Inspector General of the Department of the Treasury determines that a State, Tribal government, or unit of local government has failed to comply with subsection (d), the amount equal to the amount of funds used in violation of such subsection shall be booked as a debt of such entity owed to the Federal Government. Amounts recovered under this subsection shall be deposited into the general fund of the Treasury.

"(3) **APPROPRIATION.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of the Treasury, \$35,000,000 to carry out oversight and recovery activities under this subsection. Amounts appropriated under the preceding sentence shall remain available until expended.

"(4) **AUTHORITY OF INSPECTOR GENERAL.**—Nothing in this subsection shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(g) **DEFINITIONS.**—In this section:

"(1) **INDIAN TRIBE.**—The term "Indian Tribe" has the meaning given that term in section

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(4) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

"(2) LOCAL GOVERNMENT.—The term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level with a population that exceeds 500,000.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(4) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

"(5) TRIBAL GOVERNMENT.—The term 'Tribal government' means the recognized governing body of an Indian Tribe."

(b) APPLICATION OF PROVISIONS.—Amounts appropriated for fiscal year 2020 under section 501(a)(1) of the Social Security Act (as added by subsection (a)) shall be subject to the requirements contained in Public Law 116-94 for funds for programs authorized under sections 330 through 340 of the Public Health Service Act (42 U.S.C. 254 through 259).

#### TITLE VI—MISCELLANEOUS PROVISIONS

##### SEC. 5001. COVID-19 BORROWING AUTHORITY FOR THE UNITED STATES POSTAL SERVICE.

(a) DEFINITIONS.—In this section—

(1) the term "COVID-19 emergency" means the emergency involving Federal primary responsibility determined to exist by the President under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)) with respect to the Coronavirus Disease 2019 (COVID-19); and

(2) the term "Postal Service" means the United States Postal Service.

(b) ADDITIONAL BORROWING AUTHORITY.—Notwithstanding section 2005 of title 39, United States Code, or any other provision of law, if the Postal Service determines that, due to the COVID-19 emergency, the Postal Service will not be able to fund operating expenses without borrowing money—

(1) the Postal Service may borrow money from the Treasury in an amount not to exceed \$10,000,000,000—

(A) to be used for such operating expenses; and

(B) which may not be used to pay any outstanding debt of the Postal Service; and

(2) the Secretary of the Treasury may lend up to the amount described in paragraph (1) at the request of the Postal Service, upon terms and conditions mutually agreed upon by the Secretary and the Postal Service.

(c) PRIORITIZATION OF DELIVERY FOR MEDICAL PURPOSES DURING COVID-19 EMERGENCY.—Notwithstanding any other provision of law, during the COVID-19 emergency, the Postal Service—

(1) shall prioritize delivery of postal products for medical purposes; and

(2) may establish temporary delivery points, in such form and manner as the Postal Service determines necessary, to protect employees of the Postal Service and individuals receiving deliveries from the Postal Service.

##### SEC. 5002. EMERGENCY DESIGNATION.

(a) IN GENERAL.—The amounts provided under this division are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 633(g)).

(b) DESIGNATION IN SENATE.—In the Senate, this division is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

#### DIVISION 2—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, and for other purposes, namely:

##### TITLE I

##### AGRICULTURAL PROGRAMS

###### OFFICE OF THE SECRETARY

For an additional amount for the "Office of the Secretary", \$9,500,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus by providing support for agricultural producers impacted by coronavirus, including producers of specialty crops, producers that supply local food systems, including farmers markets, restaurants, and schools, and livestock producers, including dairy producers: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

###### OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", \$750,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That the funding made available under this heading in this Act shall be used for conducting audits and investigations of projects and activities carried out with funds made available in this Act to the Department of Agriculture to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

##### ANIMAL AND PLANT HEALTH INSPECTION SERVICE

###### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$55,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including for necessary expenses for salary costs associated with the Agriculture Quarantine and Inspection Program: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

##### AGRICULTURAL MARKETING SERVICE

###### MARKETING SERVICES

For an additional amount for "Marketing Services", \$45,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including necessary expenses for salary costs associated with commodity grading, inspection, and audit activities: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

##### FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for "Food Safety and Inspection Service", \$33,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including for support of temporary and intermittent workers, relocation of inspectors, and, notwithstanding 21 U.S.C. 468, 695 and 1053 and 7 U.S.C. 2219a, costs of overtime inspectors under the Federal Meat Inspec-

tion Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

#### FARM PRODUCTION AND CONSERVATION PROGRAMS

##### FARM SERVICE AGENCY

For an additional amount for "Salaries and Expenses", \$3,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including necessary expenses to hire temporary staff and overtime expenses: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

##### RURAL DEVELOPMENT PROGRAMS

###### RURAL BUSINESS—COOPERATIVE SERVICE

###### RURAL BUSINESS PROGRAM ACCOUNT

For an additional amount for "Rural Business Program Account", \$20,500,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, for the cost of loans for rural business development programs authorized by section 310B and described in subsection (g) of section 310B of the Consolidated Farm and Rural Development Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

###### RURAL UTILITIES SERVICE

###### DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For an additional amount for "Distance Learning, Telemedicine, and Broadband Program", \$25,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq.: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

##### DOMESTIC FOOD PROGRAMS

###### FOOD AND NUTRITION SERVICE

###### CHILD NUTRITION PROGRAMS

For an additional amount for "Child Nutrition Programs", \$8,800,000,000 to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

##### SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

For an additional amount for "Supplemental Nutrition Assistance Program", \$16,810,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That of the amount provided under this heading in this Act, \$15,810,000,000 shall be placed in a contingency reserve to be allocated as the Secretary deems necessary to support participation should cost or participation exceed budget estimates to prevent, prepare for, and respond to coronavirus: *Provided further*, That of the amount provided under this

maximum total compensation received by the officer or employee from the air carrier or contractor in calendar year 2019; and

(3) no officer or employee of the eligible business whose total compensation exceeded \$3,000,000 in calendar year 2019 may receive during any 12 consecutive months of such period total compensation in excess of the sum of—

(A) \$3,000,000; and  
(B) 50 percent of the excess over \$3,000,000 of the total compensation received by the officer or employee from the eligible business in calendar year 2019.

(b) **TOTAL COMPENSATION DEFINED.**—In this section, the term “total compensation” includes salary, bonuses, awards of stock, and other financial benefits provided by an air carrier or contractor to an officer or employee of the air carrier or contractor.

#### SEC. 4117. TAX PAYER PROTECTION.

The Secretary may receive warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by recipients of financial assistance under this subtitle which, in the sole determination of the Secretary, provide appropriate compensation to the Federal Government for the provision of the financial assistance.

#### SEC. 4118. REPORTS.

(a) **REPORT.**—Not later than November 1, 2020, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Financial Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the financial assistance provided to air carriers and contractors under this subtitle, including a description of any financial assistance provided.

(b) **UPDATE.**—Not later than the last day of the 1-year period following the date of enactment of this Act, the Secretary shall update and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate the report described in subsection (a).

#### SEC. 4119. COORDINATION.

In implementing this subtitle the Secretary shall coordinate with the Secretary of Transportation.

#### SEC. 4120. DIRECT APPROPRIATION.

Notwithstanding any other provision of law, there is appropriated, out of amounts in the Treasury not otherwise appropriated, \$32,000,000,000 to carry out this subtitle.

### TITLE V—CORONAVIRUS RELIEF FUNDS

#### SEC. 5001. CORONAVIRUS RELIEF FUND.

(a) **IN GENERAL.**—The Social Security Act (42 U.S.C. 301 et seq.) is amended by inserting after title V the following:

#### “TITLE VI—CORONAVIRUS RELIEF FUND

##### “SEC. 501. CORONAVIRUS RELIEF FUND.

“(a) **APPROPRIATION.**—

“(1) **IN GENERAL.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for making payments to States, Tribal governments, and units of local government under this section, \$150,000,000,000 for fiscal year 2020.

“(2) **RESERVATION OF FUNDS.**—Of the amount appropriated under paragraph (1), the Secretary shall reserve—

“(A) \$3,000,000,000 of such amount for making payments to the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

“(B) \$8,000,000,000 of such amount for making payments to Tribal governments.

“(b) **AUTHORITY TO MAKE PAYMENTS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), not later than 30 days after the date of enactment of this section, the Secretary shall pay each State and Tribal government, and each unit of local government that meets the condition described in paragraph (2), the amount determined for the State, Tribal government, or unit of local government, for fiscal year 2020 under subsection (c).

“(2) **DIRECT PAYMENTS TO UNITS OF LOCAL GOVERNMENT.**—If a unit of local government of a State submits the certification required by subsection (c) for purposes of receiving a direct payment from the Secretary under the authority of this paragraph, the Secretary shall reduce the amount determined for that State by the relative unit of local government population proportion amount described in subsection (c)(5) and pay such amount directly to such unit of local government.

“(c) **PAYMENT AMOUNTS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), the amount paid under this section for fiscal year 2020 to a State that is 1 of the 50 States shall be the amount equal to the relative population proportion amount determined for the State under paragraph (3) for such fiscal year.

“(2) **MINIMUM PAYMENT.**—

“(A) **IN GENERAL.**—No State that is 1 of the 50 States shall receive a payment under this section for fiscal year 2020 that is less than \$1,250,000,000.

“(B) **PRO RATA ADJUSTMENTS.**—The Secretary shall adjust on a pro rata basis the amount of the payments for each of the 50 States determined under this subsection without regard to this subparagraph to the extent necessary to comply with the requirements of subparagraph (A).

“(3) **RELATIVE POPULATION PROPORTION AMOUNT.**—For purposes of paragraph (1), the relative population proportion amount determined under this paragraph for a State for fiscal year 2020 is the product of—

“(A) the amount appropriated under paragraph (1) of subsection (a) for fiscal year 2020 that remains after the application of paragraph (2) of that subsection; and

“(B) the relative State population proportion (as defined in paragraph (4)).

“(4) **RELATIVE STATE POPULATION PROPORTION DEFINED.**—For purposes of paragraph (3)(B), the term “relative State population proportion” means, with respect to a State, the quotient of—

“(A) the population of the State; and

“(B) the total population of all States (excluding the District of Columbia and territories specified in subsection (a)(2)(A)).

“(5) **RELATIVE UNIT OF LOCAL GOVERNMENT POPULATION PROPORTION AMOUNT.**—For purposes of subsection (b)(2), the term “relative unit of local government population proportion amount” means, with respect to a unit of local government and a State, the amount equal to the product of—

“(A) 45 percent of the amount of the payment determined for the State under this subsection (without regard to this paragraph); and

“(B) the amount equal to the quotient of—

“(1) the population of the unit of local government; and

“(2) the total population of the State in which the unit of local government is located.

“(6) **DISTRICT OF COLUMBIA AND TERRITORIES.**—The amount paid under this section for fiscal year 2020 to a State that is the District of Columbia or a territory specified in subsection (a)(2)(A) shall be the amount equal to the product of—

“(A) the amount set aside under subsection (a)(2)(A) for such fiscal year; and

“(B) each such District's and territory's share of the combined total population of the District of Columbia and all such territories, as determined by the Secretary.

“(7) **TRIBAL GOVERNMENTS.**—From the amount set aside under subsection (a)(2)(B) for fiscal year 2020, the amount paid under this section for fiscal year 2020 to a Tribal government shall be the amount the Secretary shall determine, in consultation with the Secretary of the Interior and Indian Tribes, that is based on increased expenditures of each such Tribal government (or a tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019 by the Tribal government (or tribally-owned entity) and determined in such manner as the Secretary determines appropriate to ensure that all amounts available under subsection (a)(2)(B) for fiscal year 2020 are distributed to Tribal governments.

“(8) **DATA.**—For purposes of this subsection, the population of States and units of local governments shall be determined based on the most recent year for which data are available from the Bureau of the Census.

“(d) **USE OF FUNDS.**—A State, Tribal government, and unit of local government shall use the funds provided under a payment made under this section to cover only those costs of the State, Tribal government, or unit of local government that—

“(1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);

“(2) were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and

“(3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

“(e) **CERTIFICATION.**—In order to receive a payment under this section, a unit of local government shall provide the Secretary with a certification signed by the Chief Executive for the unit of local government that the local government's proposed uses of the funds are consistent with subsection (d).

“(f) **INSPECTOR GENERAL OVERSIGHT; RECOUPMENT.**—

“(1) **OVERSIGHT AUTHORITY.**—The Inspector General of the Department of the Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under this section.

“(2) **RECOUPMENT.**—If the Inspector General of the Department of the Treasury determines that a State, Tribal government, or unit of local government has failed to comply with subsection (d), the amount equal to the amount of funds used in violation of such subsection shall be booked as a debt of such entity owed to the Federal Government. Amounts recovered under this subsection shall be deposited into the general fund of the Treasury.

“(3) **APPROPRIATION.**—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Office of the Inspector General of the Department of the Treasury, \$35,000,000 to carry out oversight and recoupment activities under this subsection. Amounts appropriated under the preceding sentence shall remain available until expended.

“(4) **AUTHORITY OF INSPECTOR GENERAL.**—Nothing in this subsection shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

“(g) **DEFINITIONS.**—In this section:

“(1) **INDIAN TRIBE.**—The term “Indian Tribe” has the meaning given that term in section

(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

"(2) LOCAL GOVERNMENT.—The term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level with a population that exceeds 500,000.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(4) STATE.—The term 'State' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

"(5) TRIBAL GOVERNMENT.—The term 'Tribal government' means the recognized governing body of an Indian Tribe."

(b) APPLICATION OF PROVISIONS.—Amounts appropriated for fiscal year 2020 under section 501(a)(1) of the Social Security Act (as added by subsection (a)) shall be subject to the requirements contained in Public Law 116-94 for funds for programs authorized under sections 330 through 340 of the Public Health Service Act (42 U.S.C. 254 through 259).

#### TITLE VI—MISCELLANEOUS PROVISIONS

##### SEC. 501. COVID-19 BORROWING AUTHORITY FOR THE UNITED STATES POSTAL SERVICE.

(a) DEFINITIONS.—In this section—

(1) the term "COVID-19 emergency" means the emergency involving Federal primary responsibility determined to exist by the President under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5181(b)) with respect to the Coronavirus Disease 2019 (COVID-19); and

(2) the term "Postal Service" means the United States Postal Service.

(b) ADDITIONAL BORROWING AUTHORITY.—Notwithstanding section 2005 of title 39, United States Code, or any other provision of law, if the Postal Service determines that, due to the COVID-19 emergency, the Postal Service will not be able to fund operating expenses without borrowing money—

(1) the Postal Service may borrow money from the Treasury in an amount not to exceed \$10,000,000,000—

(A) to be used for such operating expenses; and

(B) which may not be used to pay any outstanding debt of the Postal Service; and

(2) the Secretary of the Treasury may lend up to the amount described in paragraph (1) at the request of the Postal Service, upon terms and conditions mutually agreed upon by the Secretary and the Postal Service.

(c) PRIORITIZATION OF DELIVERY FOR MEDICAL PURPOSES DURING COVID-19 EMERGENCY.—Notwithstanding any other provision of law, during the COVID-19 emergency, the Postal Service—

(1) shall prioritize delivery of postal products for medical purposes; and

(2) may establish temporary delivery points, in such form and manner as the Postal Service determines necessary, to protect employees of the Postal Service and individuals receiving deliveries from the Postal Service.

##### SEC. 502. EMERGENCY DESIGNATION.

(a) IN GENERAL.—The amounts provided under this division are designated as an emergency requirement pursuant to section 4(e) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(e)).

(b) DESIGNATION IN SENATE.—In the Senate, this division is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

#### DIVISION B—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, and for other purposes, namely:

##### TITLE I

##### AGRICULTURAL PROGRAMS

###### OFFICE OF THE SECRETARY

For an additional amount for the "Office of the Secretary", \$9,500,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus by providing support for agricultural producers impacted by coronavirus, including producers of specialty crops, producers that supply local food systems, including farmers markets, restaurants, and schools, and livestock producers, including dairy producers: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

###### OFFICE OF INSPECTOR GENERAL

For an additional amount for "Office of Inspector General", \$750,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That the funding made available under this heading in this Act shall be used for conducting audits and investigations of projects and activities carried out with funds made available in this Act to the Department of Agriculture to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

###### ANIMAL AND PLANT HEALTH INSPECTION SERVICE

###### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$55,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including for necessary expenses for salary costs associated with the Agriculture Quarantine and Inspection Program: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

###### AGRICULTURAL MARKETING SERVICE

###### MARKETING SERVICES

For an additional amount for "Marketing Services", \$45,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including necessary expenses for salary costs associated with commodity grading, inspection, and audit activities: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

###### FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for "Food Safety and Inspection Service", \$33,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including for support of temporary and intermittent workers, relocation of inspectors, and, notwithstanding 21 U.S.C. 468, 685 and 1053 and 7 U.S.C. 2219a, costs of overtime inspectors under the Federal Meat Inspec-

tion Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

#### FARM PRODUCTION AND CONSERVATION PROGRAMS

##### FARM SERVICE AGENCY

For an additional amount for "Salaries and Expenses", \$3,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including necessary expenses to hire temporary staff and overtime expenses: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

##### RURAL DEVELOPMENT PROGRAMS

###### RURAL BUSINESS—COOPERATIVE SERVICE

###### RURAL BUSINESS PROGRAM ACCOUNT

For an additional amount for "Rural Business Program Account", \$20,500,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, for the cost of loans for rural business development programs authorized by section 310B and described in subsection (g) of section 310B of the Consolidated Farm and Rural Development Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

###### RURAL UTILITIES SERVICE

###### DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For an additional amount for "Distance Learning, Telemedicine, and Broadband Program", \$25,000,000, to remain available until expended, to prevent, prepare for, and respond to coronavirus, domestically or internationally, for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq.: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

##### DOMESTIC FOOD PROGRAMS

###### FOOD AND NUTRITION SERVICE

###### CHILD NUTRITION PROGRAMS

For an additional amount for "Child Nutrition Programs", \$8,800,000,000 to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

###### SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

For an additional amount for "Supplemental Nutrition Assistance Program", \$15,810,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That of the amount provided under this heading in this Act, \$15,810,000,000 shall be placed in a contingency reserve to be allocated as the Secretary deems necessary to support participation should cost or participation exceed budget estimates to prevent, prepare for, and respond to coronavirus: *Provided further*, That of the amount provided under this



**Coronavirus Relief Fund  
Guidance for State, Territorial, Local, and Tribal Governments  
April 22, 2020**

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act established the Coronavirus Relief Fund (the "Fund") and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.<sup>1</sup>

The guidance that follows sets forth the Department of the Treasury's interpretation of these limitations on the permissible use of Fund payments.

***Necessary expenditures incurred due to the public health emergency***

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.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be "necessary." The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

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

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget or (b) the cost

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<sup>1</sup> See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The "most recently approved" budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

*Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020*

A cost is "incurred" when the responsible unit of government has expended funds to cover the cost.

*Nonexclusive examples of eligible expenditures*

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
  - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
  - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
  - Costs of providing COVID-19 testing, including serological testing.
  - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
  - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
  - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
  - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
  - Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
  - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
  - Expenses for public safety measures undertaken in response to COVID-19.
  - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
  - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
  - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
  - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
  - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
  - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
  - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
  - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
  - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
  - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

*Nonexclusive examples of ineligible expenditures<sup>2</sup>*

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.<sup>3</sup>
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

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<sup>2</sup> In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

<sup>3</sup> See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

**Coronavirus Relief Fund  
Frequently Asked Questions  
Updated as of May 28, 2020**

The following answers to frequently asked questions supplement Treasury's Coronavirus Relief Fund ("Fund") Guidance for State, Territorial, Local, and Tribal Governments, dated April 22, 2020, ("Guidance").<sup>1</sup> Amounts paid from the Fund are subject to the restrictions outlined in the Guidance and set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

**Eligible Expenditures**

***Are governments required to submit proposed expenditures to Treasury for approval?***

No. Governments are responsible for making determinations as to what expenditures are necessary due to the public health emergency with respect to COVID-19 and do not need to submit any proposed expenditures to Treasury.

***The Guidance says that funding can be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. How does a government determine whether payroll expenses for a given employee satisfy the "substantially dedicated" condition?***

The Fund is designed to provide ready funding to address unforeseen financial needs and risks created by the COVID-19 public health emergency. For this reason, and as a matter of administrative convenience in light of the emergency nature of this program, a State, territorial, local, or Tribal government may presume that payroll costs for public health and public safety employees are payments for services substantially dedicated to mitigating or responding to the COVID-19 public health emergency, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise.

***The Guidance says that a cost was not accounted for in the most recently approved budget if the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation. What would qualify as a "substantially different use" for purposes of the Fund eligibility?***

Costs incurred for a "substantially different use" include, but are not necessarily limited to, costs of personnel and services that were budgeted for in the most recently approved budget but which, due entirely to the COVID-19 public health emergency, have been diverted to substantially different functions. This would include, for example, the costs of redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures; the costs of redeploying police to support management and enforcement of stay-at-home orders; or the costs of diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

Note that a public function does not become a "substantially different use" merely because it is provided from a different location or through a different manner. For example, although developing online instruction capabilities may be a substantially different use of funds, online instruction itself is not a substantially different use of public funds than classroom instruction.

<sup>1</sup> The Guidance is available at <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.



***May a State receiving a payment transfer funds to a local government?***

Yes, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act. Such funds would be subject to recoupment by the Treasury Department if they have not been used in a manner consistent with section 601(d) of the Social Security Act.

***May a unit of local government receiving a Fund payment transfer funds to another unit of government?***

Yes. For example, a county may transfer funds to a city, town, or school district within the county and a county or city may transfer funds to its State, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, a transfer from a county to a constituent city would not be permissible if the funds were intended to be used simply to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify as an eligible expenditure.

***Is a Fund payment recipient required to transfer funds to a smaller, constituent unit of government within its borders?***

No. For example, a county recipient is not required to transfer funds to smaller cities within the county's borders.

***Are recipients required to use other federal funds or seek reimbursement under other federal programs before using Fund payments to satisfy eligible expenses?***

No. Recipients may use Fund payments for any expenses eligible under section 601(d) of the Social Security Act outlined in the Guidance. Fund payments are not required to be used as the source of funding of last resort. However, as noted below, recipients may not use payments from the Fund to cover expenditures for which they will receive reimbursement.

***Are there prohibitions on combining a transaction supported with Fund payments with other CARES Act funding or COVID-19 relief Federal funding?***

Recipients will need to consider the applicable restrictions and limitations of such other sources of funding. In addition, expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds, are not eligible uses of Fund payments.

***Are States permitted to use Fund payments to support state unemployment insurance funds generally?***

To the extent that the costs incurred by a state unemployment insurance fund are incurred due to the COVID-19 public health emergency, a State may use Fund payments to make payments to its respective state unemployment insurance fund, separate and apart from such State's obligation to the unemployment insurance fund as an employer. This will permit States to use Fund payments to prevent expenses related to the public health emergency from causing their state unemployment insurance funds to become insolvent.

***Are recipients permitted to use Fund payments to pay for unemployment insurance costs incurred by the recipient as an employer?***

Yes, Fund payments may be used for unemployment insurance costs incurred by the recipient as an employer (for example, as a reimbursing employer) related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.

***The Guidance states that the Fund may support a "broad range of uses" including payroll expenses for several classes of employees whose services are "substantially dedicated to mitigating or responding to the COVID-19 public health emergency." What are some examples of types of covered employees?***

The Guidance provides examples of broad classes of employees whose payroll expenses would be eligible expenses under the Fund. These classes of employees include public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Payroll and benefit costs associated with public employees who could have been furloughed or otherwise laid off but who were instead repurposed to perform previously unbudgeted functions substantially dedicated to mitigating or responding to the COVID-19 public health emergency are also covered. Other eligible expenditures include payroll and benefit costs of educational support staff or faculty responsible for developing online learning capabilities necessary to continue educational instruction in response to COVID-19-related school closures. Please see the Guidance for a discussion of what is meant by an expense that was not accounted for in the budget most recently approved as of March 27, 2020.

***In some cases, first responders and critical health care workers that contract COVID-19 are eligible for workers' compensation coverage. Is the cost of this expanded workers compensation coverage eligible?***

Increased workers compensation cost to the government due to the COVID-19 public health emergency incurred during the period beginning March 1, 2020, and ending December 30, 2020, is an eligible expense.

***If a recipient would have decommissioned equipment or not renewed a lease on particular office space or equipment but decides to continue to use the equipment or to renew the lease in order to respond to the public health emergency, are the costs associated with continuing to operate the equipment or the ongoing lease payments eligible expenses?***

Yes. To the extent the expenses were previously unbudgeted and are otherwise consistent with section 601(d) of the Social Security Act outlined in the Guidance, such expenses would be eligible.

***May recipients provide stipends to employees for eligible expenses (for example, a stipend to employees to improve telework capabilities) rather than require employees to incur the eligible cost and submit for reimbursement?***

Expenditures paid for with payments from the Fund must be limited to those that are necessary due to the public health emergency. As such, unless the government were to determine that providing assistance in the form of a stipend is an administrative necessity, the government should provide such assistance on a reimbursement basis to ensure as much as possible that funds are used to cover only eligible expenses.

***May Fund payments be used for COVID-19 public health emergency recovery planning?***

Yes. Expenses associated with conducting a recovery planning project or operating a recovery coordination office would be eligible, if the expenses otherwise meet the criteria set forth in section 601(d) of the Social Security Act outlined in the Guidance.

***Are expenses associated with contract tracing eligible?***

Yes, expenses associated with contract tracing are eligible.

***To what extent may a government use Fund payments to support the operations of private hospitals?***

Governments may use Fund payments to support public or private hospitals to the extent that the costs are necessary expenditures incurred due to the COVID-19 public health emergency, but the form such assistance would take may differ. In particular, financial assistance to private hospitals could take the form of a grant or a short-term loan.

***May payments from the Fund be used to assist individuals with enrolling in a government benefit program for those who have been laid off due to COVID-19 and thereby lost health insurance?***

Yes. To the extent that the relevant government official determines that these expenses are necessary and they meet the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance, these expenses are eligible.

***May recipients use Fund payments to facilitate livestock depopulation incurred by producers due to supply chain disruptions?***

Yes, to the extent these efforts are deemed necessary for public health reasons or as a form of economic support as a result of the COVID-19 health emergency.

***Would providing a consumer grant program to prevent eviction and assist in preventing homelessness be considered an eligible expense?***

Yes, assuming that the recipient considers the grants to be a necessary expense incurred due to the COVID-19 public health emergency and the grants meet the other requirements for the use of Fund payments under section 601(d) of the Social Security Act outlined in the Guidance. As a general matter, providing assistance to recipients to enable them to meet property tax requirements would not be an eligible use of funds, but exceptions may be made in the case of assistance designed to prevent foreclosures.

***May recipients create a "payroll support program" for public employees?***

Use of payments from the Fund to cover payroll or benefits expenses of public employees are limited to those employees whose work duties are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

***May recipients use Fund payments to cover employment and training programs for employees that have been furloughed due to the public health emergency?***

Yes, this would be an eligible expense if the government determined that the costs of such employment and training programs would be necessary due to the public health emergency.

***May recipients use Fund payments to provide emergency financial assistance to individuals and families directly impacted by a loss of income due to the COVID-19 public health emergency?***

Yes, if a government determines such assistance to be a necessary expenditure. Such assistance could include, for example, a program to assist individuals with payment of overdue rent or mortgage payments to avoid eviction or foreclosure or unforeseen financial costs for funerals and other emergency individual needs. Such assistance should be structured in a manner to ensure as much as possible, within the realm of what is administratively feasible, that such assistance is necessary.

***The Guidance provides that eligible expenditures may include expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. What is meant by a "small business," and is the Guidance intended to refer only to expenditures to cover administrative expenses of such a grant program?***

Governments have discretion to determine what payments are necessary. A program that is aimed at assisting small businesses with the costs of business interruption caused by required closures should be tailored to assist those businesses in need of such assistance. The amount of a grant to a small business to reimburse the costs of business interruption caused by required closures would also be an eligible expenditure under section 601(d) of the Social Security Act, as outlined in the Guidance.

***The Guidance provides that expenses associated with the provision of economic support in connection with the public health emergency, such as expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures, would constitute eligible expenditures of Fund payments. Would such expenditures be eligible in the absence of a stay-at-home order?***

Fund payments may be used for economic support in the absence of a stay-at-home order if such expenditures are determined by the government to be necessary. This may include, for example, a grant program to benefit small businesses that close voluntarily to promote social distancing measures or that are affected by decreased customer demand as a result of the COVID-19 public health emergency.

***May Fund payments be used to assist impacted property owners with the payment of their property taxes?***

Fund payments may not be used for government revenue replacement, including the provision of assistance to meet tax obligations.

***May Fund payments be used to replace foregone utility fees? If not, can Fund payments be used as a direct subsidy payment to all utility account holders?***

Fund payments may not be used for government revenue replacement, including the replacement of unpaid utility fees. Fund payments may be used for subsidy payments to electricity account holders to the extent that the subsidy payments are deemed by the recipient to be necessary expenditures incurred due to the COVID-19 public health emergency and meet the other criteria of section 601(d) of the Social Security Act outlined in the Guidance. For example, if determined to be a necessary expenditure, a government could provide grants to individuals facing economic hardship to allow them to pay their utility fees and thereby continue to receive essential services.

***Could Fund payments be used for capital improvement projects that broadly provide potential economic development in a community?***

In general, no. If capital improvement projects are not necessary expenditures incurred due to the COVID-19 public health emergency, then Fund payments may not be used for such projects.

However, Fund payments may be used for the expenses of, for example, establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity or improve mitigation measures, including related construction costs.

***The Guidance includes workforce bonuses as an example of ineligible expenses but provides that hazard pay would be eligible if otherwise determined to be a necessary expense. Is there a specific definition of "hazard pay"?***

Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19.

***The Guidance provides that ineligible expenditures include "[p]ayroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency." Is this intended to relate only to public employees?***

Yes. This particular nonexclusive example of an ineligible expenditure relates to public employees. A recipient would not be permitted to pay for payroll or benefit expenses of private employees and any financial assistance (such as grants or short-term loans) to private employers are not subject to the restriction that the private employers' employees must be substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

***May counties pre-pay with CARES Act funds for expenses such as a one or two-year facility lease, such as to house staff hired in response to COVID-19?***

A government should not make prepayments on contracts using payments from the Fund to the extent that doing so would not be consistent with its ordinary course policies and procedures.

***Must a stay-at-home order or other public health mandate be in effect in order for a government to provide assistance to small businesses using payments from the Fund?***

No. The Guidance provides, as an example of an eligible use of payments from the Fund, expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures. Such assistance may be provided using amounts received from the Fund in the absence of a requirement to close businesses if the relevant government determines that such expenditures are necessary in response to the public health emergency.

***Should States receiving a payment transfer funds to local governments that did not receive payments directly from Treasury?***

Yes, provided that the transferred funds are used by the local government for eligible expenditures under the statute. To facilitate prompt distribution of Title V funds, the CARES Act authorized Treasury to make direct payments to local governments with populations in excess of 500,000, in amounts equal to 45% of the local government's per capita share of the statewide allocation. This statutory structure was based on a recognition that it is more administratively feasible to rely on States, rather than the federal government, to manage the transfer of funds to smaller local governments. Consistent with the needs of all local governments for funding to address the public health emergency, States should transfer funds to local governments with populations of 500,000 or less, using as a benchmark the per capita allocation formula that governs payments to larger local governments. This approach will ensure equitable treatment among local governments of all sizes.

For example, a State received the minimum \$1.25 billion allocation and had one county with a population over 500,000 that received \$250 million directly. The State should distribute 45 percent of the \$1 billion it received, or \$450 million, to local governments within the State with a population of 500,000 or less.

***May a State impose restrictions on transfers of funds to local governments?***

Yes, to the extent that the restrictions facilitate the State's compliance with the requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance and other applicable requirements such as the Single Audit Act, discussed below. Other restrictions are not permissible.

***If a recipient must issue tax anticipation notes (TANs) to make up for tax due date deferrals or revenue shortfalls, are the expenses associated with the issuance eligible uses of Fund payments?***

If a government determines that the issuance of TANs is necessary due to the COVID-19 public health emergency, the government may expend payments from the Fund on the accrued interest expense on TANs and unbudgeted administrative and transactional costs, such as necessary payments to advisors and underwriters, associated with the issuance of the TANs.

***May recipients use Fund payments to expand rural broadband capacity to assist with distance learning and telework?***

Such expenditures would only be permissible if they are necessary for the public health emergency. The cost of projects that would not be expected to increase capacity to a significant extent until the need for distance learning and telework have passed due to this public health emergency would not be necessary due to the public health emergency and thus would not be eligible uses of Fund payments.

***Are costs associated with increased solid waste capacity an eligible use of payments from the Fund?***

Yes, costs to address increase in solid waste as a result of the public health emergency, such as relates to the disposal of used personal protective equipment, would be an eligible expenditure.

***May payments from the Fund be used to cover across-the-board hazard pay for employees working during a state of emergency?***

No. The Guidance says that funding may be used to meet payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency. Hazard pay is a form of payroll expense and is subject to this limitation, so Fund payments may only be used to cover hazard pay for such individuals.

***May Fund payments be used for expenditures related to the administration of Fund payments by a State, territorial, local, or Tribal government?***

Yes, if the administrative expenses represent an increase over previously budgeted amounts and are limited to what is necessary. For example, a State may expend Fund payments on necessary administrative expenses incurred with respect to a new grant program established to disburse amounts received from the Fund.

***May recipients use Fund payments to provide loans?***

Yes, if the loans otherwise qualify as eligible expenditures under section 601(d) of the Social Security Act as implemented by the Guidance. Any amounts repaid by the borrower before December 30, 2020, must be either returned to Treasury upon receipt by the unit of government providing the loan or used for another expense that qualifies as an eligible expenditure under section 601(d) of the Social Security Act. Any amounts not repaid by the borrower until after December 30, 2020, must be returned to Treasury upon receipt by the unit of government lending the funds.

***May Fund payments be used for expenditures necessary to prepare for a future COVID-19 outbreak?***

Fund payments may be used only for expenditures necessary to address the current COVID-19 public health emergency. For example, a State may spend Fund payments to create a reserve of personal protective equipment or develop increased intensive care unit capacity to support regions in its jurisdiction not yet affected, but likely to be impacted by the current COVID-19 pandemic.

#### **Questions Related to Administration of Fund Payments**

***Do governments have to return unspent funds to Treasury?***

Yes. Section 601(f)(2) of the Social Security Act, as added by section 5001(a) of the CARES Act, provides for recoupment by the Department of the Treasury of amounts received from the Fund that have not been used in a manner consistent with section 601(d) of the Social Security Act. If a government has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to the Department of the Treasury.

***What records must be kept by governments receiving payment?***

A government should keep records sufficient to demonstrate that the amount of Fund payments to the government has been used in accordance with section 601(d) of the Social Security Act.

***May recipients deposit Fund payments into interest bearing accounts?***

Yes, provided that if recipients separately invest amounts received from the Fund, they must use the interest earned or other proceeds of these investments only to cover expenditures incurred in accordance with section 601(d) of the Social Security Act and the Guidance on eligible expenses. If a government deposits Fund payments in a government's general account, it may use those funds to meet immediate cash management needs provided that the full amount of the payment is used to cover necessary expenditures. Fund payments are not subject to the Cash Management Improvement Act of 1990, as amended.

***May governments retain assets purchased with payments from the Fund?***

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds provided by section 601(d) of the Social Security Act.

***What rules apply to the proceeds of disposition or sale of assets acquired using payments from the Fund?***

If such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Fund provided by section 601(d) of the Social Security Act.

***Are Fund payments to State, territorial, local, and tribal governments considered grants?***

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments are not considered to be grants but are "other financial assistance" under 2 C.F.R. § 200.40.

***Are Fund payments considered federal financial assistance for purposes of the Single Audit Act?***

Yes, Fund payments are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

***Are Fund payments subject to other requirements of the Uniform Guidance?***

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

***Is there a Catalog of Federal Domestic Assistance (CFDA) number assigned to the Fund?***

Yes. The CFDA number assigned to the Fund is 21.019, pending completion of registration.

***If a State transfers Fund payments to its political subdivisions, would the transferred funds count toward the subrecipients' total funding received from the federal government for purposes of the Single Audit Act?***

Yes. The Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

***Are recipients permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act?***

Yes, such expenses would be eligible expenditures, subject to the limitations set forth in 2 C.F.R. § 200.425.

***If a government has transferred funds to another entity, from which entity would the Treasury Department seek to recoup the funds if they have not been used in a manner consistent with section 601(d) of the Social Security Act?***

The Treasury Department would seek to recoup the funds from the government that received the payment directly from the Treasury Department. State, territorial, local, and Tribal governments receiving funds from Treasury should ensure that funds transferred to other entities, whether pursuant to a grant program



or otherwise, are used in accordance with section 601(d) of the Social Security Act as implemented in the Guidance,

**NAVAJO NATION CARES FUND  
CHAPTER DISTRIBUTION EXPENDITURE PLAN<sup>1</sup>**

**I. PURPOSE**

The purpose of this Chapter Distribution Expenditure Plan is to allow for the use and expenditure of ninety-two million dollars (\$92,000,000.00) to assist Navajo Nation Chapters (both LGA Certified and non-certified) through an on-line portal administered by the Division of Community Development to respond to the COVID-19 pandemic and ensure that Navajo communities have access to the funding necessary to ensure that community members are adequately protected from exposure to COVID-19 and to mitigate the spread of the virus. Any Expenditure Plan funds that are unspent as of December 30, 2020, will revert back to the Navajo Nation CARES Fund.

Ninety million dollars (\$90,000,000) shall be allocated to Chapters based on 12 N.N.C. § 820 (O)'s 50/50 Chapter Distribution formula and two million dollars (\$2,000,000) shall be allocated to the Division of Community Development to implement this Expenditure Plan in the most expeditious manner possible.

Allowable expenditures include, but are not limited to: personal protective equipment, (gloves, masks, hand sanitizer, thermometers, anti-bacterial soap, first-aid supplies, employee workplace ); essential sanitation items (Clorox, Clorox wipes, Lysol spray, toilet tissue, wipes, diapers, adult pull-ups, feminine hygiene, toothpaste, tooth brush, aloe-vera, lotion, shampoo, soap); essential fuel sources (wood, coal, pellets, propane, gas vouchers-fuel, hand warmers, blankets); essential food items (vitamin C-EmergenC, Vitamin C tablets, water, multi-vitamin for adults and children, Gatorade, V-8, Ensure drinks, Emergency Food Care package, blue corn mush); essential services (Solid Waste Removal, Solid-waste clean-up, porta-johns, support to water haulers, livestock windmills, electric bill assistant); infrastructure projects, infrastructure upgrades, (bathroom additions, plan, design & construction -ADA must be included as needed, bathroom equipment, septic services assistance, cistern tanks, water barrels, work place implementation to meet CDC requirements, utility and water infrastructure, water wells), infrastructure equipment such as backhoe for COVID related deceased matters and other deceased matters for burial/grave digging; emergency essential support (PEP employment-special duty pay, essential pay, bathroom additions construction employee, essential delivery workers, essential workers-heavy equipment operator for road maintenance and burial, Emergency coordinator); emergency hardship assistance for electric, propane, natural gas, broadband and telecommunication needs and equipment, home improvement needs including but not limited to water heater and solar panel repairs, and groceries, payment for chapter/senior

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<sup>1</sup> As amended by Navajo Nation Council Resolution No. CS-73-20.

center utility bills (electric, propane, natural gas), purchase of food, personal protective equipment for elders at senior centers, upgrade at Senior Centers to include safety upgrades per CDC guidelines following ADA guidelines.

The federal CARES Act, Title V, 5001, entitled "Coronavirus Relief Funds" requires these funds be used to 1.) cover costs that are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; 2.) were not accounted for in the budget most recently approved, as of March 27, 2020; and 3.) incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

**II. AFFIRMATION OF FUND USE**

The Office of the Controller, Division of Community Development and Navajo Nation Chapters affirm that they will only use these funds in accordance with the purposes set forth in Title V of the Coronavirus Aid, Relief, and Economic Security Act (the "federal CARES Act") as enacted by the United States Congress and found in Public Law 116-136 (2020).

**III. ALLOCATION ASSIGNMENT**

The funds are allocated to the Navajo Nation Division of Community Development - Administrative Service Department on behalf of the Chapters and are to be used for projects and/or programs dedicated to mitigating or responding to the COVID-19 public health emergency and interaction with the public at the chapter level.

**IV. IMPLEMENTATION AND MONITORING**

The Office of the Controller shall develop and support an online portal ("CARES portal") which will serve to disseminate information; accept online requests for assistance from Chapters; maintain records; facilitate communication between Chapters, the Division of Community Development, and the Office of the Controller; and to facilitate monitoring, compliance, and reporting. The Administrative Service Center is responsible for implementing the Expenditure Plan through the provision of centralized procurement of goods and services on behalf of LGA-certified Chapters and non-LGA certified Chapters, using the on-line CARES portal to facilitate assistance to Chapters and monitoring the expenditure of funds, and compliance with and fulfilling reporting requirements.

**V. ADMINISTRATOR OF FUNDS**

The Department Manager of the Administrative Services Center is responsible for administering the Expenditure Plan and overseeing the allocated funds.

**VI. MEANS OF FUNDING**

The Expenditure Plan funds shall be released directly to the Division of Community Development-Administrative Service Center once the Expenditure Plan is duly adopted and the Division of Community Development has developed expenditure eligibility requirements.

**VII. ACCOUNTING AND REPORTING REQUIREMENTS**

Title V CARES Act Funds, as appropriated by Congress and received by the Nation, are considered federal financial assistance received by the Navajo Nation for specified uses; and are subject to the restrictions outlined in the Treasury Guidance and as set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act. The CARES Act has a CFDA No. 21.019; therefore, the funding received by the Nation is subject to GASB, Uniform Guidance/Super Circular guidelines and the Single Audit Act and any other applicable rules, regulations and guidance.

**VIII. OVERSIGHT COMMITTEE**

The Resources and Development Committee (RDC) and Budget and Finance Committee (BFC) shall share oversight over the Expenditure Plan as RDC has oversight over chapters and the Division of Community Development and BFC has oversight over externally restricted funding and the Office of the Controller.

**IX. AFFIRMATION OF ADMINISTRATION AND MANAGEMENT**

The Office of the Controller, Division of Community Development – Administrative Service Center and Chapters receiving funding affirms it will administer, manage, and implement the funds allocated to it in this expenditure plan consistent the federal CARES Act, the Treasury Guidance, as well as other applicable laws and regulations of the Navajo Nation.

**X. REVERSION OF UNEXPENDED FUNDS**

Any funds allocated under this Expenditure Plan which remain unexpended on November 30, 2020 shall automatically revert to the Navajo Nation CARES Fund Hardship Assistance Program to be administered by the Office of the Controller pursuant to the Hardship Assistance Expenditure Plan.

A	B	C
BUS. UNITS	AGENCY/CHAPTERS	CARES FUND CHAPTER DISTRIBUTION EXPENDITURE PLAN
50/50		
EASTERN AGENCY (31)		
108028	Alamo Chapter	815,233
108029	Baca-Prewitt Chapter	892,829
108030	Becenti Chapter	674,899
108031	Baahaali Chapter	743,415
108033	Casamero Lake Chapter	626,608
108034	Chichiltah Chapter	967,536
108035	Churchrock Chapter	1,126,855
108036	Counselor Chapter	619,178
108037	Crownpoint Chapter	830,504
108038	Huerfano Chapter	992,713
108039	Iyanbito Chapter	697,600
108040	Lake Valley Chapter	565,109
108041	Littlewater Chapter	667,057
108042	Manuelito Chapter	690,996
108043	Mariano Lake Chapter	707,919
108044	Nageezi Chapter	791,293
108045	Nahodishgish Chapter	591,112
108046	Ojo Encino Chapter	633,625
108047	Pinedale Chapter	833,806
108048	Pueblo Pintado Chapter	585,748
108049	Ramah Chapter	879,208
108050	Red Rock Chapter	1,022,844
108051	Rock Springs Chapter	907,688
108052	Smith Lake Chapter	641,054
108053	Standing Rock Chapter	656,326
108032	To'hajiilee Chapter	784,689
108054	Thoreau Chapter	894,067
108055	Torreón Chapter	794,595
108056	Tsayatoh Chapter	746,304
108057	Whitehorse Lake Chapter	621,655
108058	Whiterock Chapter	534,154
SUBTOTAL		23,536,619

NAVAJO NATION 110  
CHAPTERS - COVID 19

A	B	C
BUS. UNITS	AGENCY/CHAPTERS	CARES FUND CHAPTER DISTRIBUTION EXPENDITURE PLAN
50/50		
	<b>FT DEFIANCE AGENCY (27)</b>	
108059	Cornfields Chapter	740,526
108060	Coyote Canyon Chapter	812,343
108061	Crystal Chapter	703,791
108062	Dilkon Chapter	843,299
108063	Ft. Defiance Chapter	1,484,706
108064	Ganado Chapter	896,131
108065	Houck Chapter	845,363
108066	Indian Wells Chapter	757,448
108067	Jeddito Chapter	712,046
108068	Kinlichee Chapter	908,926
108069	Klagetoh Chapter	739,700
108070	Low Mountain Chapter	700,902
108071	Greasewood Springs Chapter	759,512
108072	Lupton Chapter	672,423
108073	Mexican Spring Chapter	733,096
108074	Naschitti Chapter	848,665
108085	Nahata Dzil Chapter	776,847
108075	Oak Springs Chapter	657,564
108076	Red Lake Chapter	655,087
108077	Sawmill Chapter	768,592
108078	St. Michaels Chapter	1,276,269
108079	Steamboat Chapter	811,105
108080	Teesto Chapter	726,905
108081	Tohatchi Chapter	866,000
108082	Twin Lakes Chapter	953,502
108083	Whitecone Chapter	695,536
108084	Wide Ruins Chapter	719,476
	<b>SUBTOTAL</b>	<b>22,065,760</b>

FY 2020

**NAVAJO NATION 110  
CHAPTERS - COVID 19**

A	B	C
BUS. UNITS	AGENCY/CHAPTERS	CARES FUND CHAPTER DISTRIBUTION EXPENDITURE PLAN
<b>50/50</b>		
	<b>SHIPROCK AGENCY (20)</b>	
108086	Aneth Chapter	989,824
108087	Beclabito Chapter	631,561
108088	Burnham Chapter	609,685
108089	Cove Chapter	609,273
108090	Gadii'ahi Chapter	624,957
108092	Hogback Chapter	892,829
108093	Mexican Water Chapter	643,118
108094	Nenahnezad Chapter	915,117
108095	Newcomb Chapter	640,641
108096	Red Mesa Chapter	873,017
108097	Red Valley Chapter	780,149
108098	Rock Point Chapter	883,336
108100	Sanostee Chapter	971,250
108099	San Juan Chapter	643,530
108101	Sheepsprings Chapter	650,134
108102	Shiprock Chapter	2,342,801
108103	Sweetwater Chapter	743,415
108104	Teecnospos Chapter	812,343
108105	Two Grey Hills Chapter	721,539
108091	Upper Fruitland Chapter	1,154,509
	<b>SUBTOTAL</b>	<b>17,133,028</b>

**NAVAJO NATION 110  
CHAPTERS - COVID 19**

A	B	C
BUS. UNITS	AGENCY/CHAPTERS	CARES FUND CHAPTER DISTRIBUTION EXPENDITURE PLAN
<b>50/50</b>		
	<b>WESTERN AGENCY (18)</b>	
108106	Birdsprings Chapter	647,658
108107	Bodaway-Gap Chapter	821,011
108108	Cameron Chapter	735,160
108109	Chilchinbeto Chapter	718,237
108110	Coalmine Mesa Chapter	685,218
108111	Coppermine Chapter	710,395
108112	Dennehotso Chapter	854,031
108113	Inscription House Chapter	688,520
108114	Kaibeto Chapter	843,299
108115	Kayenta Chapter	1,310,940
108116	LeChee Chapter	770,656
108117	Leupp Chapter	868,477
108118	Navajo Mountain Chapter	649,722
108119	Oljato Chapter	968,774
108121	Shonto Chapter	892,829
108122	Tolani Lake Chapter	605,971
108120	Tonalea/Red Lake Chapter	938,643
108123	To'nanees'dizi Chapter	1,672,918
	<b>SUBTOTAL</b>	<b>15,382,459</b>
	<b>CHINLE AGENCY (14)</b>	
108014	Black Mesa Chapter	603,081
108015	Chinle Chapter	1,814,490
108016	Forest Lake Chapter	601,018
108017	Hardrock Chapter	688,932
108018	Lukachukai Chapter	835,457
108019	Many Farms Chapter	915,942
108020	Nazlini Chapter	740,526
108021	Pinon Chapter	1,020,780
108023	Rough Rock Chapter	694,298
108022	Round Rock Chapter	725,667
108024	Tachee/Blue Gap Chapter	737,636
108025	Tsaile/Wheatfields Chapter	908,926
108026	Tselani/Cottonwood Chapter	872,191
108027	Whippoorwill Chapter	723,190
	<b>SUBTOTAL</b>	<b>11,882,134</b>
	<b>GRAND TOTAL</b>	<b>90,000,000</b>



**NAVAJO NATION CARES FUND ACT  
NAVAJO NATION OFFICE OF CONTROLLER EXPENDITURE PLAN**



**I. PURPOSE**

The purpose of the request to fund the Navajo Nation Office of the Controller (NNOOC) is to address the additional effort associated with administration and compliance of the CARES Act funding received by the Navajo Nation (the Nation). The funding received through the CARES Act is a one-time, nonrecurring, influx of resources to assist the Nation with prevention, detection, and mitigation of COVID-19. This includes maintaining or increasing health center capacity and increased staffing levels during a coronavirus-related public health emergency to ensure the ongoing operations of the Nation while providing a safe and clean working environment for essential staff. The Division of Finance was deemed an essential service and therefore the NNOOC is directed to maintain ongoing operations and provide financial services including payroll, payment collections, payment disbursements, contract accounting, compliance and procurement operations.

The NNOOC is tasked with oversight and administration of all externally funded grants received by the Nation, which includes maintaining compliance with approximately \$335 million in annual Federal expenditures received through roughly 4,000 grants. The \$714 million received through the CARES Act represents a nearly 213% increase in the total dollar value of Federal funds. The magnitude of funding, along with a very short window in which to expend the funds places a further strain on resources. Lastly, there are significant reporting requirements associated with the funds allocated to the Nation through the CARES Act which require an increased level of effort above and beyond the existing reporting done for other externally funded grants.

As such, the NNOOC requests an amount of \$20,008,797.81 to support the administration, oversight and compliance with this one-time increase in funding. This amount is needed to enhance technology within the department, assist with implementing social distancing standards and support the oversight, monitoring and compliance efforts tasked of the NNOOC.

**II. AFFIRMATION OF FUND USE**

The Federal CARES Act, Title V, 5001, entitled "Coronavirus Relief Funds" requires these funds be used to:

1. Cover costs that 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. Incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

### III. ALLOCATION ASSIGNMENT

The funds allocated to the NNOOC will be used to procure goods and services with 6B Procurement processes, expedited payment requests, ensure compliance with the CARES Act and relevant reporting. To accomplish this, NNOOC will obtain consulting agreements, where necessary, to assist the Nation with significant additional resources to ensure compliance as well as the necessary internal and external reporting with CARES Act expenditures. Additional unforeseen necessary expenditures may be added with respect to Navajo Nation policies and Procedures, and Federal CARES Act requirements. Finally, the OOC will use the funds for the detection of Coronavirus and/or prevention, diagnosis, treatment of COVID, including maintaining or increasing NNOOC's capacity and staffing levels during the coronavirus-related public health emergency.

### IV. IMPLEMENTATION AND MONITORING

The NNOOC is responsible for implementing the Expenditure Plan and monitoring the expenditure of these funds.

### V. ADMINISTRATOR OF FUNDS

The Controller of the Navajo Nation is responsible for administering the Expenditure Plan and overseeing the allocated funds.

### VI. MEANS OF FUNDING

The Expenditure Plan funds shall be budgeted to the NNOOC for use once the Expenditure Plan is duly adopted and expedited budgets are implemented and approved by the Budget and Finance Committee.

### VII. ACCOUNTING AND REPORTING REQUIREMENTS

Title VI of the Social Security Act, as amended by Title V of Division A of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 115-136), as appropriated by Congress and received by the Navajo Nation, are considered federal financial assistance received by the Navajo Nation for specified uses; and are subject to the restrictions outlined in the Treasury Guidance and Frequently Asked Questions.

The Nation shall report Coronavirus Disease related “costs incurred” during the “covered period” (the period beginning on March 1, 2020 and ending December 30, 2020) according to the timeline. The NNOOC will only report totals by the broad categories:

- a. Amount transferred to other governments;
- b. Amount spent on payroll for public health and safety employees;
- c. Amount spent on budgeted personnel and services diverted to a substantially different use;
- d. Amount spent to improve telework capabilities of public employees;
- e. Amount spent on medical expenses;
- f. Amount spent on public health expenses;
- g. Amount spent to facilitate distance learning;
- h. Amount spent providing economic support;
- i. Amount spent on expenses associated with issuance of tax anticipation notes; and
- j. Amount spent on items not listed above.

The total of all categories must equal the total of all costs incurred during the period. Interim reporting information should be submitted to [CARES@oig.treas.gov](mailto:CARES@oig.treas.gov).

Quarterly Reporting:

The NNOOC shall report COVID-19 related costs into the GrantSolution portal. Data required to be reported includes but is not limited to the following:

1. the total amount of payments from the Cares Act Funding received from Treasury;
2. The amount of funds received that were expended or obligated for each project or activity;
3. A detailed list of all projects or activities for which funds were expended or obligated, including:
  - a. The name of the project or activity;
  - b. A description of the project or activity; and
4. Detailed information on any loans issued, contract and grants awarded; transfers made to other government entities; and direct payments made by the Nation that are greater than \$50,000.

Reporting Timeline:

By no later than July 17, 2020, Nation is required to report information for the period March 1, 2020 through June 30, 2020 into Grants Solution once it is operational. Treasury will notify the Nation when the GrantSolutions is operational or of any changes to the expected September 2020 start date.

By no later than September 21, 2020, the Nation shall submit via portal the first detailed quarterly report, covering March 1, through June 30, 2020.

No later than October 13, 2020, the Nation is required to report information for the period July 1, 2020 through September 30, 2020.

Reporting shall end with either the calendar quarter after the COVID-19 related costs and expenditures have been liquidated and paid or calendar quarter ending September 30, 2021, whichever comes first.

Record Retention Requirements:

The Navajo Nation shall maintain and make available to the Treasury OIG upon request all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended (42 U.S.C. 801 (d)). Records shall be maintained for a period of five (5) years after final payment is made using the Coronavirus Relief Fund monies.

VIII. OVERSIGHT COMMITTEE

The Budget and Finance Committee shall provide oversight to the NNOOC.

IX. AFFIRMATION OF ADMINISTRATION AND MANAGEMENT

The NNOOC affirms it will administer, manage, and implement the funds allocated to it in this expenditure plan consistent with \_\_\_\_\_, the Federal CARES Act, the Uniform Guidance and related cost principles, the Treasury Guidance, as well as other applicable laws and regulations of the Navajo Nation.

# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



## MEMORANDUM

To: 24<sup>th</sup> Navajo Nation Legislative Council

From:   
Pearlne Kirk, Controller  
Office of the Controller

Date: July 27, 2020

Re: OOC Budget CARES Administrative Funding Request

The Navajo Nation Office of the Controller (NNOOC) is requesting for an Administrative Budget of \$20,008,797.81 (~2.8%) from the allotted Title V CARES Act Relief funds (CRF) received by the Navajo Nation.

The Funds will be used to address unforeseen administrative duties as a response to the COVID-19 Pandemic. The Level of Compliance, record keeping, accounting, disbursement, and the fast-approaching deadline will quadruple our administrative workload. Therefore, the NNOOC was forced to outsource a specialized CRF compliance firm. Noon and Associates (Native owned; Priority 1) and Baker Tilly LLP were procured to provide access to 30 CPA's (2 Navajo CPAs; 10 Navajos in total) and access to an array of specialized resources to expedite compliance and disbursement of funds. This was an unfunded directive from CMY-44-20 to enter a contract with a firm to provide consulting services or auditor general for compliance monitoring.

Additionally, the NNOOC will need funds to hire additional support staff, implement social distancing standards, and enhance telecommuting technology for the new hires and current 120 employees. As mentioned, the administrative workload will significantly increase. NNOOC is proposing to hire 56 additional temporary employees to assist with oversight, monitoring, and compliance. NNOOC will need to re-design cubicle structures to ensure CDC guidelines are met to ensure a safe working environment for staff. Computer hardware and training will be needed for employees to work off-site.

In Conclusion, all applicable Navajo Nation Laws & Policies, Uniform Guidance Rules, GASB accounting, and CARES Act laws will be followed. A detailed budget schedule and forms are provided for your review. Your consideration is greatly appreciated.

Navajo Nation Office of the Controller

Office of Controller  
CARES Act Budget Estimate

Project	Estimated Funding	Level of Effort - Hours	Level of Effort - \$ (@ \$150 per hour)	Full Time Equivalents Needed
<b>Infrastructure Projects</b>				
Water	\$ 166,000,000	19,500	\$2,925,000	23
Power/Solar	40,000,000	5,000	750,000	6
Broadband	94,000,000	10,000	1,500,000	12
Department of Health				
HCOC Support	20,000,000	2,500	375,000	3
Other Healthcare Subrecipients	3,000,000	500	75,000	1
<b>Office of the Controller</b>				
Payroll Support Program	111,000,000	2,500	375,000	3
General Assistance Program (Individuals, Education, Head Start, etc.)	160,546,970	15,000	2,250,000	18
Division of Economic Development				
Small Business Support	60,000,000	11,000	1,650,000	13
Judicial Branch	9,633,863	1,000	150,000	2
Housing Improvements / Chapter Support	30,000,000	3,900	585,000	5
Other Misc. Project Administration Tasks				
Project management/internal and external reporting		1,500	225,000	2
Outsourced accounting services for payment processing / Accounting		20,000	3,000,000	24
<b>Total Level of Effort for distribution of CARES Act Funds</b>	<b>\$ 694,180,833</b>	<b>92,400</b>	<b>\$ 13,860,000</b>	<b>112</b>
<b>Office of the Controller</b>				
Additional effort for administration of awards, oversight, monitoring (from calculation above) plus contingency of 5%	14,553,000	92,400	14,553,000	
Moss Adams - External auditors	1,387,717		1,387,717	
Other OOC Needs for personnel expenses, supplies, lease and rental, communications, etc.	4,068,081		4,068,081	
<b>Total CARES Act Fund Distribution</b>	<b>\$ 714,189,631</b>		<b>20,008,798</b>	

**Assumptions:**

1. Assumes that there will be required subrecipient monitoring for all of the infrastructure projects (e.g., those executed by NTUA or other enterprises), distributions to Navajo Nation Chapters (in excess of \$50,000), or Divisions receiving funding.
2. Small Business Grant program will be operated through a Portal, DED will oversee and take first review, OOC will perform review and payment processing will be outsourced to a third party to save time/effort.
3. General assistance program will be run through portal with means test requiring review, third-party will outsource payment.
4. FTE is for a typical 2,080 hour a year budget, pro-rated for August - December 2020.
5. Subrecipients will be considered higher risk and thus, will require greater extent of involvement for subrecipient monitoring.

**NAVAJO NATION CARES FUND ACT**  
**BROADBAND-TELECOMMUNICATIONS PROJECT EXPENDITURE PLAN<sup>1</sup>**

**I. PURPOSE:**

The purpose of the Broadband-Telecommunications Project Expenditure Plan is to allow for the use and expenditure of eighty-three million two hundred twenty-four thousand nine hundred eighty nine dollars (\$83,224,989) Navajo Nation CARES Funds for regional broadband projects on the Navajo Nation, including the extension of broadband and telecommunication infrastructure to previously unserved and underserved Chapters of the Navajo Nation by December 30, 2020. The expenditures set forth in this Expenditure Plan are necessary in order to ensure that Navajo communities and households have wireless connectivity to support public access to vital Public Safety, Telehealth, Education, and Commerce services.

The Broadband-Telecommunication projects, include but are not limited to, wireless connectivity, educational broadcasting services, temporary licensing, cyberinfrastructure development, and tribal broadband planning.

Fifteen Million Dollars (\$15,000,000) of the Broadband Telecommunications Expenditure Plan funds shall be used to fund non tribal owned Eligible Telecommunication Carriers (ETC) or internet service providers that are certified by the Federal Communication Commission (FCC) for the purpose of extending broadband and telecommunication infrastructure to previously unserved and underserved Chapters of the Navajo Nation by December 30, 2020 and shall fund only the deployment costs (not on-going operating costs, including administrative personnel projects) of projects that support Internet Services. Permissible broadband and telecommunication infrastructure improvements that may be funded included the following:

- A. Wireless tower and other network infrastructure necessary to provide mobile and fixed broadband to residents including backhaul, system upgrades, middle mile and last mile services.
- B. Middle-Mile fiber and microwave infrastructure for connectivity to schools, Chapter Houses, government facilities, and businesses.
- C. Network capacities upgrades necessary to provide 4G services, such as FirstNet, Amber Alerts, and NG911, as well as Telehealth, Education, and Commerce applications to mobile and home bound residents.

The Navajo Nation Department of Information Technology (DIT) with the assistance of Navajo Nation Telecommunication and Utilities shall devise an application process for the distribution of the \$15,000,000 to non-tribal owned ETCs. ETCs shall only receive funding if it provides Internet

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<sup>1</sup> As amended by Navajo Nation Council Resolution No. CS-73-20.

## EXHIBIT 5

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service, which is defined as the portion of broadband service that delivers an internet connection to an end user that lacks access to a voice and broadband services at measurable speeds of 4/1 Mbps or greater for unreserved areas, and 10/1 Mbps or greater for underserved areas. After reviewing the applications for eligibility, DIT shall be responsible for selecting and monitoring the ETCs that receiving funding and the amount of such funding,

Thirty million dollars (\$30,000,000) of the Broadband-Telecommunications Expenditure Plan funds shall be used to fund non-tribal owned Eligible Telecommunication Carriers (ETC) that are certified by the Federal Communication Commission (FCC) for the purpose of extending broadband and telecommunication infrastructure to previously unserved and underserved Chapters of the Navajo Nation by December 30, 2020 and shall fund only the deployment costs (not on-going operating costs, including administrative or personnel projects) of projects that support last-mile services. Permissible broadband and telecommunication infrastructure improvements that may be funded include the following:

- A. Wireless tower and other network infrastructure necessary to provide mobile and fixed broadband to residents.
- B. Middle-Mile fiber and microwave infrastructure for connectivity to schools, Chapter Houses, government facilities, and businesses.
- C. Network capacity upgrades necessary to provide 4G services, such as FirstNet, Amber Alerts, and NG911, as well as Telehealth, Education, and Commerce applications to mobile and home-bound residents.

The Navajo Nation Department of Information Technology (DIT) with the assistance of the Navajo Nation Telecommunication and Utilities, shall devise an application process for the distribution of the \$30,000,000 to non-tribal owned ETCs, with a preference for Navajo or Native owned ETCs that caps the distribution to any single ETC at ten million dollars. ETCs shall only receive funding if its plan provides last-mile service, which is defined as the portion of broadband service that delivers an internet connection to an end-user that lacks access to a voice and broadband service at measurable speeds of 4/1 Mbps or greater for unserved areas, and 10/1 Mbps or greater for underserved areas. After reviewing the applications for eligibility, DIT shall be responsible for selecting and monitoring the ETCs that receiving funding and the amount of such funding.

### II. AFFIRMATION OF FUND USE

The Navajo Nation Department of Information Technology and any entity receiving funding thereunder affirm they will use these funds in accordance with the purposes set forth Title V of the Coronavirus Aid, Relief, and Economic Security Act (the "federal CARES Act") as enacted by the United States Congress and found in Public Law 116-136 (2020).

### III. IMPLEMENTATION AND MONITORING



The Navajo Nation Department of Information Technology is responsible for implementing the Expenditure Plan and monitoring the expenditure of these funds.

**IV. ADMINISTRATOR OF FUNDS**

The Navajo Nation Department of Information Technology is responsible for administering the Expenditure Plan and overseeing the allocated funds.

**V. MEANS OF FUNDING**

The Expenditure Plan funds shall be released directly to the Navajo Nation Department of Information Technology once the Expenditure Plan is duly adopted and expedited budgets are implemented.

**VI. ACCOUNTING AND REPORTING REQUIREMENTS**

Title V CARES Act Funds, as appropriated by Congress and received by the Nation, are considered federal financial assistance received by the Navajo Nation for specified uses; and are subject to the restrictions outlined in the Treasury Guidance and as set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act. The CARES Act has a CFDA No. 21.019; therefore, the funding received by the Nation is subject to GASB, Uniform Guidance/Super Circular guidelines, and the Single Audit Act and any other applicable rules, regulations, and guidance.

**VII. OVERSIGHT COMMITTEE**

The Health, Education, and Human Services Committee (HEHSC) and the Budget and Finance Committee (BFC) shall provide oversight as HEHSC has oversight over the Navajo Nation Department of Information Technology and BFC has oversight over externally restricted funding.

**IX. AFFIRMATION OF ADMINISTRATION AND MANAGEMENT**

The Navajo Nation Department of Information Technology and any entity receiving funding thereunder affirms it will administer, manage, and implement the funds allocated to it in this expenditure plan consistent with the federal CARES Act, the Treasury Guidance, as well as other applicable laws and regulations of the Navajo Nation.

# NAVAJO NATION

493

Navajo Nation Council Special Session

9/24/2020

03:30:17 PM

Amd# to Amd#

Legislation No. 0197-20

PASSED

MOT Halona, P

Approving and Adopting the

SEC Smith

Navajo Nation CARES Fund Chapter

Distribution Expenditure Plan

Yeas : 21

Nays : 0

Excused : 1

Not Voting : 1

Yea : 21

Begay, E

Freeland, M

Smith

Tso, E

Begay, K

Halona, P

Stewart, W

Walker, T

Begay, P

Henio, J

Tso

Wauneka, E

Charles-Newton

James, V

Tso, C

Yazzie

Crotty

Slater, C

Tso, D

Yellowhair

Daniels

Nay : 0

Excused : 1

Damon

Not Voting : 1

Brown

Presiding Speaker: Nez, R



RESOLUTION OF THE  
NAABIK'ÍYÁTI' STANDING COMMITTEE  
24<sup>th</sup> NAVAJO NATION COUNCIL -- Second Year, 2020

AN ACTION RELATING TO BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES; APPROVING THE REALLOCATION OF NAVAJO NATION CARES FUND TO THE CARES FUND HARDSHIP ASSISTANCE EXPENDITURE PLAN

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. Navajo Nation Council Resolutions No. CJY-67-20 and CS-73-20 include that the progress of all approved Navajo Nation Cares Fund Expenditure Plan projects shall be reviewed by the Budget and Finance and Naabik'íyáti' Committees during the month of October 2020 and that the funding for any project that has not made enough progress to demonstrate that it will be fully completed by December 30, 2020, will be re-allocated to the Hardship Assistance Expenditure Plan through Naabik'íyáti' Committee. See CJY-67-20, Section Three (Q) and CS-73-20, Section Three (F).
- B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council with the enumerated powers to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds. 2 N.N.C. § 300 (B)(1).
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the responsibility to coordinate all federal programs with other standing committees and branches of the Navajo Nation government to provide the most efficient delivery of services to the Navajo Nation. 2 N.N.C. § 700 (A)(4).

SECTION TWO. FINDINGS

- A. The World Health Organization (WHO) declared a Public Health Emergency of International Concern related to the outbreak of coronavirus (COVID-19), a highly contagious and sometimes fatal respiratory virus, on January 30, 2020; the U.S. Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the WHO declared a global pandemic due to COVID-19 on March 11, 2020.

- B. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency on the Navajo Nation on March 11, 2020 due to COVID-19. Resolution No. CEM 20-03-11. The Navajo Nation Department of Health subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2020-025 are incorporated by reference into this resolution.
- C. As of October 20, 2020, the Navajo Nation Health Command Operations Center has confirmed 10,999 COVID-19 cases and 574 COVID-19-related deaths on the Navajo Nation. Confirmed COVID-19 cases and COVID-19-related deaths on the Navajo Nation have not subsided and continue to rise.
- D. The U.S. Congress on March 27, 2020, enacted the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (the "CARES Act"), which, at Title V, §5001, entitled "Coronavirus Relief Funds", set aside \$8 billion in emergency aid for Tribal governments for the COVID-19 pandemic.
- E. The CARES Act provides the Coronavirus Relief Fund shall be used to cover only those costs that:
  - a. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;
  - b. are not accounted for in the Tribal budget most recently approved as of March 27, 2020; and
  - c. are incurred from March 1, 2020 through December 30, 2020.
- F. Pursuant to the U.S. Treasury "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments" updated on September 2, 2020, attached as Exhibit 1, related to the permissible uses of the Coronavirus Relief Fund, for a CARES Act expense to have been "incurred" requires that services actually be performed and goods actually be received by December 30, 2020.
- G. As of June 30, 2020, the Navajo Nation has received seven hundred fourteen million one hundred eighty-nine thousand six hundred thirty-one dollars and forty-seven cents (\$714,189,631.47) as the Nation's share of the U.S. Treasury's initial distributions of the Coronavirus Relief Fund.

- H. The Navajo Nation has enacted Resolutions No. CJN-46-20, CJN-47-20, CJY-67-20, CS-73-20 and CS-74-20 allocating the Nation's share of the U.S. Treasury's initial distributions of the Coronavirus Relief Fund.
- I. The Navajo Nation CARES Fund Hardship Assistance Expenditure Plan, attached as Exhibit 2, was enacted by CJY-67-20 and amended by CS-74-20 for the purpose of providing emergency financial assistance to enrolled Navajo members to address the financial burdens caused by the COVID-19 pandemic and the emergency public health orders.
- J. Navajo Nation Council Resolutions No. CJY-67-20 and CS-73-20 include that the progress of all approved Navajo Nation CARES Fund Expenditure Plan projects shall be reviewed by the Budget and Finance and Naabik'íyáti' Committees during the month of October 2020 and that the funding for any project that has not made enough progress to demonstrate that it will be fully completed by December 30, 2020, will be re-allocated to the Hardship Assistance Expenditure Plan through Naabik'íyáti' Committee. See CJY-67-20, Section Three (Q) and CS-73-20, Section Three (F).

**SECTION THREE. APPROVING THE REALLOCATION OF NAVAJO NATION CARES FUNDS TO THE HARDSHIP ASSISTANCE EXPENDITURE PLAN**

- A. The Navajo Nation hereby determines that the Navajo Nation CARES Fund projects listed below have not made enough progress to demonstrate that the respective project will be fully completed by December 30, 2020, and approves that the project funding shall be reallocated to the Navajo Nation CARES Fund Hardship Assistance Expenditure Plan:

Water Projects Expenditure Plan approved by Resolution No. CJY-67-20, specific projects set forth in Exhibit 3 in the amount of \$ 40,961,416.

- B. The Office of Management and Budget and Office of the Controller shall take all steps necessary to ensure that the reallocation(s) set forth above shall be expeditiously added to the Hardship Assistance Expenditure Plan.
- C. The Office of Legislative Services shall update the Hardship Assistance Expenditure Plan to incorporate the reallocation(s) set forth above.

- D. Any remaining CS-73-20, CJY-67-20 and/or CJN-46-20 CARES Fund Expenditure Plan funds not fully expended, not including encumbered and obligated funds, by November 20, 2020, regardless of recipient or intended recipient, shall be automatically reallocated to the Hardship Assistance Expenditure Plan. Funds still encumbered as of December 15, 2020, shall be unencumbered and unobligated and automatically reallocated to the Hardship Assistance Expenditure Plan if the goods or services have not been delivered. The Office of Management and Budget and Office of Controller shall implement these reallocations without the need for further authorization.

#### SECTION FOUR. AMENDMENT

This Resolution may be amended by a two-thirds majority vote of the full membership of the Naabik'iyáti' Committee as recommended by the Budget and Finance Committee.

#### SECTION FIVE. EFFECTIVE DATE


This Resolution is effective upon its approval and certification pursuant to 2 N.N.C. § 189.

#### SECTION SIX. SAVING CLAUSE

Should any provision of this legislation be determined invalid by the Navajo Nation Supreme Court, or a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those portions of the legislation which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 24<sup>th</sup> Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 20 in Favor, and 00 Opposed, on this 30<sup>th</sup> day of October 2020.



Honorable Seth Damon, Chairman  
Naabik'iyáti' Committee

10/30/2020  
Date

Motion: Honorable Eugenia Charles-Newton  
Second: Honorable Otto Tso

Chairman Seth Damon not voting



**Coronavirus Relief Fund  
Guidance for State, Territorial, Local, and Tribal Governments  
Updated September 2, 2020<sup>1</sup>**

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act established the Coronavirus Relief Fund (the "Fund") and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.<sup>2</sup>

The guidance that follows sets forth the Department of the Treasury's interpretation of these limitations on the permissible use of Fund payments.

***Necessary expenditures incurred due to the public health emergency***

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.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be "necessary." The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

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<sup>1</sup> On June 30, 2020, the guidance provided under "Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020" was updated. On September 2, 2020, the "Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees" and "Supplemental Guidance on Use of Funds to Cover Administrative Costs" sections were added.

<sup>2</sup> See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.



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

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

***Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020***

Finally, the CARES Act provides that payments from the Fund may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020 (the “covered period”). Putting this requirement together with the other provisions discussed above, section 601(d) may be summarized as providing that a State, local, or tribal government 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.

Initial guidance released on April 22, 2020, provided that the cost of an expenditure is incurred when the recipient has expended funds to cover the cost. Upon further consideration and informed by an understanding of State, local, and tribal government practices, Treasury is clarifying that for a cost to be considered to have been incurred, performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred). For instance, in the case of a lease of equipment or other property, irrespective of when payment occurs, the cost of a lease payment shall be considered to have been incurred for the period of the lease that is within the covered period but not otherwise. Furthermore, in all cases it must be necessary that performance or delivery take place during the covered period. Thus the cost of a good or service received during the covered period will not be considered eligible under section 601(d) if there is no need for receipt until after the covered period has expired.

Goods delivered in the covered period need not be used during the covered period in all cases. For example, the cost of a good that must be delivered in December in order to be available for use in January could be covered using payments from the Fund. Additionally, the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient’s usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency.

Given that it is not always possible to estimate with precision when a good or service will be needed, the touchstone in assessing the determination of need for a good or service during the covered period will be reasonableness at the time delivery or performance was sought, *e.g.*, the time of entry into a procurement contract specifying a time for delivery. Similarly, in recognition of the likelihood of supply chain disruptions and increased demand for certain goods and services during the COVID-19 public health emergency, if a recipient enters into a contract requiring the delivery of goods or performance of services by December 30, 2020, the failure of a vendor to complete delivery or services by December 30, 2020,

will not affect the ability of the recipient to use payments from the Fund to cover the cost of such goods or services if the delay is due to circumstances beyond the recipient's control.

This guidance applies in a like manner to costs of subrecipients. Thus, a grant or loan, for example, provided by a recipient using payments from the Fund must be used by the subrecipient only to purchase (or reimburse a purchase of) goods or services for which receipt both is needed within the covered period and occurs within the covered period. The direct recipient of payments from the Fund is ultimately responsible for compliance with this limitation on use of payments from the Fund.

#### ***Nonexclusive examples of eligible expenditures***

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
  - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
  - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
  - Costs of providing COVID-19 testing, including serological testing.
  - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
  - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
  - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
  - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
  - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
  - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
  - Expenses for public safety measures undertaken in response to COVID-19.
  - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
  - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
  - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
  - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
  - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
  - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
  - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
  - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
  - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
  - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

***Nonexclusive examples of ineligible expenditures<sup>3</sup>***

The following is a list of examples of costs that would not be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.<sup>4</sup>
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

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<sup>3</sup> In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

<sup>4</sup> See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

### **Supplemental Guidance on Use of Funds to Cover Payroll and Benefits of Public Employees**

As discussed in the Guidance above, the CARES Act provides that payments from the Fund must be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. As reflected in the Guidance and FAQs, Treasury has not interpreted this provision to limit eligible costs to those that are incremental increases above amounts previously budgeted. Rather, Treasury has interpreted this provision to exclude items that were already covered for their original use (or a substantially similar use). This guidance reflects the intent behind the Fund, which was not to provide general fiscal assistance to state governments but rather to assist them with COVID-19-related necessary expenditures. With respect to personnel expenses, though the Fund was not intended to be used to cover government payroll expenses generally, the Fund was intended to provide assistance to address increased expenses, such as the expense of hiring new personnel as needed to assist with the government's response to the public health emergency and to allow recipients facing budget pressures not to have to lay off or furlough employees who would be needed to assist with that purpose.

#### ***Substantially different use***

As stated in the Guidance above, Treasury considers the requirement that payments from the Fund be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020, to be met if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost is for a *substantially different use* from any expected use of funds in such a line item, allotment, or allocation.

Treasury has provided examples as to what would constitute a substantially different use. Treasury provided (in FAQ A.3) that costs incurred for a substantially different use would include, for example, the costs of redeploying educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

#### ***Substantially dedicated***

Within this category of substantially different uses, as stated in the Guidance above, Treasury has included payroll and benefits expenses for public safety, public health, health care, human services, and similar employees whose services are *substantially dedicated* to mitigating or responding to the COVID-19 public health emergency. The *full amount* of payroll and benefits expenses of substantially dedicated employees may be covered using payments from the Fund. Treasury has not developed a precise definition of what "substantially dedicated" means given that there is not a precise way to define this term

across different employment types. The relevant unit of government should maintain documentation of the “substantially dedicated” conclusion with respect to its employees.

If an employee is not substantially dedicated to mitigating or responding to the COVID-19 public health emergency, his or her payroll and benefits expenses may not be covered *in full* with payments from the Fund. A *portion* of such expenses may be able to be covered, however, as discussed below.

### ***Public health and public safety***

In recognition of the particular importance of public health and public safety workers to State, local, and tribal government responses to the public health emergency, Treasury has provided, as an administrative accommodation, that a State, local, or tribal government may presume that public health and public safety employees meet the substantially dedicated test, unless the chief executive (or equivalent) of the relevant government determines that specific circumstances indicate otherwise. This means that, if this presumption applies, work performed by such employees is considered to be a substantially different use than accounted for in the most recently approved budget as of March 27, 2020. All costs of such employees may be covered using payments from the Fund for services provided during the period that begins on March 1, 2020, and ends on December 30, 2020.

In response to questions regarding which employees are within the scope of this accommodation, Treasury is supplementing this guidance to clarify that public safety employees would include police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (e.g., laboratory technicians) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel.

### ***Not substantially dedicated***

As provided in FAQ A.47, a State, local, or tribal government may also track time spent by employees related to COVID-19 and apply Fund payments on that basis but would need to do so consistently within the relevant agency or department. This means, for example, that a government could cover payroll expenses allocated on an hourly basis to employees’ time dedicated to mitigating or responding to the COVID-19 public health emergency. This result provides equitable treatment to governments that, for example, instead of having a few employees who are substantially dedicated to the public health emergency, have many employees who have a minority of their time dedicated to the public health emergency.

### ***Covered benefits***

Payroll and benefits of a substantially dedicated employee may be covered using payments from the Fund to the extent incurred between March 1 and December 30, 2020.

Payroll includes certain hazard pay and overtime, but not workforce bonuses. As discussed in FAQ A.29, hazard pay may be covered using payments from the Fund if it is provided for performing hazardous duty or work involving physical hardship that in each case is related to COVID-19. This means that, whereas payroll and benefits of an employee who is substantially dedicated to mitigating or responding to the COVID-19 public health emergency may generally be covered in full using payments from the Fund, hazard pay specifically may only be covered to the extent it is related to COVID-19. For example, a recipient may use payments from the Fund to cover hazard pay for a police officer coming in close

contact with members of the public to enforce public health or public safety orders, but across-the-board hazard pay for all members of a police department regardless of their duties would not be able to be covered with payments from the Fund. This position reflects the statutory intent discussed above: the Fund was intended to be used to help governments address the public health emergency both by providing funds for incremental expenses (such as hazard pay related to COVID-19) and to allow governments not to have to furlough or lay off employees needed to address the public health emergency but was not intended to provide across-the-board budget support (as would be the case if hazard pay regardless of its relation to COVID-19 or workforce bonuses were permitted to be covered using payments from the Fund).

Relatedly, both hazard pay and overtime pay for employees that are not substantially dedicated may only be covered using the Fund if the hazard pay and overtime pay is for COVID-19-related duties. As discussed above, governments may allocate payroll and benefits of such employees with respect to time worked on COVID-19-related matters.

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

## **Supplemental Guidance on Use of Funds to Cover Administrative Costs**

### ***General***

Payments from the Fund are not administered as part of a traditional grant program and the provisions of the Uniform Guidance, 2 C.F.R. Part 200, that are applicable to indirect costs do not apply. Recipients may not apply their indirect costs rates to payments received from the Fund.

Recipients may, if they meet the conditions specified in the guidance for tracking time consistently across a department, use payments from the Fund to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency. (In other words, such costs would be eligible direct costs of the recipient). This includes, but is not limited to, costs related to disbursing payments from the Fund and managing new grant programs established using payments from the Fund.

As with any other costs to be covered using payments from the Fund, any such administrative costs must be incurred by December 30, 2020, with an exception for certain compliance costs as discussed below. Furthermore, as discussed in the Guidance above, as with any other cost, an administrative cost that has been or will be reimbursed under any federal program may not be covered with the Fund. For example, if an administrative cost is already being covered as a direct or indirect cost pursuant to another federal grant, the Fund may not be used to cover that cost.

### ***Compliance costs related to the Fund***

As previously stated in FAQ B.11, recipients are permitted to use payments from the Fund to cover the expenses of an audit conducted under the Single Audit Act, subject to the limitations set forth in 2 C.F.R. § 200.425. Pursuant to that provision of the Uniform Guidance, recipients and subrecipients subject to the Single Audit Act may use payments from the Fund to cover a reasonably proportionate share of the costs of audits attributable to the Fund.

To the extent a cost is incurred by December 30, 2020, for an eligible use consistent with section 601 of the Social Security Act and Treasury's guidance, a necessary administrative compliance expense that relates to such underlying cost may be incurred after December 30, 2020. Such an expense would include, for example, expenses incurred to comply with the Single Audit Act and reporting and recordkeeping requirements imposed by the Office of Inspector General. A recipient with such necessary administrative expenses, such as an ongoing audit continuing past December 30, 2020, that relates to Fund expenditures incurred during the covered period, must report to the Treasury Office of Inspector General by the quarter ending September 2021 an estimate of the amount of such necessary administrative expenses.

**NAVAJO NATION CARES FUND  
HARDSHIP ASSISTANCE EXPENDITURE PLAN<sup>1</sup>**

**I. PURPOSE:**

The purpose of the Hardship Assistance Expenditure Plan is to allow for the use and expenditure of forty-nine million four hundred fifty-four thousand four hundred sixteen dollars (\$49,454,416) of Navajo Nation CARES Funds for emergency financial assistance to enrolled Navajo tribal members for purchasing Personal Protective Equipment, paying past due utility bills, rent, mortgages, isolation expenses, livestock-related expenses, education-related expenses incurred due to the COVID 19 pandemic, and other financial burdens caused by the COVID-19 pandemic and incurred since March 1, 2020. The expenditures set forth in this Expenditure Plan are necessary in order to relieve the financial burdens imposed on Navajo households, students, participants in the informal economy, and dependents by the pandemic and public health orders, but shall not exceed fifteen hundred dollars (\$1500) per person over the age of 18 years as of March 1, 2020 and five hundred dollars (\$500) per person under the age of 18 years as of March 1, 2020. Emergency financial assistance under this Expenditure Plan shall not be income based or restricted.

The federal CARES Act, Title V, 5001, entitled "Coronavirus Relief Funds" requires these funds be used to 1) cover costs that are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; 2) were not accounted for in the budget most recently approved, as of March 27, 2020; and 3) incurred during the period that begins on March 1, 2020 and ends on December 30, 2020. Per the U.S. Department of Treasury's (Treasury) Guidance, dated May 4, 2020, eligible expenditures include expenses for general assistance for, including but not limited to, purchasing PPE, past due utilities, rent, isolation expenses and other financial burdens caused by COVID-19.

**II. AFFIRMATION OF FUND USE**

Any program, department, office or other entity receiving funding hereunder affirms that they will use these funds in accordance with the purposes set forth in Title V of the Coronavirus Aid, Relief, and Economic Security Act (the "federal CARES Act") as enacted by the United States Congress and found in Public Law 116-136 (2020).

**IV. ADMINISTRATOR OF FUNDS**

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<sup>1</sup> As amended by Navajo Nation Council Resolution No. CS-74-20.



## EXHIBIT 2

The Executive Branch, through the Office of the Controller, is responsible for administering the Expenditure Plan and shall develop eligibility criteria and an application and approval process ensuring that any funds disbursed comply with Title V of the CARES Act and Treasury guidance.

The Budget and Finance Committee, shall review, and if necessary, amend, then approve the eligibility criteria and approval process plan after recommendation of Health, Education, and Human Services Committee.

### III. MONITORING

The Office of the Controller shall be responsible for overseeing and monitoring the expenditure of these funds.

### V. MEANS OF FUNDING

The Expenditure Plan funds shall be released to the Office of the Controller once the Expenditure Plan is duly adopted and expedited budgets are implemented.

### VI. ACCOUNTING AND REPORTING REQUIREMENTS

Title V CARES Act Funds, as appropriated by Congress and received by the Nation, are considered federal financial assistance received by the Navajo Nation for specified uses; and are subject to the restrictions outlined in the Treasury Guidance and as set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act. The CARES Act has a CFDA No. 21.019; therefore, the funding received by the Nation is subject to GASB, Uniform Guidance/Super Circular guidelines, and the Single Audit Act and any other applicable rules, regulations, and guidance.

### VII. OVERSIGHT COMMITTEE

The Health, Education, and Human Services Committee (HEHSC) and the Budget and Finance Committee (BFC) shall provide oversight as HEHSC has oversight over social services matters and BFC has oversight over externally restricted funding.

### IX. AFFIRMATION OF ADMINISTRATION AND MANAGEMENT

The Office of the Controller and any entity receiving funding thereunder affirms it will administer, manage, and implement the funds allocated to it in this expenditure plan consistent with the federal CARES Act, the Treasury Guidance, as well as other applicable laws and regulations of the Navajo Nation.

## EXHIBIT 2

DEPARTMENT OF WATER RESOURCES  
Update for 10/27/2020

CARES ACT FUNDING (CIN-67-20)

Project	Appropriation Amount	Scope of Work	164 Review No.	Business Unit	Contract #	Contract Date	Contract Amount	Timeline
Cistern Projects	\$ 14,722,159.00	Ongoing. Teams completing designs for approximately 10 homes per week.	enter 164 Review beginning week of October 19th.	K201514				Construction of each cistern system may take up to two weeks. It is estimated that each system will cost approximately \$80,000 each. Construction of 50 units is estimated to cost \$4 million. <u>At this time it is estimated the remaining amount (\$10,772,159) will likely revert.</u>
Water Hauling Program - 2 trucks each agency	\$ 3,010,000	Yes - Purchase of Building and Trucks	No 164 Review. A purchase. Quotations being acquired.	K201514				First set of design drawings completed week of October 12th. Design of septic systems will be sent to NNEPA for review week of October 19th.
Water Hauling Program - 1 truck for 45 LGA Certified Chapters	\$ 4,550,000	Yes - Purchase of Trucks	No 164 Review. A purchase. Quotations being acquired. OR 16052 for \$929,832 for 8 potable water trucks.	K201514				Select vendors week of October 12. Enter purchases into system week of October 26th.
Fund DigDeep Proposal to assist 250 homes	\$ 1,007,300	Complete	15103 - Agreement for full amount.	K201514				Select vendors week of October 12. Start to enter purchases into system week of October 19th. Division of Community Development offer to assist with coordination with Chapters. OR being processed for first 8 potable water trucks. OOC requesting additional justification.
Water Treatment at Well Site for Water Haulers	\$ 600,000	Complete	No 164 Review. A purchase. Quotations being acquired.	K201514				Try to pay DigDeep by October 30th. 164 Packet reviewed by OOC on 10/16 and comments need to be addressed for further processing. Currently on hold to address comments.
Tohajilee - Inside Chapter Distribution Improvement	\$ 500,000	Complete	Lone Mountain - 015247	K201514	new		\$ 500,000.00	Select vendors week of October 12. Enter purchases into system week of October 19th. Several units are part of Tolani Lake subrecipient agreement.
Thoreau - Baca Well Pumphouse and Water Supply Lines	\$ 1,000,000	Complete	Stewart Brothers-015259; SMA-015260; NECA - forthcoming on 10/23	K201514	SMA amendment #6; SMA-C010854; NECA-new	10/21 from WMB.	\$ 1,000,000.00	Lone Mountain 164 document reviewed and commented on by DOI on 10/20. WMB working with contractor (SMA) to address comments. Comments addressed and document being taken back to DOI on 10/27.
Eastern Navajo Water Pipeline Phases 2, 3 & 4	\$ 1,860,000	Complete	NECA CO#1-15248	K201514	NECA-C013620			Contract amendments sent to WMB on 9/26/20 and 10/7/20. SB and SMA 164 documents going to Business Regulatory on 10/13/20. Need 164 status update for 10/21 from WMB.
Newcomb Emergency Water Hauling Station	\$ 250,000	Cancelled. Expecting SOW by 10/16/20.		K201514				Contract amendment (NECA CO#1) initially sent to WMB on 10/3/20 but changes are needed to amendment. Amendment will be resent to WMB week of 10/19. Need to confirm if amendment was received by WMB and switched out. 164 doc was last at NNOOC as of 10/22.
Ramah Water System Upgrades	\$ 400,000		None yet.	K201514	new			<b>Cancelled - Not going to meet CARES Act deadline.</b> <b>Revert \$250,000.</b> Working with Dooley Construction Solutions for scope of work by 10/27.

Counselor - Lybrook System Upgrades	\$	250,000	Complete	SMA-015172	K201514	SMA-C08876	SMA amendment #16	\$	250,000.00	SMA amendment resented on 10/16/20 2020. 164 packet at _____ as of 10/21 but need to switched out.
Torreon Fire Hydrants	\$	151,000	Complete	SMA-015172; NECA CO#2 (forthcoming)	K201514	SMA-C08876; NECA- (forthcoming)	SMA amendment #16; NECA Change Order #2	\$	151,000.00	SMA amendment resented to WMB on 10/16/20. 164 packet at _____ as of 10/21 and need to confirm amendment was switched out. NECA CO#2 for Lybrook and Torreon hydrants will be submitted on 10/23/20.
Smith Lake Water Treatment	\$	575,000	Complete	forthcoming	K201514		SMA amendment #10; Stewart Bros CO#6			SMA amendment #10 for Smith Lake will be submitted by 10/13/20. Stewart Bros CO#6 for Smith Lake will be submitted on 10/26/20.
G80 water supply well	\$	3,900,000	Cancelled - Does not meet CARES Act requirements		K201514					Cancelled. Revert \$3,900,000.
Halchita Treatment System	\$	300,000	Ongoing with NTUA	None yet.	K201514					Cancelled. Revert \$300,000. NTUA fully funded. Contract amendment (NECA CO#1) sent to WMB on 10/3/20 but amended and will be sent week of 10/19/20. Need to confirm with WMB if amendment was received. Will obtain 164 Review # from WMB. Only using to purchase items that can be purchased and installed by December 30th. Large portion will be reverted, at least \$22,087,901.
Cutter Lateral Startup	\$	500,000	Complete	NECA CO#1 _____	K201514	CO13620	NECA Change Order #1.			Purchases ongoing.
Strategic Stockpile of Supplies for Water Projects	\$	32,087,901	Ongoing.	No 164 Review. A purchase. Quotations being acquired.	K201514					Purchases ongoing.
Livestock Windmill Repairs - Eastern Agency	\$	320,000	Complete	No 164 Review. A purchase. Quotations being acquired.	K201514					Purchases ongoing.
Livestock Windmill Repairs - Ft. Defiance Agency	\$	200,000	Complete	No 164 Review. A purchase. Quotations being acquired.	K201514					Purchases ongoing.
Livestock Windmill Repairs - Northern Agency	\$	80,000	Complete	No 164 Review. A purchase. Quotations being acquired.	K201514					Purchases ongoing.
Livestock Windmill Repairs - Chinle Agency	\$	810,000	Complete	No 164 Review. A purchase. Quotations being acquired.	K201514					Purchases ongoing.
Livestock Windmill Repairs - Western Agency	\$	160,000	Complete	No 164 Review. A purchase. Quotations being acquired.	K201514					Purchases ongoing.
Livestock Windmill Repairs, Storage Tanks and Stock Troughs - Former Bennett	\$	1,050,000	Complete	No 164 Review. A purchase. Quotations being acquired.	K201514					Purchases ongoing.
Purchase of Large Equipment for Drilling, Repairs and Related Work	\$	14,000,000	Complete	Separate listing available.	K201514					Purchases ongoing.
New Water Wells Fund	\$	200,000	Complete. Part of proposed subrecipient agreement with Tolani Lake Enterprise.	None yet.	K201514					Try to enter subrecipient agreement into 164 Review by October 19th.
Earthen Dam Rehabilitation - Eastern Agency	\$	320,000	Ongoing.	None yet.	K201514					Need environmental clearances. May not meet timeline to expend all. BIA to provide information on possible EA and FONSI for areas.
Earthen Dam Rehabilitation - Ft. Defiance Agency	\$	320,000	Ongoing.	None yet.	K201514					Need environmental clearances. May not meet timeline to expend all.



Earthen Dam Rehabilitation - Northern Agency	\$	320,000	Ongoing	None yet.	K201514	Need environmental clearances. <u>May not meet timeline to expend all.</u>
Earthen Dam Rehabilitation - Chinle Agency	\$	320,000	Ongoing	None yet.	K201514	Need environmental clearances. <u>May not meet timeline to expend all.</u> Will inquire about Navajo Partition Lands Agricultural and Range Resources Management Plan provide environmental clearance.
Earthen Dam Rehabilitation - Western Agency	\$	320,000	Ongoing	None yet.	K201514	Need environmental clearances. <u>May not meet timeline to expend all.</u>
Irrigation - Many Farms Diversion Dam	\$	150,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Irrigation - Captain Tom Dam repairs	\$	50,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Irrigation - Many Farms Agricultural Wells	\$	110,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Irrigation - Dennehotso Diversion Dam repairs	\$	65,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Irrigation - Chuska Lake Diversion Dam repairs	\$	300,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Two Grey Hills - Upper Blackhouse Valley Farms Irrigation Diversion Dam	\$	250,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Two Grey Hills - Tumble Down House Valley Farms Irrigation Rehab	\$	300,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Red Valley/Cove Irrigation Diversion improvements	\$	155,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Kayenta Diversion Dam and Reservoir Rehabilitation Planning and Design	\$	200,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Cancelled. Cannot use funds for planning and design only. Revert funds.
Sheepsprings Farms Irrigation System Improvement Project	\$	200,000	Requires study and permits. May not meet CARES Act requirements.		K201514	Irrigation season ending. No time to incur expenses for beneficial use by December 30, 2020. Revert funds.
Lake Powell to Shonto Irrigation Water Delivery Project	\$	200,000	Cancelled - Does not meet CARES Act requirements		K201514	Cancelled. Cannot use funds for planning and design only. Revert funds.
LCR Birdsprings Irrigation Feasibility Study	\$	200,000	Cancelled - Does not meet CARES Act requirements		K201514	Cancelled. Cannot use funds for planning and design only. Revert funds.
Long-Range Water Planning Tool	\$	222,500	Cancelled - Does not meet CARES Act requirements		K201514	Cancelled. Cannot use funds for planning only. Revert funds.
NDWR Assistance	\$	1,000,000	Complete	None yet. Mostly purchases.	K201514	Ongoing. try to expend all by December 30th.

Contract forthcoming to install tank. **More than half will be reverted, approximately \$498,856 for now.** Waiting for scope and budget. SMA amendment resent on 10/16/20 2020. 164 packet at \_\_\_\_\_ as of 10/21 but need to switched out. Need to confirm with WMB on status of 164 packet.

Plan to submit 164 Review by October 12th. Agreement with ABCWUA for construction is in 164 Review and going to OPVP on 10/21. Contract amendment is forthcoming from Souder-Miller & Associates to pay for easement and water fee. Some risk that project may not be completed by December 30th.  
 Try to pay NTUA by November 2nd. President signed on 10/26. Document taken to OOC on 10/26 for contract number.  
 Try to pay NTUA by November 2nd. President signed on 10/26. Document taken to OOC on 10/26 for contract number.

Whitehorse Lake - Sand Springs WSP	\$	997,712	Planning to partially spend on phase 1.	K201514
Tohajiilee Albuquerque WSL	\$	2,000,000	Complete	None yet.
NTUA Water and Wastewater	\$	18,635,000	Complete	15041 K201514
NTUA/NECA Cisterns	\$	20,946,523	Obtained Scope of Work from NTUA on 10/12.	15235 K201514
Total		\$130,065,095	Complete	

#### Reversion Estimates

Definite reversion (red font)	\$	6,852,500
NDWR Cisterns likely reversion (at least 50 percent)	\$	10,722,159.00
Earthen Dam potential reversion (50 percent)	\$	800,000.00
Whitehorse Lake Sand Springs reversion (at least 50 percent)	\$	498,856.0
Strategic Stockpile (potential reversion)	\$	22,087,901.0
Current total reversion estimate	\$	40,961,416

# NAVAJO NATION

739

Naa'bik'iyati' Committee Special Meeting

10/30/2020

08:38:17 PM

Amd# to Amd#      Legislation 0261-20: Approving  
MOT Charles-Newton      the Reallocation of Navajo  
SEC Tso, O      Nation CARES Fund to the CARES  
Fund Hardship Assistance...

PASSED

Yeas : 20

Nays : 0

Excused : 0

Not Voting : 3

Yea : 20

Begay, K	Daniels	Nez, R	Tso, D
Begay, P	Freeland, M	Slater, C	Tso, E
Brown	Halona, P	Smith	Tso, O
Charles-Newton	Henio, J	Stewart, W	Walker, T
Crotty	James, V	Tso, C	Yazzie

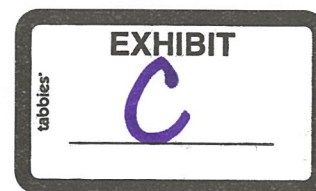
Nay : 0

Excused : 0

Not Voting : 3

Yellowhair	Begay, E	Wauneka, E
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Presiding Speaker: Damon



**RESOLUTION  
OF THE  
IYANBITO CHAPTER  
THE NAVAJO NATION**

**No. ICH 67-10/20-008**

**Respectfully Requesting Honorable Edmund Yazzie, Navajo Nation Council Delegate, to Initiate and Sponsor Emergency Legislation to Amend the Navajo Nation CARES Fund Expedited Procurement Rules and Procedures and Amend the Navajo Nation CARES Fund Chapter Distribution Expenditure Plan**

**WHEREAS:**

1. Pursuant to Navajo Tribal Council Resolution W-30-55, and reaffirmed by Resolution CMY-23-79, the Council certifies and authorizes the Iyanbito Chapter as a Navajo Chapter; and
2. Pursuant to 26 N.N.C., Section 1 (B)(1)(2) and Section 103, the Iyanbito Chapter is recognized as a local government entity and delegated certain authorities and responsibilities with respect to local matters consistent with Navajo Nation laws; and
3. The Navajo Nation Council is the governing body of the Navajo Nation; and
4. The United States Congress on March 27, 2020 enacted the *Coronavirus Aid, Relief, and Economic Security Act (CARES Act)* – under Title V of the *CARES Act*, the *Coronavirus Relief Fund* set aside \$8 billion in emergency aid for Tribal governments for the COVID-19 pandemic; and
5. As of June 30, 2020, the Navajo Nation has received seven hundred fourteen million one-hundred eighty-nine thousand six hundred thirty-one dollars and forty-seven cents (\$714,189,631.47) as its share of the *Coronavirus Relief Fund*; and
6. The *CARES Act* provides the *Coronavirus Relief Fund* shall be used to cover only those costs that;
  - a. are necessary expenditures incurred due to the public health emergency with respect to COVID-19,
  - b. were not accounted for in the Tribal budget most recently approved as of March 27, 2020,
  - c. are incurred from March 1, 2020 through December 30, 2020; and
7. The Finance Department of the Navajo Nation is challenged, especially during this unprecedented time, to have a strong financial system configured to maintain multiple systems and processes, setting up entities with configurable rules for multi-entity transactions, on demand analyses, access to accurate financial reports, to name a few; and
8. The Navajo Nation having a compliant and well-written procurement policy will ensure Navajo Chapters to be compliant and will protect from having to refund the federal government for costs questioned due to inappropriate purchasing procedures or expenditures; and
9. Since day one certain Navajo Chapters continue to work tirelessly to assist their communities, coordinate critical resources to combat this virus, and work with local, regional and national leadership to ensure our voices are heard; and
10. Financially accountable and responsible Navajo Chapters should be provided the opportunity to request for a direct allocation and work in close coordination with the Office of the Controller on all matters related to CARES fund expenditures; and
11. The Navajo People are suffering – we feel and live the uncertainty the pandemic has created, the danger for the at-risk, and the grief for the lives lost; and
12. Tribal nations are especially vulnerable to COVID-19's health risks and the effects of the current recession – this pandemic has stretched our finances, individually and governmentally and impacted mind, body and soul.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Iyanbito Chapter hereby respectfully requests Honorable Edmund Yazzie, Navajo Nation Council Delegate, to initiate and sponsor Emergency Legislation to **amend the Navajo Nation CARES Fund Expedited Procurement Rules & Procedures**, as follows:
  - a. **AMEND:** Section 400(B)(2) (page 5) – **Raise Bid Security to \$250,000** (from \$50,000)
  - b. **AMEND:** Section 400(B)(4) (page 5) – **Raise Contract Performance & Payment Bonding to \$250,000** (change from \$50,000)
  - c. **AMEND:** Rules and Procedures to **apply to other/all capital projects**, **AMEND:** regardless of the funding source (i.e. New Mexico Capital Outlay, Sihasin, etc.), allowing to execute and achieve project fulfillment under COVID-19 emergency declarations and within imposed deadlines.

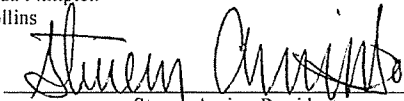


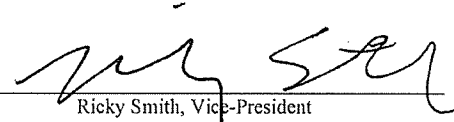
2. **FURTHER IT BE RESOLVED**, to amend the Navajo Nation CARES Fund Chapter Distribution Plan as follows:
- a. **AMEND:** Authorize Navajo Chapters the choice to receive the Chapter's CARES fund allocation immediately for expenditure, if the following criteria are met:
    - i. The Chapter shall have established a consistent record of financial responsibility and accurate financial statements – the Administrative Service Center shall advise and officially approve the Chapter's request for a direct allocation.
    - ii. Certified Chapter Resolution stating the Chapter will honor the commitments as outlined in the NN CARES Act and adhere to the Federal Single Audit guidelines as well as guidelines listed under the *CARES Act* and *Social Security Act Section 601*.
    - iii. Direct distribution to Chapter bank accounts shall be established by Chapter Resolution, with the ability to adjust the budget as needed by further Chapter Resolution and Office of the Controller approval.
  - b. **ADD:** Navajo Chapters may **choose** to utilize the Office of the Controller's Centralized Procurement system or utilize established vendors of the Chapter through a fair and open system of emergency procurement while adhering to applicable rules, regulations, and laws.
3. **FURTHER IT BE RESOLVED**, flexibility is critically important as every Navajo Chapter community has different needs for each unique situation, and Navajo Chapters should not be subject to additional red tape and any further delays in providing *Coronavirus* relief to our People and communities.

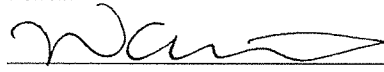
#### CERTIFICATION

We hereby certify the foregoing resolution was duly considered by the Iyanbito Chapter at a duly called Regular Chapter meeting at Iyanbito, Navajo Nation, New Mexico, and the same was passed by a vote of 34 in favor, 00 opposed, and 06 abstained, this 19<sup>th</sup> day of October 2020.

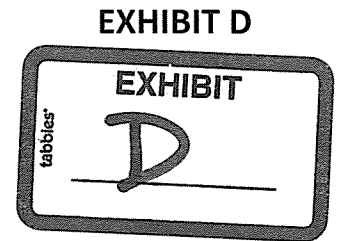
Moved by: Durinda Plimpton  
Second: Alice Collins

  
Steven Arviso, President

  
Ricky Smith, Vice-President

  
W. Wanda Arviso, Secretary/Treasurer

**NAVAJO NATION CARES FUND  
CHAPTER DISTRIBUTION EXPENDITURE PLAN**



**I. PURPOSE**

The purpose of this Chapter Distribution Expenditure Plan is to allow for the use and expenditure of ninety-two million dollars (\$92,000,000.00) to assist Navajo Nation Chapters (both LGA Certified and non-certified) through an on-line portal administered by the Division of Community Development to respond to the COVID-19 pandemic and ensure that Navajo communities have access to the funding necessary to ensure that community members are adequately protected from exposure to COVID-19 and to mitigate the spread of the virus. Any Expenditure Plan funds that are unspent as of December 30, 2020, will revert back to the Navajo Nation CARES Fund.

Ninety million dollars (\$90,000,000) shall be allocated to Chapters based on 12 N.N.C. § 820 (O)'s 50/50 Chapter Distribution formula and two million dollars (\$2,000,000) shall be allocated to the Division of Community Development to implement this Expenditure Plan in the most expeditious manner possible.

Navajo Nation Chapters (both LGA Certified and non-certified) can enter a sub-recipient or other agreement, as determined by the Office of the Controller, to receive a direct allocation of their respective CARES Funds and not be subject to use of the on-line portal, if:

1. The Chapter has established a consistent record of financial responsibility and accurate financial statements over the past three (3) years;
2. The Division of Community Development approves the Chapter's request for a direct allocation;
3. The Chapter request for direct allocation is supported by a certified Chapter resolution stating that the Chapter will comply with all Navajo Nation CARES Fund and federal CARES Act requirements, including the Single Audit guidelines, and will reimburse the Nation for any cost-disallowances as determined by federal auditors

Allowable expenditures include, but are not limited to: personal protective equipment, (gloves, masks, hand sanitizer, thermometers, anti-bacterial soap, first-aid supplies, employee workplace ); essential sanitation items (Clorox, Clorox wipes, Lysol spray, toilet tissue, wipes, diapers, adult pull-ups, feminine hygiene, toothpaste, tooth brush, aloe-vera, lotion, shampoo, soap); essential fuel sources (wood, coal, pellets, propane, gas vouchers-fuel, hand warmers, blankets); essential food items (vitamin C-EmergenC, Vitamin C tablets, water, multi-vitamin for adults and children, Gatorade, V-8, Ensure drinks, Emergency Food Care package, blue corn mush); essential services (Solid Waste Removal,

Solid-waste clean-up, porta-johns, support to water haulers, livestock windmills, electric bill assistant); infrastructure projects, infrastructure upgrades, (bathroom additions, plan, design & construction -ADA must be included as needed, bathroom equipment, septic services assistance, cistern tanks, water barrels, work place implementation to meet CDC requirements, utility and water infrastructure, water wells), infrastructure equipment such as backhoe for COVID related deceased matters and other deceased matters for burial/grave digging; emergency essential support (PEP employment-special duty pay, essential pay, bathroom additions construction employee, essential delivery workers, essential workers-heavy equipment operator for road maintenance and burial, Emergency coordinator); emergency hardship assistance for electric, propane, natural gas, and groceries, payment for chapter/senior center utility bills (electric, propane, natural gas), purchase of food, personal protective equipment for elders at senior centers, upgrade at Senior Centers to include safety upgrades per CDC guidelines following ADA guidelines.

The federal CARES Act, Title V, 5001, entitled “Coronavirus Relief Funds” requires these funds be used to 1.) cover costs that are necessary expenditures incurred due to the public health emergency with respect to the COVID-19; 2.) were not accounted for in the budget most recently approved, as of March 27, 2020; and 3.) incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

## **II. AFFIRMATION OF FUND USE**

The Office of the Controller, Division of Community Development and Navajo Nation Chapters affirm that they will only use these funds in accordance with the purposes set forth in Title V of the Coronavirus Aid, Relief, and Economic Security Act (the “federal CARES Act”) as enacted by the United States Congress and found in Public Law 116-136 (2020).

## **III. ALLOCATION ASSIGNMENT**

The funds are allocated to the Navajo Nation Division of Community Development - Administrative Service Department on behalf of the Chapters and are to be used for projects and/or programs dedicated to mitigating or responding to the COVID-19 public health emergency and interaction with the public at the chapter level.

## **IV. IMPLEMENTATION AND MONITORING**

The Office of the Controller shall develop and support an online portal (“CARES portal”) which will serve to disseminate information; accept online requests for assistance from Chapters; maintain records; facilitate communication between Chapters, the Division of Community Development, and the Office of the Controller; and to facilitate monitoring, compliance, and reporting. The Administrative Service Center is responsible for implementing the Expenditure Plan through the provision of centralized procurement of

goods and services on behalf of LGA-certified Chapters and non-LGA certified Chapters, using the on-line CARES portal to facilitate assistance to Chapters and monitoring the expenditure of funds, and compliance with and fulfilling reporting requirements.

Chapters meeting the direct allocation requirements set forth above may choose not to utilize the centralized procurement system, as long as they procure through a fair and open system of emergency procurement that complies with Navajo Nation procurement rules, regulations, policies and laws.

**V. ADMINISTRATOR OF FUNDS**

The Department Manager of the Administrative Services Center is responsible for administering the Expenditure Plan and overseeing the allocated funds, except for those funds directly allocated to Chapter. In those situations, the Department Management shall be responsible for monitoring the Chapter's expenditure of the allocated funds.

**VI. MEANS OF FUNDING**

The Expenditure Plan funds shall be released directly to the Division of Community Development-Administrative Service Center once the Expenditure Plan is duly adopted and the Division of Community Development has developed expenditure eligibility requirements. Funds to Chapters receiving a direct allocation shall be released directly to the Chapter once a sub-recipient or other agreement is executed.

**VII. ACCOUNTING AND REPORTING REQUIREMENTS**

Title V CARES Act Funds, as appropriated by Congress and received by the Nation, are considered federal financial assistance received by the Navajo Nation for specified uses; and are subject to the restrictions outlined in the Treasury Guidance and as set forth in section 601(d) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act. The CARES Act has a CFDA No. 21.019; therefore, the funding received by the Nation is subject to GASB, Uniform Guidance/Super Circular guidelines and the Single Audit Act and any other applicable rules, regulations and guidance.

**VIII. OVERSIGHT COMMITTEE**

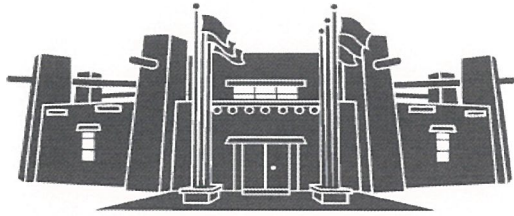
The Resources and Development Committee (RDC) and Budget and Finance Committee (BFC) shall share oversight over the Expenditure Plan as RDC has oversight over chapters and the Division of Community Development and BFC has oversight over externally restricted funding and the Office of the Controller.

**IX. AFFIRMATION OF ADMINISTRATION AND MANAGEMENT**

The Office of the Controller, Division of Community Development – Administrative Service Center and Chapters receiving funding affirms it will administer, manage, and implement the funds allocated to it in this expenditure plan consistent the federal CARES Act, the Treasury Guidance, as well as other applicable laws and regulations of the Navajo Nation.

**X. REVERSION OF UNEXPENDED FUNDS**



Any funds allocated under this Expenditure Plan which remain unexpended on November ~~30~~20, 2020 shall automatically revert to the Hardship Assistance Program to be administered by the Office of the Controller pursuant to the Hardship Assistance Expenditure Plan and NABI0-49-20.



## MEMORANDUM

TO: Honorable Edmund Yazzie.  
24<sup>th</sup> Navajo Nation Council

FROM:

   
Dana L. Bobroff, Chief Legislative Counsel  
Office of Legislative Counsel

DATE: November 10, 2020

SUBJECT: **AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO  
NATION COUNCIL; AMENDING THE NAVAJO NATION CARES FUND  
CHAPTER DISTRIBUTION EXPENDITURE PLAN ENACTED BY CS-73-  
20**

I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0283-20\_\_

SPONSOR: Edmund Yazzie

**TITLE: An Act Relating To An Emergency and the Navajo Nation Council; Amending the Navajo Nation CARES Fund Chapter Distribution Expenditure Plan Enacted by CS-73-20**

***Date posted: November 10, 2020 at 2:06PM***

**Digital comments may be e-mailed to comments@navajo-nsn.gov**

**Written comments may be mailed to:**

**Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7586**

**Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.**

**Please note:** This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW SUMMARY**

**LEGISLATION NO.: 0283-20**

**SPONSOR: Honorable Edmund Yazzie**

**TITLE: An Act Relating To An Emergency and the Navajo Nation Council;  
Amending the Navajo Nation CARES Fund Chapter Distribution Expenditure  
Plan Enacted by CS-73-20**

**Posted: November 10, 2020 at 2:06 PM**

**5 DAY Comment Period Ended: Not Subject to 5 Day Hold**

**Digital Comments received:**

<b>Comments Supporting</b>	<b>1) Willie Tracey, Jr., Ganado Chapter</b>
<b>Comments Opposing</b>	<i>None</i>
<b>Comments/Recommendations</b>	<i>None</i>

  
**Legislative Tracking Secretary  
Office of Legislative Services**

11/10/20 9:10 PM

**Date/Time**



**From:** Ganado Chapter <[ganado@navajochapters.org](mailto:ganado@navajochapters.org)>

**Sent:** Tuesday, November 10, 2020 2:46 PM

**To:** comments;

**Subject:** NNC Legislation Tracking No. 283-20

Honorable Members of the Navajo Nation Council,

I am hereon seeking your heartfelt utmost consideration and approval to VOTE GREEN for NNC Legislation Tracking No. 283-20. We, as Chapters are subject to spend our CARES Fund allocation by November 30th ... realistically it's only 10 days away! We all have multiple waterline and powerline extension projects which all takes time ... even a single bathroom addition will vacuum all 10 days!

Please wholeheartedly support Speaker's efforts in directly funds directly to Chapters, so we can help those that are in dire need at the grassroot level. TAA' SHOO' DII'!

Willie Tracey Jr., Chapter Manager

GANADO CHAPTER ADMINISTRATION

WARNING: External email. Please verify sender before opening attachments or clicking on links.