

LEGISLATION SUMMARY SHEET

TRACKING NO. 0262-21

DATE: December 16, 2021

TITLE OF LEGISLATION: AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; REALLOCATING UNOBLIGATED CARES PHASE II HARDSHIP ASSISTANCE FUNDS PREVIOUSLY APPROVED IN RESOLUTION NO. CJN-35-21 TO HARDSHIP ASSISTANCE APPLICANTS AGE 60 AND OVER


PURPOSE OF THIS LEGISLATION: to approve a reallocation of approximately \$15,000,000 in CARES Hardship Assistance Phase II funds to Eligible Elders age 60 and over; this is Emergency Legislation because the Navajo Nation faces the imminent loss of the \$15,000,000 in federal funds on the reversion date of December 31, 2021.

OLC No. 21-503-1

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL - Third Year, 2021

Introduced by:


(Prime Sponsor)Tracking No. 0262-21

AN ACTION

**RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL;
REALLOCATING UNOBLIGATED CARES PHASE II HARDSHIP ASSISTANCE
FUNDS PREVIOUSLY APPROVED IN RESOLUTION NO. CJN-35-21
TO HARDSHIP ASSISTANCE APPLICANTS AGE 60 AND OVER**

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. Navajo Nation law governing proposed legislation that addresses an urgent matter, provides as follows: “[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 [matters] 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).
- C. This legislation is offered as an emergency resolution pursuant to 2 N.N.C. §164(A)(16) because the imminent loss of an estimated \$15,000,000 in COVID-related federal funds by the Navajo Nation is a direct threat to disaster and COVID-19 relief services to the Navajo People, and therefore constitutes a pressing public need requiring immediate resolution.

1 **SECTION TWO. FINDINGS**

2 A. On June 30, 2021 the Navajo Nation Council adopted Resolution No. CJN-35-21, which was
3 signed into law on July 2, 2021 by Navajo Nation President Jonathan Nez. **EXHIBIT A.**

4 B. CJN-35-21 established the “Navajo Nation CARES Fund Phase II Hardship Assistance
5 Expenditure Plan” that was funded by the remaining balance in the Navajo Nation’s first
6 “Hardship Assistance Expenditure Plan” account, which Plan was approved in Resolution No.
7 CJY-67-20, as amended by Resolution No. CS-74-20 (see also Naabik’íyáti’ Committee
8 Resolution No. NABIO-49-20 and Resolution No. NABID-63-20).

9 C. Despite the diligent efforts of the Office of the Controller (“OOC”) over the past several
10 months, approximately 7,500 applicants for Phase II Hardship funds who were approved for
11 payments and were mailed checks by the OOC have not yet cashed or deposited them. These
12 checks are now void and will not be honored by any bank or financial institution. As a result,
13 the OOC estimates that as of December 7, 2021 the total amount of unpaid Phase II Hardship
14 checks amounts to \$8,200,000. **EXHIBIT B.**

15 D. Moreover, the OOC has received some 50,000 fewer applications for Phase II Hardship funds
16 instead of the 80,000 expected applications that OOC anticipated back in June 2021. This has
17 left approximately \$6,800,000 in unused funds. **EXHIBIT C.**

18 E. Because of the thousands of uncashed checks and far fewer applications, there now remains
19 a considerable balance in the Navajo Nation CARES Hardship Assistance account, which
20 funds are unobligated and are available to the Navajo Nation for other COVID-related uses.

21 F. According to the U.S. Department of Treasury’s Guidance regarding the Coronavirus Relief
22 Fund, issued on December 14, 2021, there is a revised deadline of **December 31, 2021** for the
23 Navajo Nation to fully incur (obligate) all federal CARES Act funds, including all money in
24 the Navajo Nation CARES Hardship Assistance account. **EXHIBIT D.** All such funds not
25 obligated by **December 31, 2021** will revert to the federal government and be lost by the
26 Navajo Nation.

27 G. To prevent the reversion and loss of these funds, the Navajo Nation must reallocate the
28 unobligated funds in the Navajo Nation CARES Hardship Assistance account.

29 H. The Navajo Nation Council has determined that all Hardship Assistance applicants (for both
30 Phase I and Phase II) who are age 60 and over have already demonstrated, in their applications

1 previously submitted to the OOC, a dire need for cash assistance to mitigate the devastating
2 effects of the COVID pandemic suffered by each of them and their families. Therefore, the
3 Council believes it to be in the best interest of the Navajo Nation to ensure that these Diné
4 elders receive additional Hardship Assistance at this time.

- 5 I. Because of the December 31, 2021 federal CARES Act deadline, the Navajo Nation Council
6 must act quickly to reallocate the unobligated Hardship Assistance funds and give the OOC
7 enough time to prepare and issue checks for the new payments approved in this legislation,
8 so that all funds can be obligated by December 31, 2021.

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10 **SECTION THREE. REALLOCATING UNOBLIGATED CARES HARDSHIP**
11 **ASSISTANCE FUNDS TO PREVIOUS ELDER APPLICANTS**

- 12 A. The Navajo Nation hereby approves the reallocation of all unobligated funds remaining in the
13 Navajo Nation CARES Hardship Assistance account. OOC reports that the amount of
14 unobligated funds is approximately \$15,000,000.

- 15 B. A \$15,000,000 reallocation would provide approximately \$300 (three-hundred dollars) to
16 each enrolled Navajo Nation member age 60 and over who meets the following criteria
17 (“Eligible Elder”):

- 18 1. the elder previously submitted a CARES Hardship Assistance application to the OOC (for
19 either Phase I or Phase II) and such application was timely received by the deadline
20 established by OOC; and
21 2. the elder’s previous CARES Hardship Assistance application shows a birthdate of
22 December 31, 1961 or earlier date, and such date has been substantiated with a copy of
23 the elder’s Birth Certificate or CIB on file with the OOC; and
24 3. the elder was approved for a CARES Hardship Assistance payment (for either Phase I or
25 Phase II) and was issued a check by OOC.

- 26 C. OOC is still completing the CARES Hardship Assistance account reconciliation and the exact
27 amount of funds remaining in the account is not known at the time of approval of this
28 legislation, the \$15,000,000 figure noted in SECTION THREE (A) may change by December
29 31, 2021. Therefore, the \$300 payment per Eligible Elder approved herein may be prorated
30 by the OOC as necessary if on December 31, 2021 the final amount of remaining CARES

1 Hardship Assistance funds do not total the \$15,000,000. In such case, the \$300 payment figure
2 may be revised by the OOC so long as each Eligible Elder is paid the same amount.

3 D. The reallocation approved in this legislation is considered an additional hardship payment to
4 each Eligible Elder, above and beyond any previous hardship payments or other assistance
5 already received by the elder; and any such prior payments shall not affect the elder's
6 eligibility or approval for the additional hardship payment approved herein.

7 8 **SECTION FOUR. DIRECTIVES**

9 A. The Office of the Controller and the Office of Management and Budget, are hereby directed
10 to undertake any and all actions, as necessary and appropriate, to implement the reallocation
11 of CARES Hardship Assistance funds, as approved and explained in this legislation.

12 B. All Eligible Elders, so long as they meet the criteria set forth above in SECTION THREE A(1)-
13 (3), shall be issued a new hardship assistance check automatically by the OOC - they shall not
14 be required to submit any new or amended application, or any additional information, in order
15 to receive their new hardship assistance checks.

16 C. All new payments approved in this legislation shall be made to each Eligible Elder via check,
17 in accordance with the OOC's normal payment processing methods, which checks shall be
18 dated and issued by OOC no later than December 31, 2021. All checks shall be mailed to each
19 Eligible Elder as soon as possible after issuance by OOC, to the address shown on his/hers
20 CARES Hardship Assistance application.

21 D. The OOC shall be responsible for administering and accounting for all payments to Eligible
22 Elders as described and approved herein. By the last day of the Navajo Nation Council's
23 Winter 2022 Session, the OOC shall present a verbal and written report to the Council as to
24 its implementation of the reallocation approved herein. Such report shall include a listing of
25 all payments issued by OOC to Eligible Elders pursuant to this Resolution and all payments
26 actually received by Eligible Elders, and shall note the balance of remaining funds in the
27 CARES Hardship Assistance account as of the date of such report.

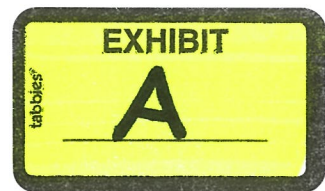
28 29 **SECTION FIVE. EFFECTIVE DATE**

30 This legislation is effective upon its approval by the Navajo Nation Council pursuant to 2 N.N.C.

1 §221(B) and the Navajo Nation President's line-item veto authority under 2 N.N.C. §164(A)(17)
2 (see Reso. No. CS-68-20 and Reso. No. CJY-62-20).
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4 **SECTION SIX. SAVING CLAUSE**

5 If any provision of this legislation is determined invalid by the Navajo Nation Supreme Court,
6 or by a District Court of the Navajo Nation without appeal to the Navajo Nation Supreme Court,
7 those portions not deemed invalid shall remain the law of the Navajo Nation.
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CJN-35-21

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - THIRD YEAR, 2021

AN ACTION
RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, BUDGET AND
FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION
COUNCIL; ENACTING THE NAVAJO NATION CARES FUND PHASE II HARDSHIP
ASSISTANCE EXPENDITURE PLAN; ALLOCATING NAVAJO NATION CARES FUND
INVESTMENT EARNINGS THERETO

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 Health, Education and Human Services Committee is a standing committee of the Navajo Nation Council empowered to provide legislative oversight on matters involving health, social services, and education. 2 N.N.C. § 400(C)(1).

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 2021-011 are incorporated herein by reference.

- C. As of June 3, 2021, the Navajo Nation Health Command Operations Center has confirmed 30,847 COVID-19 cases and 1,322 COVID-19 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 Fund," incorporated herein by reference, set aside \$8 billion in emergency aid for Tribal governments for the COVID-19 pandemic.
- E. The CARES Act and Coronavirus Relief Fund were subsequently amended by the Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, incorporated herein by reference, to extend the deadline for Coronavirus Relief Fund expenditures from December 30, 2020 to December 31, 2021.
- F. The CARES Act, as amended by Division N, Title X, Section 1001 of the Consolidated Appropriations Act of 2021, provides that 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 31, 2021.
- G. The U.S. Treasury on January 15, 2021 issued "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments" ("Treasury Guidance") and "Coronavirus Relief Fund Frequently Asked Questions" ("Treasury FAQ"), attached as **Exhibit 1**.
- 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. In August of 2020, the Navajo Nation Council recognized that immediately providing financial assistance to Navajo individuals and families who are facing financial hardship due to the COVID-19 pandemic and attendant public health orders was necessary to comprehensively combat the devastating effects of COVID-19, and it therefore adopted Resolution No. CJY-67-20, incorporated herein by reference, enacting the Navajo Nation CARES Fund Hardship Assistance Expenditure Plan.
- J. The purpose of the Navajo Nation CARES Fund Hardship Assistance Expenditure Plan enacted through Resolution No. CJY-67-20, was to immediately provide emergency financial assistance to Navajo tribal members for purchasing Personal Protective Equipment, paying past due utility bills, rent, mortgages, isolation expenses, livestock-related expenses, education-related expenses and other financial burdens created by the COVID-19 pandemic and the public health emergency orders.
- K. Resolution No. CJY-67-20 also established that the "progress of all [Navajo Nation CARES Act] Expenditure Plan funded projects shall be reviewed by the Budget and Finance and Naabik'íyáti' Committees during the month of October 2020 [and] the funding for any project that has not made enough progress to demonstrate that it will be fully completed by December 31, 2020, will be re-allocated to the Hardship Assistance Expenditure Plan through Naabik'íyáti' Committee resolution." CJY-67-20, Section Three (Q); see also CS-73-20, Section Three (F).
- L. Naabik'íyáti' Committee Resolution No. NABID-63-20, attached as Exhibit 2, which amended NABIO-49-20, approved that

"Any remaining CS-73-20, CJY-67-20 and/or CJN-46-20 CARES Fund Expenditure Plans 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. With the exception of funds allocated for Powerline projects; Solar projects; Water and Wastewater projects, including cisterns; Broadband and Telecommunication projects; COVID-19 decontamination and direct care projects, including contracts for services that directly mitigate the COVID-19 pandemic through isolation/quarantining, alternative care services, testing and contract tracing; and CARES Act administrative compliance costs, funds still encumbered as of December 22, 2020, shall be unencumbered and unobligated and automatically reallocated to the Hardship Assistance Expenditure Plan if the goods or services have not been delivered by that date. The Office of Management and Budget and Office of Controller shall

implement these reallocations without the need for further authorization." NABID-63-20, Section Three (D), and;

"Encumbered funds for Powerline projects; Solar projects; Water and Wastewater projects, including cisterns; Broadband and Telecommunication projects; and COVID-19 decontamination and direct care projects, shall be unencumbered and unobligated and automatically reallocated to the Hardship Assistance Expenditure Plan if the goods or services have not been delivered by 12:00 noon on December 28, 2020. The Office of Management and Budget and Office of Controller shall implement these reallocations without the need for further authorization." NABID-63-20, Section Three (E).

- M. In September of 2020, Resolution No. CJY-67-20 was subsequently amended by Navajo Nation Council Resolution No. CS-74-20 to increase Navajo Nation CARES Fund funding to the Hardship Assistance Expenditure Plan by forty-nine million four hundred fifty-four thousand four hundred sixteen dollars (\$49,454,416) and to increase the amount allocated to eligible Navajo members to no more than 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.
- N. By Resolution No. BFO-32-20, attached as **Exhibit 3**, the Budget and Finance Committee established eligibility criteria and a November 30, 2020, deadline to apply for Hardship Assistance. The approximately 300,000 enrolled Navajo members who met BFO-32-20's application deadline and eligibility criteria have received Hardship Assistance for a total distribution amount of \$319,532,034 which excludes those approximately 1,865 timely applications for which assistance payments have not been received by the applicant; and includes approximately 1,378 applications wherein exceptions are still being resolved, 208 for which checks are pending, and 279 for which mail has been returned and checks are pending reissuance.
- O. The Office of the Controller and Office of Vital Statistics have estimated that there are approximately 92,000 enrolled Navajo members who did not apply for Hardship Assistance by the November 30, 2020 deadline.
- P. As of June 14, 2021, the Hardship Assistance Expenditure Plan has been funded with a total of \$361,511,411 through CJY-67-20, CS-74-20, and the reallocations to the Hardship Assistance Expenditure Plan thereunder; and after funding applications received by the November 30, 2020 deadline in the total amount of \$319,532,034, the Plan has a current remaining balance of

\$41,979,377. The remaining balance will change if outstanding reallocations are received and earned investment income is added, and will ultimately decrease when Office of the Controller issues payments for the approximately 1,865 timely applications for which applicants have not yet received payment.

- Q. The Navajo Nation Council has determined that it is in the best interest of the Navajo Nation and the Navajo people to enact the Navajo Nation CARES Fund PHASE II Hardship Assistance Expenditure Plan, attached as **Exhibit 4**, to provide financial assistance to those eligible Navajo members who were impacted by the COVID-19 pandemic and public health orders but did not receive a distribution through the Hardship Assistance Expenditure Plan approved by Council Resolution Nos. CJY-67-20 and CS-74-20.

SECTION THREE. APPROVAL AND ADOPTION OF THE CARES FUND PHASE II HARDSHIP ASSISTANCE EXPENDITURE PLAN

- A. The Navajo Nation hereby approves and enacts the Navajo Nation CARES Fund PHASE II Hardship Assistance Expenditure Plan, attached as **Exhibit 4**, to be funded by the remaining balance of the Hardship Assistance Expenditure Plan, including the reallocation of unspent Navajo Nation CARES Fund per NABID-63-20, as approved by Council Resolution Nos. CJY-67-20 and CS-74-20.
- B. The Navajo Nation also hereby approves the allocation of all current and future Navajo Nation CARES Fund investment earnings to the PHASE II Hardship Assistance Expenditure Plan.
- C. The Office of the Controller shall be responsible for implementing and administering the PHASE II Hardship Assistance Expenditure Plan as set forth in **Exhibit 4**.
- D. Funds from the Coronavirus Relief Funds, as amended by the Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, are externally restricted funds and the Navajo Nation Appropriations Act, 12 N.N.C. §§ 800 et seq., as applicable to externally restricted funds, and unless excepted herein, shall apply to the PHASE II Hardship Assistance Expenditure Plan as set forth here. The detailed PHASE II Hardship Assistance Expenditure Plan budget shall not be subject to further legislative approval and shall, instead, be developed and implemented through expedited budget procedures.

SECTION FOUR. APPROVAL AND ADOPTION OF THE PHASE II HARDSHIP ASSISTANCE EXPENDITURE PLAN ADMINISTRATION

- A. The PHASE II Hardship Assistance Expenditure Plan shall be administered by the Office of the Controller under the oversight of the Budget and Finance Committee.
- B. The Office of Management and Budget and Office of the Controller shall ensure that the reallocations mandated by NABID-63-20 are immediately fully implemented.
- C. The Office of the Controller shall ensure that all funds allocated under the PHASE II Hardship Assistance Expenditure Plan are only expended for the purposes set forth in Exhibit 4; and that such funds are fully expended by December 31, 2021.
- D. Office of the Controller shall process payments for the approximately 208 applicants with checks pending, and the approximately 279 applicants for which mail was returned and checks are pending reissuance. Office of the Controller shall continue to attempt to resolve the approximately 1,378 applications with exceptions. The Phase 1 applicants that submitted their applications timely, but have not received their assistance payments, and have resolved the exceptions by 30 days after this legislation is signed by the President of the Navajo Nation, shall be awarded an amount comparable to that awarded to Phase 1 recipients. If the exceptions are not resolved by 30 days after this legislation is signed by the President of the Navajo Nation, the applications shall be denied and those Phase 1 applicants shall be eligible to reapply in PHASE II.
- E. The Office of the Controller shall establish, publish, and implement a sixty (60) day application period for eligible Navajos who have not previously received Hardship Assistance funds; the eligibility criteria and application forms for PHASE II Hardship Assistance Expenditure Plan funds shall be substantially the same as approved by BFO-32-20 unless recommended otherwise by the Health, Education and Human Services Committee or Budget and Finance Committee through resolution. Changes to the application for ease of understanding or legal sufficiency can be made without committee resolution when such changes are concurred to or recommended by the Navajo Nation Department of Justice, as long as such changes do not change the substance of the eligibility criteria.
- F. After the PHASE II Hardship Assistance application period has expired, the Office of the Controller shall pro-rate the distribution to all eligible applicants based on the total balance of the Hardship Assistance Expenditure Plan balance

and ensure that no applicant receives a distribution exceeding 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.

- G. Notwithstanding paragraph E above, those eligible Navajos who *timely* submitted their applications for Hardship Assistance pursuant to Resolution No. CJY-67-20 and have resolved all problems/issues/exceptions identified by the Office of the Controller by 30 days after this legislation is signed by the President of the Navajo Nation, but have not received their assistance check, shall be awarded funding comparable to the amount awarded to other CJY-67-20 recipients. If the exceptions are not resolved within 30 days after this legislation is signed by the President of the Navajo Nation, those applicants are eligible to reapply under Phase II.
- H. The funds allocated to the Office of the Controller under the PHASE II Hardship Assistance Expenditure Plan set forth herein shall be used exclusively and only for the permissible uses set forth in the following:
 - 1. This Resolution and the PHASE II Hardship Assistance Expenditure Plan approved herein.
 - 2. The Coronavirus Relief Fund, as amended by the Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, 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; and
 - c. are incurred from March 1, 2020 through December 31, 2021.
 - 3. Consistent with the eligible uses described in the Treasury Guidance, attached as **Exhibit 1**, 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 31, 2021. 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), attached as Exhibit 1.
 - 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.
 - 6. Consistent with Navajo Nation laws, rules and regulations.
- I. The PHASE II Hardship Assistance Expenditure Plan and expenditures made thereunder 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 President's budget line-item veto authority set forth in 2 N.N.C. § 164(A) (17) pursuant to Resolution No. CS-68-20 and CJY-62-20.

SECTION SIX. EFFECTIVE DATE

This Resolution is effective upon its approval pursuant to 2 N.N.C. § 221(B) and the President's budget line-item veto authority set forth in 2 N.N.C. § 164(A)(17) pursuant to Resolution No. CS-68-20 and CJY-62-20.

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 24th 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 23 in Favor, and 00 Opposed, on this 25th day of June 2021.


Honorable Seth Damon, Speaker
24th Navajo Nation Council

June 30, 2021
DATE

Motion: Honorable Nathaniel Brown
Second: Honorable Rickie Nez

Speaker Seth Damon not voting



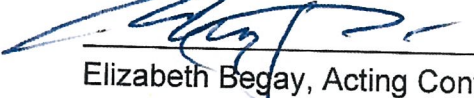
THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

Memorandum:

To: Honorable Jaime Henio, Chairperson
Budget and Finance Committee
Navajo Nation Council

From: 
Elizabeth Begay, Acting Controller
Office of the Controller

Date: December 7, 2021

Subject: Hardship CARES Status Report

The Office of the Controller respectfully submits to the Budget and Finance Committee the status of the Hardship CARES Assistance Program.

| | |
|---|-----------------------------|
| Available Budget | \$361,589,349 |
| Interest Income earned (as of 11/30/21) | <u>331,225</u> |
| Available for Hardship | <u>\$361,920,574</u> |

Total number of recipients to date:

| | | |
|-------------------------------------|---------------|-----------|
| 312,010 Navajos (adults and minors) | \$346,958,755 | H1 and H2 |
| Minors 85,253 = | \$38,743,795 | |
| Adults 226,757 = | \$308,214,960 | |

| | |
|-------------------------|-----------------------------|
| Total Available Balance | <u>\$ 14,961,819</u> |
|-------------------------|-----------------------------|

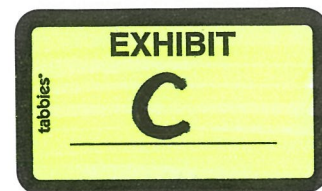
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|--------------------------------------|------------------------|
| Pending Check run: | \$17,669,500 |
| 1. 5,942 recipients | \$6,441,000 |
| Minors = 2,472 = \$1,236,000 | |
| Adults = 3,470 = \$5,205,000 | |
| 2. 453 Babies born after 10/01/2020 | |
| 3. 5,256 problems with CIB | \$5,782,000 (estimate) |
| Minors 2,102 | |
| Adults 3,154 | |
| 4. 1,185 with no copy of CIB (est) | \$1,312,500 |
| Minors 465 | |
| Adults 720 | |
| 5. 3,610 wait list (no contact info) | |
| 6. 2,756 work-in progress | \$4,134,000 |

We calculated approximately \$2,707,681 deficit from the available balance to date.

In addition, there are approximately 7,500 outstanding checks amounting to \$8,200,000. This will be deemed unspent monies that may revert back to the US Treasury by December 31, 2021. We recommend any unspent monies budgeted for Hardship CARES Fund reallocated to small business assistance program before the CARES Fund expiration date.

If you should have any questions, you can contact me at tribal extension X6308. Thank you.

xc: OPVP



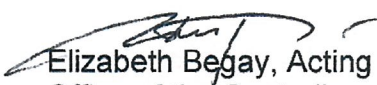
THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



Memorandum:

To: Luralene Tapahe, Principal Tribal Court Advocate
Office of Legislative Counsel

From:  Elizabeth Begay, Acting Controller
Office of the Controller

Date: December 10, 2021

Subject: Emergency Legislation Needed to Prevent Loss of Unspent CARES
Fund Allocated to Hardship Assistance Program

This emergency legislation to allocate the previously utilized hardship dollars (previously expensed) for checks that have gone uncashed and anticipated available budget from Hardship 2 assistance program.

There are many checks that have not been cashed from the Hardship program. These checks have a 90-day period from the date in which they were issued to be cashed. If not cashed, the individual will not be able to cash these checks as the bank will not accept them because they are deemed expired.

In addition, the Office of the Controller received approximately 30,000 Hardship 2 applications which is much less than the expected 80,000 applications. As a result, there will be available funds that will not be expended for the Hardship 2 assistance program.

The funds for this legislation will be utilized for hardship payments to individuals who are age 60 and over as of December 31, 2021.

This legislation is needed to authorize the use of these funds for this purpose. If the funds are not utilized by December 31, 2021, the amounts will need to be sent back to the US Treasury as un-used CARES funding.

If you should have any questions, you can contact me at tribal extension X6308. Thank you.

NAVAJO NATION OFFICE OF THE CONTROLLER

P.O.BOX 3150 • WINDOW ROCK, AZ 86515 • PHONE: (928) 871-6398 • FAX: (928) 871-6026



Coronavirus Relief Fund
Revision to Guidance Regarding When a Cost is Considered Incurred
December 14, 2021

The Coronavirus Aid, Relief, and Economic Security Act (CARES) Act established the \$150 billion Coronavirus Relief Fund (CRF). The CARES Act provides that payments from the CRF may only be used to cover costs that were incurred during the period that begins on March 1, 2020, and ends on December 31, 2021 (the “covered period”).¹

Treasury previously determined that, for a cost associated with the acquisition of a good or service or the acquisition of or improvement to real estate to be considered to have been incurred within the covered period, performance or delivery must have occurred during the covered period.

Although Treasury has considered the CRF to be a program designed for short-term needs of recipients to combat the virus and respond to the immediate effects of the pandemic, the public health emergency is still in effect, and state, local, and Tribal governments continue to be on the frontlines of the pandemic response. In addition, disruptions in supply chains have hindered recipients’ ability to obtain and put into use goods and equipment in a timely manner. These issues have been magnified in communities experiencing the Delta surge. Finally, given recent litigation, many recipients have not received their allocated payments from the CRF until the last few months.

In light of the foregoing, Treasury is now revising the guidance to provide that a cost associated with a necessary expenditure incurred due to the public health emergency shall be considered to have been incurred by December 31, 2021, if the recipient has incurred an obligation with respect to such cost by December 31, 2021. Treasury defines obligation for this purpose consistently with the Uniform Guidance definition in 2 C.F.R. 200.1 as an order placed for property and services and entry into contracts, subawards, and similar transactions that require payment.

Treasury’s reporting framework currently permits recipients to record their expenditures through September 30, 2022. The CRF’s eligible use is restricted to “necessary expenditures incurred due to” the COVID-19 public health emergency. Treasury currently expects that this expenditure deadline will provide a sufficient amount of time for recipients to expend their funds in accordance with the eligible uses of the CRF.

Treasury has made certain adjustments to its frequently asked questions to reflect this revision and will provide recipients subsequent updates as to how this change will be reflected in the CRF reporting requirements. The remainder of Treasury’s guidance remains in effect.

Consistent with Treasury’s revised interpretation above, the text of the section of Treasury’s guidance under the heading “*Costs incurred during the period that begins on March 1, 2020, and*

¹ See section 601(d)(3) of the Social Security Act (42 U.S.C. 801(d)(3)), as added by section 5001 of the CARES Act and as amended by section 1001 of Division N of the Consolidated Appropriations Act, 2021.

ends on December 31, 2021” has been revised. Treasury is also revising the answers to FAQs A.54 and A.58 to conform the responses to this new interpretation.

More Information

Questions regarding the Coronavirus Relief Fund can be sent to CoronavirusReliefFund@treasury.gov.

Treasury’s guidance regarding the use of funds is available here, subject to the revisions below: https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf.

Information about reporting and recordkeeping requirements related to CRF payments is available here: <https://oig.treasury.gov/cares-act>.

Revisions to Guidance

The revised provisions of Treasury’s guidance are as follows:

Costs incurred during the period that begins on March 1, 2020, and ends on December 31, 2021

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 31, 2021 (the “covered period”).

A cost associated with a necessary expenditure incurred due to the public health emergency is considered to have been incurred by December 31, 2021, if the recipient has incurred an obligation with respect to such cost by December 31, 2021. Treasury defines obligation for this purpose as an order placed for property and services and entry into contracts, subawards, and similar transactions that require payment. Recipients are required to expend their funds received from the CRF to cover these obligations by September 30, 2022.

A.54 May Fund recipients upgrade critical public health infrastructure, such as providing access to running water for individuals and families in rural and tribal areas to allow them to maintain proper hygiene and defend themselves against the virus?

Yes, fund recipients may use payments from the Fund to upgrade public health infrastructure, such as providing individuals and families access to running water to help reduce the further spread of the virus. As required by the CARES Act, expenses associated with such upgrades must be incurred by December 31, 2021. Please see the discussion of the interpretation of “incurred” under the heading “*Costs incurred during the period that begins on March 1, 2020, and ends on December 31, 2021.*”

A.58 May payments from the Fund be used for real property acquisition and improvements and to purchase equipment to address the COVID-19 public health emergency?

The expenses of acquiring or improving real property and of acquiring equipment (e.g., vehicles) may be covered with payments from the Fund in certain cases. For example, Treasury's initial guidance referenced coverage of the costs of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs, as an eligible use of funds. Any such use must be consistent with the requirements of section 601(d) of the Social Security Act as added by the CARES Act.

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

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 31, 2021. Regarding this requirement, please see the discussion of the interpretation of "incurred" under the heading "*Costs incurred during the period that begins on March 1, 2020, and ends on December 31, 2021.*"

Finally, as with all costs covered with payments from the Fund, such costs must not have been previously accounted for in the budget most recently approved as of March 27, 2020, for the State, local, or Tribal government.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at Kerry.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION: *Title:* Sales of Business Property.

OMB Number: 1545-0184.

Form Number: Form 4797.

Abstract: Form 4797 is used by taxpayers to report sales, exchanges, or involuntary conversions of assets used in a trade or business. It is also used to compute ordinary income from recapture and the recapture of prior year losses under section 1231 of the Internal Revenue Code.

Current Actions: There is no change in the paperwork burden previously approved by OMB. The forms are being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and farms.

Estimated Number of Respondents: 325,000.

Estimated Time per Response: 50 hours, 38 minutes.

Estimated Total Annual Burden Hours: 16,454,750.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the

quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 12, 2021.

Chakinna B. Clemons,
Supervisory Tax Analyst.

[FR Doc. 2021-00841 Filed 1-14-21; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments

AGENCY: Department of the Treasury.

ACTION: Coronavirus Relief Fund program guidance.

SUMMARY: The Department of the Treasury (Treasury) is re-publishing in final form the guidance it previously made available on its website regarding the Coronavirus Relief Fund for States, tribal governments, and certain eligible local governments.

FOR FURTHER INFORMATION CONTACT: Stephen T. Milligan, Deputy Assistant General Counsel (Banking & Finance), 202-622-4051.

SUPPLEMENTARY INFORMATION: Section 601 of the Social Security Act, as added by section 5001(a) of Division A of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") established the Coronavirus Relief Fund (the "Fund") and appropriated \$150 billion for payments by Treasury to States, tribal governments, and certain local governments.

The Secretary of the Treasury has adopted this guidance for recipients of payments from the Fund pursuant to his authority under the Social Security Act to adopt rules and regulations as may be necessary to the efficient administration of the functions with which he is charged under the Social Security Act. 42 U.S.C. 1302(a). This guidance primarily concerns the use of payments from the Fund set forth in section 601(d) of the Social Security Act. Treasury's Office of Inspector General (OIG) will use this guidance in its audits of recipients' use of funds. Section 601(f)(2) of the Social Security Act provides that if the Treasury OIG determines that a recipient of payments from the Fund has failed to comply with the use of funds provisions of section

601(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.

The guidance published below is unchanged from the last version of the guidance dated September 2, 2020,¹ and the frequently asked questions document dated October 19, 2020,² each of which was published on Treasury's website, except for the following changes. The introduction of the guidance and frequently asked questions have been modified to reflect this publication in the **Federal Register**; the guidance and frequently asked questions have been revised throughout to reflect that the end date of the period during which eligible expenses may be incurred has been extended to December 31, 2021;³ footnote 2 of the guidance has been revised to reflect additional restrictions imposed by section 5001(b) of Division A the CARES Act; FAQ A.59 has been updated to correct the cross-reference to Treasury OIG's FAQs; and the application of FAQ B.6 has been clarified. Treasury is also adding to the guidance instructions regarding the return to Treasury of unused Coronavirus Relief Fund payments.

Administrative Procedure Act

The Administrative Procedure Act (APA) provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply "to the extent that there is involved . . . a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. 553(a). The rule involves a matter relating to public property, loans, grants, benefits, or contracts and is therefore exempt under the terms of the APA.

¹ As noted previously on Treasury's website, 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.

² As noted previously on Treasury's website, on August 10, 2020, the frequently asked questions were revised to add Questions A.49-52. On September 2, 2020, Questions A.53-56 were added and Questions A.34 and A.38 were revised. On October 19, 2020, Questions A.57-59 and B.13 were added and Questions A.42, 49, and 53 were revised.

³ Section 1001 of Division N of the Consolidated Appropriations Act, 2021 amended section 601(d)(3) of the Social Security Act by extending the end of the covered period for Coronavirus Relief Fund expenditures from December 30, 2020 to December 31, 2021.

Dec.
31,
2021

funds
REVERT

Regulatory Flexibility Analysis

The Regulatory Flexibility Act does not apply to a rulemaking when a general notice of proposed rulemaking is not required.

Paperwork Reduction Act

The final rule contains no requirements subject to the Paperwork Reduction Act.

Authority and Issuance

42 U.S.C. 1302(a).

Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments

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 31, 2021.¹

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 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 31, 2021

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 31, 2021 (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

¹ See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act and as amended by section 1001 of Division N of the Consolidated Appropriations Act, 2021.

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 31, 2021, the failure of a vendor to complete delivery or services by December 31, 2021, 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 Expenditures²

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.³
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.

² In addition, pursuant to section 5001(b) of Division A of the CARES Act, payments from the Fund are subject to the requirements contained in the Further Appropriations Act of 2020 (Pub. L. 116-94) for funds for programs authorized under section 330 through 340 of the Public Health Service Act (42 U.S.C. 254 through 256). Section 5001(b) thereby applies to payments from the Fund the general restrictions on the Department of Health and Human Services' appropriations. Of particular relevance for the Fund, payments may not be expended for an abortion, for health benefits coverage—meaning a package of services covered by a managed health care provider or organization pursuant to a contract or other arrangement—that includes coverage of abortion, for the creation of a human embryo or embryos for research purposes, or for research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and 42 U.S.C. 289g(b). The prohibition on payment for abortions and health benefits coverage that includes coverage of abortion 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. These provisions do not prohibit the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds). These provisions do not restrict the ability of a managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds). 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. Except with respect to certain law enforcement and adjudication activities, no funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography. No payments from the Fund may be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, allied organizations, or successors. For the full text of these requirements, see Title V of Public Law 116-94 (133 Stat. 2605 *et seq.*), available at <https://www.congress.gov/116/plaws/publ94/PLAW-116publ94.pdf>.

³ See 42 CFR 433.51 and 45 CFR 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 31, 2021.

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 31, 2021.

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 CFR 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 31, 2021, 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 CFR 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 31, 2021, 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 31, 2021. 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 31, 2021, that relates to Fund expenditures incurred during the covered period, must report to the Treasury Office of Inspector General by the quarter ending September 2022 an estimate of the amount of such necessary administrative expenses.

Instructions for State, Territorial, Local, and Tribal Governments To Return Unused Coronavirus Relief Fund Payments to the Department of the Treasury

Any remaining amount of payments from the Fund not used for eligible expenses incurred during the covered period must be returned to Treasury in one of three ways, set forth below.

Please note that these instructions are for Fund recipients to return the balance of unused Fund payments to Treasury. If the Treasury Office of Inspector General determines that a Fund recipient has failed to comply with the use restrictions set forth in section 601(d) of the Social Security Act, the Fund recipient should follow the instructions provided by the Treasury Office of Inspector General for satisfaction of the related debt rather than following these instructions.

1. *Fedwire receipts*—Treasury can accept Fedwire payments for the return of funds to Treasury.

Please provide the following instructions to your Financial Institution for the remittance of Fedwire payments to the *Department of the Treasury*.

Funds REVER

FEDWIRE INSTRUCTIONS

| Fedwire field tag | Fedwire field name | Required information |
|-------------------|--|--|
| {1510} | Type/Subtype | 1000 |
| {2000} | Amount | (enter payment amount) |
| {3400} | Receiver ABA routing number* | 021030004 |
| {3400} | Receiver ABA short name | TREAS NYC |
| {3600} | Business Function Code | CTR |
| {4200} | Beneficiary Identifier (account number) | 820010001000 |
| {4200} | Beneficiary Name | DEPARTMENT OF THE TREASURY |
| {5000} | Originator | (enter the name of the originator of the payment) |
| {6000} | Originator to Beneficiary Information—Line 1 | (enter information to identify the purpose of the payment) |
| {6000} | Originator to Beneficiary Information—Line 2 | (enter information to identify the purpose of the payment) |
| {6000} | Originator to Beneficiary Information—Line 3 | (enter information to identify the purpose of the payment) |

FEDWIRE INSTRUCTIONS—Continued

| Fedwire field tag | Fedwire field name | Required information |
|-------------------|--|--|
| {6000} | Originator to Beneficiary Information—Line 4 | (enter information to identify the purpose of the payment) |

* The financial institution address for Treasury's routing number is 33 Liberty Street, New York, NY 10045.

2. ACH receipts —Treasury can accept ACH payment for the return of funds to Treasury.

Please provide the following instructions to your Financial Institution for the remittance of

Automated Clearing House (ACH) credits to the *Department of the Treasury*.

ACH CREDIT INSTRUCTIONS

| NACHA record type code | NACHA field | NACHA data element name | Required information |
|------------------------|-------------|--|----------------------------------|
| 5 | 3 | Company Name | (enter the name of the payor) |
| 5 | 6 | Standard Entry Class Code | CCD |
| 5 | 9 | Effective Entry Date | (enter intended settlement date) |
| 6 | 2 | Transaction Code * | 22 |
| 6 | 3 & 4 | Receiving DFI Identification (ABA routing #) | 051036706 |
| 6 | 5 | DFI Account Number | 820010001000 |
| 6 | 6 | Amount | (enter payment amount) |
| 6 | 8 | Receiving Company Name | Department of the Treasury |

* ACH *debits* are not permitted to this ABA routing number. All debits received will be automatically returned.

3. *Check receipts (not preferred)*—Checks may be sent to one of the following addresses (depending on the method of delivery).

U.S. MAIL/PARCEL DELIVERY ADDRESS

| U.S. Mail address—processing | Parcel delivery address—processing |
|---|---|
| Fiscal Accounting Program, Admin & Training Group. Avery Street A3–G, Bureau of the Fiscal Service, P.O. Box 1328, Parkersburg, WV 26106–1328. | Fiscal Accounting Program, Admin & Training Group. Avery Street A3–G, Fiscal Service Warehouse & Operations Center Dock 1, 257 Bosley Industrial Park Drive, Parkersburg WV 26106. |

Frequently Asked Questions

The following answers to frequently asked questions supplement Treasury's Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments.

A. Eligible Expenditures

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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 31, 2021, is an eligible expense.

13. 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.

14. 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.

15. 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.

16. Are expenses associated with contact tracing eligible?

Yes, expenses associated with contact tracing are eligible.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. *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.

23. *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.

24. 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.

25. 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.

26. 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.

27. *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.

28. *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.

29. 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.

30. 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.

31. *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.

32. *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.

33. 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.

34. 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, such as restrictions on reopening that do not directly concern the use of funds, are not permissible.

35. 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 interest expense payable on TANs by the borrower and unbudgeted administrative and transactional costs, such as necessary

payments to advisors and underwriters, associated with the issuance of the TANs.

36. 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.

37. 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.

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

No. Hazard pay means additional pay for performing hazardous duty or work involving physical hardship, in each case that is related to COVID-19. Payments from the fund may only be used to cover such hazard pay.

39. 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.

40. 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 31, 2021, 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 31, 2021, must be returned to Treasury upon receipt by the unit of government lending the funds.

41. 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.

42. May funds be used to satisfy non-federal matching requirements under the Stafford Act?

Yes, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance, including FEMA's Emergency Management Performance Grant (EMPG) and EMPG Supplemental programs, to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

43. Must a State, local, or tribal government require applications to be submitted by businesses or individuals before providing assistance using payments from the Fund?

Governments have discretion to determine how to tailor assistance programs they establish in response to the COVID-19 public health emergency. However, such a program should be structured in such a manner as will ensure that such assistance is determined to be necessary in response to the COVID-19 public health emergency and otherwise satisfies the requirements of the CARES Act and other applicable law. For example, a per capita payment to residents of a particular jurisdiction without an assessment of individual need would not be an appropriate use of payments from the Fund.

44. May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the

financial assistance provided would have to be related to COVID-19.

45. May recipients use Fund payments to remarket the recipient's convention facilities and tourism industry?

Yes, if the costs of such remarketing satisfy the requirements of the CARES Act. Expenses incurred to publicize the resumption of activities and steps taken to ensure a safe experience may be needed due to the public health emergency. Expenses related to developing a long-term plan to reposition a recipient's convention and tourism industry and infrastructure would not be incurred due to the public health emergency and therefore may not be covered using payments from the Fund.

46. May a State provide assistance to farmers and meat processors to expand capacity, such to cover overtime for USDA meat inspectors?

If a State determines that expanding meat processing capacity, including by paying overtime to USDA meat inspectors, is a necessary expense incurred due to the public health emergency, such as if increased capacity is necessary to allow farmers and processors to donate meat to food banks, then such expenses are eligible expenses, provided that the expenses satisfy the other requirements set forth in section 601(d) of the Social Security Act outlined in the Guidance.

47. The guidance provides 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. May Fund payments be used to cover such an employee's entire payroll cost or just the portion of time spent on mitigating or responding to the COVID-19 public health emergency?

As a matter of administrative convenience, the entire payroll cost of an employee whose time is substantially dedicated to mitigating or responding to the COVID-19 public health emergency is eligible, provided that such payroll costs are incurred by December 31, 2021. An employer 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.

48. May Fund payments be used to cover increased administrative leave costs of public employees who could not telework in the event of a stay at home order or a case of COVID-19 in the workplace?

The statute 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. As stated in the Guidance, 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. If the cost of an employee was allocated to administrative leave to a greater extent than was expected, the cost of such administrative leave may be covered using payments from the Fund.

49. Are States permitted to use Coronavirus Relief Fund payments to satisfy non-federal matching requirements under the Stafford Act, including "lost wages assistance" authorized by the Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (August 8, 2020)?

Yes. As previous guidance has stated, payments from the Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. States are fully permitted to use payments from the Fund to satisfy 100% of their cost share for lost wages assistance recently made available under the Stafford Act. If a State makes a payment to an individual under the "lost wages assistance" program and later determines that such individual was ineligible for the program, the ineligibility determination has the following consequences:

- The State incurs an obligation to FEMA in the amount of the payment to the ineligible individual. A State's obligation to FEMA for making an improper payment to an individual under the "lost wages assistance" program is not incurred due to the public health emergency and, therefore, payments made pursuant to this obligation would not be an eligible use of the Fund.

- The "lost wages assistance" payment to the ineligible individual would be deemed to be an ineligible

expense for purposes of the Fund, and any amount charged to the Fund (e.g., to satisfy the initial non-federal matching requirement) would be subject to recoupment.

50. At what point would costs be considered to be incurred in the case of a grant made by a State, local, or tribal government to cover interest and principal amounts of a loan, such as might be provided as part of a small business assistance program in which the loan is made by a private institution?

A grant made to cover interest and principal costs of a loan, including interest and principal due after the period that begins on March 1, 2020, and ends on December 31, 2021 (the “covered period”), will be considered to be incurred during the covered period if (i) the full amount of the loan is advanced to the borrower within the covered period and (ii) the proceeds of the loan are used by the borrower to cover expenses incurred during the covered period. In addition, if these conditions are met, the amount of the grant will be considered to have been used during the covered period for purposes of the requirement that expenses be incurred within the covered period. Such a grant would be analogous to a loan provided by the Fund recipient itself that incorporates similar loan forgiveness provisions. As with any other assistance provided by a Fund recipient, such a grant would need to be determined by the recipient to be necessary due to the public health emergency.

51. If governments use Fund payments as described in the Guidance to establish a grant program to support businesses, would those funds be considered gross income taxable to a business receiving the grant under the Internal Revenue Code (Code)?

Please see the answer provided by the Internal Revenue Service (IRS) available at <https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions>.

52. If governments use Fund payments as described in the Guidance to establish a loan program to support businesses, would those funds be considered gross income taxable to a business receiving the loan under the Code?

Please see the answer provided by the IRS available at <https://www.irs.gov/newsroom/cares-act-coronavirus-relief-fund-frequently-asked-questions>.

53. May Fund recipients incur expenses associated with the safe reopening of schools?

Yes, payments from the Fund may be used to cover costs associated with providing distance learning (e.g., the cost of laptops to provide to students) or for in-person learning (e.g., the cost of acquiring personal protective equipment for students attending schools in-person or other costs associated with meeting Centers for Disease Control guidelines).

Treasury recognizes that schools are generally incurring an array of COVID-19-related expenses to either provide distance learning or to re-open. To this end, as an administrative convenience, Treasury will presume that expenses of up to \$500 per elementary and secondary school student are eligible expenditures, such that schools do not need to document the specific use of funds up to that amount.

If a Fund recipient avails itself of the presumption in accordance with the previous paragraph with respect to a school, the recipient may not also cover the costs of additional re-opening aid to that school other than those associated with the following, in each case for the purpose of addressing COVID-19:

- Expanding broadband capacity;
- hiring new teachers;
- developing an online curriculum;
- acquiring computers and similar digital devices;
- acquiring and installing additional ventilation or other air filtering equipment;
- incurring additional transportation costs; or
- incurring additional costs of providing meals.

Across all levels of government, the presumption is limited to \$500 per student, e.g., if a school is funded by a state and a local government, the presumption claimed by each recipient must add up to no more than \$500. Furthermore, if a Fund recipient uses the presumption with respect to a school, any other Fund recipients providing aid to that school may not use the Fund to cover the costs of additional aid to schools other than with respect to the specific costs listed above.

The following examples help illustrate how the presumption may or may not be used:

Example 1: State A may transfer Fund payments to each school district in the State totaling \$500 per student. State A does not need to document the specific use of the Fund payments by the school districts within the State.

Example 2: Suppose State A from example 1 transferred Fund payments to the school districts in the State in the

amount of \$500 per elementary and secondary school student. In addition, because State A is availing itself of the \$500 per elementary and secondary school student presumption, State A also may use Fund payments to expand broadband capacity and to hire new teachers, but it may not use Fund payments to acquire additional furniture.

54. May Fund recipients upgrade critical public health infrastructure, such as providing access to running water for individuals and families in rural and tribal areas to allow them to maintain proper hygiene and defend themselves against the virus?

Yes, fund recipients may use payments from the Fund to upgrade public health infrastructure, such as providing individuals and families access to running water to help reduce the further spread of the virus. As required by the CARES Act, expenses associated with such upgrades must be incurred by December 31, 2021. Please see Treasury’s Guidance as updated on June 30 regarding when a cost is considered to be incurred for purposes of the requirement that expenses be incurred within the covered period.

55. How does a government address the requirement that the allowable expenditures are not accounted for in the budget most recently approved as of March 27, 2020, once the government enters its new budget year on July 1, 2020 (for governments with June 30 fiscal year ends) or October 1, 2020 (for governments with September 30 year ends)?

As provided in the Guidance, 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.

Furthermore, the budget most recently approved as of March 27, 2020, provides the spending baseline against which expenditures should be compared for purposes of determining whether they may be covered using payments from the Fund. This spending baseline will carry forward to a subsequent budget year if a Fund recipient enters a different budget year between March 27, 2020 and December 31, 2021. The

spending baseline may be carried forward without adjustment for inflation.

56. Does the National Environmental Policy Act, 42 U.S.C. 4321 et seq, (NEPA) apply to projects supported by payments from the Fund?

NEPA does not apply to Treasury's administration of the Fund. Projects supported with payments from the Fund may still be subject to NEPA review if they are also funded by other federal financial assistance programs

57. Public universities have incurred expenses associated with providing refunds to students for education-related expenses, including tuition, room and board, meal plans, and other fees (such as activities fees). Are these types of public university student refunds eligible uses of Fund payments?

If the responsible government official determines that expenses incurred to refund eligible higher education expenses are necessary and would be incurred due to the public health emergency, then such expenses would be eligible as long as the expenses satisfy the other criteria set forth in section 601(d) of the Social Security Act. Eligible higher education expenses may include, in the reasonable judgment of the responsible government official, refunds to students for tuition, room and board, meal plan, and other fees (such as activities fees). Fund payments may not be used for expenses that have been or will be reimbursed by another federal program (including, for example, the Higher Education Emergency Relief Fund administered by the Department of Education).

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

The expenses of acquiring or improving real property and of acquiring equipment (e.g., vehicles) may be covered with payments from the Fund in certain cases. For example, Treasury's initial guidance referenced coverage of the costs of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs, as an eligible use of funds. Any such use must be consistent with the requirements of section 601(d) of the Social Security Act as added by the CARES Act.

As with all uses of payments from the Fund, the use of payments to acquire or improve property is limited to that which is necessary due to the COVID-

19 public health emergency. In the context of acquisitions of real estate and acquisitions of equipment, this means that the acquisition itself must be necessary. In particular, a government must (i) determine that it is not able to meet the need arising from the public health emergency in a cost-effective manner by leasing property or equipment or by improving property already owned and (ii) maintain documentation to support this determination. Likewise, an improvement, such as the installation of modifications to permit social distancing, would need to be determined to be necessary to address the COVID-19 public health emergency.

Previous guidance regarding the requirement 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 31, 2021 focused on the acquisition of goods and services and leases of real property and equipment, but the same principles apply to acquisitions and improvements of real property and acquisitions of equipment. Such acquisitions and improvements must be completed and the acquired or improved property or acquisition of equipment be put to use in service of the COVID-19-related use for which it was acquired or improved by December 30. Finally, as with all costs covered with payments from the Fund, such costs must not have been previously accounted for in the budget most recently approved as of March 27, 2020.

59. If a small business received a Small Business Administration (SBA) Payment Protection Program (PPP) or Economic Injury Disaster Loan (EIDL) grant or loan due to COVID-19, may the small business also receive a grant from a unit of government using payments from the Fund?

Receiving a PPP or EIDL grant or loan for COVID-19 would not necessarily make a small business ineligible to receive a grant from Fund payments made to a recipient. As discussed in previous Treasury guidance on use of the Fund, a recipient's small business assistance program should be tailored to assist those businesses in need of such assistance. In assessing the business' need for assistance, the recipient would need to take into account the business' receipt of the PPP or EIDL loan or grant. If the business has received a loan from the SBA that may be forgiven, the recipient should assume for purposes of determining the business' need that the loan will be forgiven. In determining the business' eligibility for the grant, the

recipient should not rely on self-certifications provided to the SBA.

If the grant is being provided to the small business to assist with particular expenditures, the business must not have already used the PPP or EIDL loan or grant for those expenditures. The assistance provided from the Fund would need to satisfy all of the other requirements set forth in section 601(d) of the Social Security Act as discussed in Treasury's guidance and FAQs, and the business would need to comply with all applicable requirements of the PPP or EIDL program.

Treasury's Office of Inspector General has provided the following guidance in its FAQ no. 75 on reporting and recordkeeping that would apply to the recipient:

The prime recipient is responsible for determining the level and detail of documentation needed from the sub-recipient of small business assistance to satisfy [the requirements of section 601(d) of the Social Security Act], however, there would need to be some proof that the small business was impacted by the public health emergency and was thus eligible for the CRF funds.

In the above OIG FAQ, "sub-recipient" refers to the beneficiary of the assistance, i.e., the small business.

B. Questions Related to Administration of Fund Payments

1. 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 31, 2021, as required by the statute, those funds must be returned to the Department of the Treasury.

2. 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.

3. 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.

4. 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.

5. 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 31, 2021, 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.

6. Are Fund payments to State, territorial, local, and tribal governments subject to the provisions of the Uniform Guidance applicable to grant agreements?

No. Fund payments made by Treasury to State, territorial, local, and Tribal governments do not entail grant agreements and thus the provisions of the Uniform Guidance (2 CFR part 200) applicable to grant agreements do not apply. The payments constitute "other financial assistance" under 2 CFR 200.40.

7. 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 CFR 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

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

Fund payments are subject to the following requirements in the Uniform Guidance (2 CFR part 200): 2 CFR 200.303 regarding internal controls, 2 CFR 200.330 through 200.332 regarding

subrecipient monitoring and management, and subpart F regarding audit requirements.

9. 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.

10. 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 CFR part 200, subpart F re: audit requirements. Subrecipients are subject to a single audit or program-specific audit pursuant to 2 CFR 200.501(a) when the subrecipients spend \$750,000 or more in federal awards during their fiscal year.

11. 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 CFR 200.425.

12. 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.

13. What are the differences between a subrecipient and a beneficiary under the Fund for purposes of the Single Audit Act and 2 CFR part 200, subpart F regarding audit requirements?

The Single Audit Act and 2 CFR part 200, subpart F regarding audit requirements apply to any non-federal entity, as defined in 2 CFR 200.69, that receives payments from the Fund in the amount of \$750,000 or more. Non-federal entities include subrecipients of payments from the Fund, including recipients of transfers from a State,

territory, local government, or tribal government that received a payment directly from Treasury. However, subrecipients would not include individuals and organizations (e.g., businesses, non-profits, or educational institutions) that are beneficiaries of an assistance program established using payments from the Fund. The Single Audit Act and 2 CFR part 200, subpart F regarding audit requirements do not apply to beneficiaries.

Please see Treasury Office of Inspector General FAQs at <https://www.treasury.gov/about/organizational-structure/ig/Audit%20Reports%20and%20Testimonies/OIG-CA-20-028.pdf> regarding reporting in the GrantSolutions portal.

Dated: January 11, 2021.

Alexandra H. Gaiser,
Executive Secretary.

[FR Doc. 2021–00827 Filed 1–14–21; 8:45 am]

BILLING CODE 4810–25–P

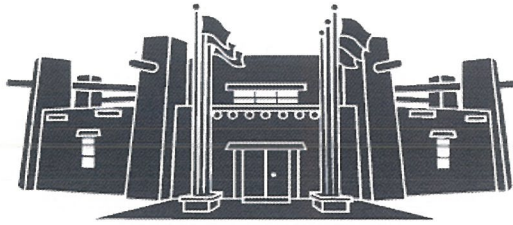
DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board, Amended Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Federal Advisory Committee Act, 5 U.S.C. App.2, that a meeting of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board (JBL/CS SMRB) will be held Thursday, January 21, 2021, via WebEx. The meeting will begin at 3:00 p.m. and end at 5:00 p.m. Eastern daylight time. The meeting will have an open session from 3:00 p.m. until 3:30 p.m. and a closed session from 3:30 p.m. until 5:00 p.m.

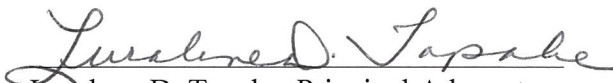
The purpose of the open session is to meet with the JBL/CS Service Directors to discuss the overall policies and process for scientific review, as well as disseminate information among the Board members regarding the VA research priorities.

The purpose of the closed session is to provide recommendations on the scientific quality, budget, safety and mission relevance of investigator-initiated research applications submitted for VA merit review evaluation. Applications submitted for review include various medical specialties within the general areas of biomedical, behavioral and clinical science research. The JBL/CS SMRB meeting will be closed to the public for



MEMORANDUM

TO: Hon. Delegate Eugene Tso
Law and Order Committee
24th Navajo Nation Council

FROM: 
Luralene D. Tapahe, Principal Advocate
Office of Legislative Counsel

DATE: December 16, 2021

SUBJECT: **AN ACTION RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; REALLOCATING UNOBLIGATED CARES PHASE II HARDSHIP ASSISTANCE FUNDS PREVIOUSLY APPROVED IN RESOLUTION NO. CJN-35-21 TO HARDSHIP ASSISTANCE APPLICANTS AGE 60 AND OVER**

Per your request, the Office of Legislative Counsel has prepared the above-referenced proposed legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon review of all supporting documents submitted to OLC, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to review by the Navajo Nation courts in the event of proper legal challenge.

Please ensure that this legislation is precisely what you want. You are encouraged to review this proposed legislation to ensure that it is drafted to your satisfaction.

OLC has reviewed the appropriate standing committees' authorities to consider this legislation, based on the standing committees' powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. Nevertheless, the Speaker of the Navajo Nation Council may assign this legislation to committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find this document unacceptable for any reason, please immediately contact me at the Office of Legislative Counsel (at extension 7166) and advise me of the changes you would like made to this proposed legislation. Thank you.

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



LEGISLATION NO: _0262-21_

SPONSOR: Eugene Tso

**TITLE: An Action Relating to an Emergency and the Navajo Nation Council;
Reallocating Unobligated CARES Phase II Hardship Assistance Funds Previously
Approved in Resolution No. CJN-35-21 to Hardship Assistance Applicants Age 60
and Over**

***Date posted:* December 17, 2021 at 10:32AM**

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.*