Health Care Reform in Indian Country

Self-Governance Communication & Education

Self-Governance Tribes Striving Towards Excellence in Health Care

AFFORDABLE CARE ACT (ACA) / INDIAN HEALTH CARE IMPROVEMENT ACT (IHCIA)

Webinar Series

- COVID-19 TRIBAL HEALTH CARE FUNDING -

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Introduction

Two types of coronavirus stimulus funding:

1. Funding for Tribal Health Care Providers
2. Funding for Tribal Governments

Disclaimer: This presentation is not intended to be legal advice and tribes should check with their counsel before making any determinations regarding use of funds.

Introduction

Funding for Tribal Health Care Providers came from:

- the Coronavirus Preparedness and Response Supplemental Appropriations Act (CPRSAA),
- the Families First Coronavirus Response Act (FFCRA),
- the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and
- the Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA)

Funding for Tribal Governments came from:

- the Families First Coronavirus Response Act (FFCRA)
- the Paycheck Protection Program & Health Care Enhancement Act (PPHCEA)
- the CARES Act
  - Direct Appropriations
  - Coronavirus Relief Fund

Part I –
Funding for Tribal Health Care Providers

CDC Noncompetitive Tribal Grants - $80 million

Source: Coronavirus Preparedness Response Supplemental Appropriations Act, P.L. 116-123

Enacted: March 6, 2020

Purpose and Permitted Uses: Emergency funding to contracting and compacting tribes, tribal organizations, and consortia

According to CDC's Notice of Funding Opportunity, permissible uses include:

- Emergency operations and coordination
- Health Information Technology
- Laboratory capacity
- Communications
- Countermeasures and mitigation
- Recovery activities
- Other preparedness and response activities to COVID-19

CDC Noncompetitive Tribal Grants - $80 million

Administering Agency: CDC
No cost sharing or matching funds required.

Terms and Conditions:

CDC expects the following to be included in post-award monitoring—

- Tracking recipient progress in achieving the desired outcomes.
- Ensuring the adequacy of recipient systems that underlie and generate data reports.
- Creating an environment that fosters integrity in program performance and results

Monitoring may also include—

- Ensuring that work plans are feasible based on the budget and consistent with the intent of the award.
- Ensuring that recipients are performing at a sufficient level to achieve outcomes within stated timeframes.
- Working with recipients on adjusting the work plan based on achievement of outcomes, evaluation results and changing budgets.
- Monitoring performance measures (both programmatic and financial) to assure satisfactory performance levels.

CDC Noncompetitive Tribal Grants - $80 million

Expenditure Deadline: The budget period length is 12 months.

Reporting Requirements:

CDC will conduct virtual compliance visit between 6 months and a year after award.

Tribes should be sure to follow the more detailed requirements in any grant award notice.

This is a broad source of funding because permissible expenditures include preparedness and response activities to the current COVID-19 pandemic.

For more information, see CDC's grant opportunity and FAQ.

Families First Coronavirus Response Funds: Testing Only – $64 million

Source: Families First Coronavirus Response Act, P.L. 116-127

Enacted: March 18, 2020

Purpose and Permitted Uses:

Direct appropriation to IHS for COVID-19 Testing

Funding may only be used for Indians, as defined in section 4 of the Indian Health Care Improvement Act, for: (1) An in vitro diagnostic test … for the detection of SARS–CoV–2 or the diagnosis of the virus that causes COVID–19 … and the administration of such a test …. (2) Items and services furnished to an individual during health care provider office visits (which term in this paragraph includes in-person visits and telehealth visits), urgent care center visits, and emergency room visits that result in an order for or administration of an in vitro diagnostic product described in paragraph (1), but only to the extent such items and services relate to the furnishing or administration of such product or to the evaluation of such individual for purposes of determining the need of such individual for such product.

Families First Coronavirus Response Funds: Testing Only – $64 million

Administering Agency: IHS

Terms and Conditions:

Funds were distributed through Annual Funding Agreements (for Title I) and Funding Agreements (for Title V).

Funds must be used for the COVID-19-related purposes for which they were appropriated.

Funds must also meet the requirements of Annual Funding Agreements or Funding Agreements. If the COVID-19 related activities are not part of the scope of work of your annual funding agreement or funding agreement, you will need to amend your scope of work to cover the activity. IHS will also negotiate contract support costs for this funding, as applicable.

Families First Coronavirus Response Funds: Testing Only - $64 million

Expenditure Deadline: September 30, 2022

Reporting requirements:

IHS guidance requires these funds to be tracked separately from other revenue.

Families First Coronavirus Response Funds: Testing Only—$64 million

Distribution: Funds have been distributed

Other Notes:

This is a narrow source of funding that may only be used for testing and for items and services provided during a visit that results in a test.

Any unused funds must be returned to IHS.

More information is available in IHS's March 27, 2020 DTLL.

IHS Guidance is available here.

CARES Act IHS Direct Appropriation—$1.032 billion

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136

Enacted: March 25, 2020

Purpose and Permitted Use:

To prevent, prepare for, and respond to COVID-19

Permissible uses include for public health support, electronic health record modernization, telehealth and other information technology upgrades, Purchased/Referred Care, Catastrophic Health Emergency Fund, Urban Indian Organizations, Tribal Epidemiology Centers, Community Health Representatives, and other activities to protect the safety of patients and staff.

The statute allowed IHS to transfer $125 million to the Facilities Account, and tribes may use those funds for medical equipment needs and maintenance and improvement according to IHS's April 23, 2020 DTLL.

CARES Act IHS Direct Appropriation—$1.032 billion

Administering Agency: IHS

Terms and Conditions:

Funds were distributed through Annual Funding Agreements (for Title I) and Funding Agreements (for Title V).

Funds must be used for the COVID-19-related purposes for which they were appropriated.

Funds must also meet the requirements of Annual Funding Agreements or Funding Agreements. If the COVID-19 related activities are not part of the scope of work of your annual funding agreement or funding agreement, you will need to amend your scope of work to cover the activity. IHS will also negotiate contract support costs for this funding, as applicable.

CARES Act IHS Direct Appropriation—$1.032 billion

Expenditure Deadline:
Facilities-type funding available to IHS until expended.

All other funding must be spent by September 30, 2021

Reporting requirements:

IHS guidance requires these funds to be tracked separately from other revenue.

CARES Act IHS Direct Appropriation—$1.032 billion

Distribution: Funds have been distributed

Other notes:

For more information, see IHS's April 3, 2020 DTLL and April 23, 2020 DTLL.

IHS Guidance is available here.

Provider Relief Fund—$175 billion

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136

Enacted: March 25, 2020

Funds Supplemented: Paycheck Protection Program and Health Care Enhancement Act, P.L. 116-139 (April 24, 2020)

Purposes and Permitted Uses:

to prevent, prepare for, and respond to coronavirus, for necessary expenses to reimburse, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus; for health care related expenses or lost revenues that are attributable to coronavirus; building or construction of temporary structures; leasing of properties; medical supplies and equipment; increased workforce and trainings; emergency operation centers; retrofitting facilities; and surge capacity.

Provider Relief Fund—$175 billion

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136
Enacted: March 25, 2020
Funds Supplemented: Paycheck Protection Program and Health Care Enhancement Act, P.L. 116-139 (April 24, 2020)

According to HHS's FAQs:

- Every patient is considered a possible or actual case of coronavirus. Therefore, provider relief fund dollars can be used for all patients and are not limited to those who test positive for or are suspected of having COVID-19
- Healthcare related expenses attributable to coronavirus is a broad term and can include:
  - supplies used to provide healthcare services for possible or actual COVID-19 patients;
  - equipment used to provide healthcare services for possible or actual COVID-19 patients;
  - workforce training;
  - developing and staffing emergency operation centers;
  - reporting COVID-19 test results to federal, state, or local governments;
  - building or constructing temporary structures to expand capacity for COVID-19 patient care or to provide healthcare services to non-COVID-19 patients in a separate area from where COVID-19 patients are being treated; and
  - acquiring additional resources, including facilities, equipment, supplies, healthcare practices, staffing, and technology to expand or preserve care delivery.
- Lost revenues attributable to coronavirus may include revenues losses associated with fewer outpatient visits, cancelled elective procedures or services, increased uncompensated care.
- May be used to cover any cost the lost revenue would have covered. This can include, without limitation: employee or contractor payroll; employee health insurance**;** **r**ent or mortgage payments; equipment lease payments**;** electronic health record licensing fees

Provider Relief Fund—$175 billion

Administering Agency: HHS

HHS has allocated some funds to IHS. Other funds are distributed through HRSA.

Terms and Conditions:

Recipient provides or provided after January 31, 2020 diagnoses, testing, or care for individuals with possible or actual cases of COVID-19; is not currently terminated from participation in Medicare or precluded from receiving payment through Medicare Advantage or Part D; is not currently excluded from participation in Medicare, Medicaid, and other Federal health programs; and does not currently have Medicare billing privileges revoked.

Payment will only be used to prevent, prepare for, and respond to coronavirus and shall reimburse the recipient only for health care related expenses or lost revenues attributable to coronavirus.

Recipient will not use the payment to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse.

Provider Relief Fund—$175 billion

Administering Agency: HHS

HHS has allocated some funds to IHS. Other funds are distributed through HRSA.

All information is true, accurate, and complete to the best of its knowledge.

Any deliberate omission, misrepresentation, or falsification of any information contained in this Payment application or future reports may be punishable by criminal, civil, or administrative penalties, including but not limited to revocation of Medicare billing privileges, exclusion from federal health care programs, and/or the imposition of fines, civil damages, and/or imprisonment.

Recipient consents to HHS publicly disclosing payment.

Recipient will not seek to collect out-of-pocket expenses greater than patient would have to pay if care was provided in-networks.

Retaining payment for at least 90 days without contacting HHS regarding remittance of funds is deemed to be acceptance of the Terms and Conditions.

Provider Relief Fund—$175 billion

Expenditure Deadline: None.

Reporting Requirements:

Using the Attestation Portal, recipients must attest within 90 days that funds have been received.

HHS FAQs confirm that providers receiving more than $150,000 in COVID-19 related funds will NOT have to submit reports to the HHS Secretary and Pandemic Response Accountability Committee within 10 days of end of each calendar quarter. HHS is going to prepare reports that meet that requirement.

HHS will require additional reporting at a future date.

Provider Relief Fund—$175 billion

Distribution: First $50 billion has been distributed through a general distribution based on Medicare billings from 2019 and 2018. An additional $4 billion in specially designated relief funds was announced on July 10 and will available through HRSA.

These specially designated funds and the remainder of the Provider Relief Fund are being distributed on a rolling basis through targeted distributions as discussed below.

Other Notes:

This is the only COVID-19 funding that specifically states it may be used for revenue replacement.

Deliberate false information on an application may be punishable by criminal, civil, or administrative penalties.

Failure to comply with terms and conditions can make funds subject to recoupment.

For more information, see HHS's FAQs.

Provider Relief Fund—$175 billion

IHS Relief Fund—$500 million

- Allocated May 29
- Hospitals: $2.81 million + 3% of total operating expenses
- Clinics: $187,000 + 5% (estimated service pop x avg cost per user)
- UIOs: $181,000 + 6% (estimated service pop x avg cost per user)
- Must meet Provider Relief Fund Terms and Conditions above
- Funding automatically transferred based on formula.

Uninsured Relief Fund—no set amount

- For providers who treated uninsured COVID-19 patients on or after February 4, 2020
- HRSA's FAQs currently state that individuals who receive services through the Indian health system are not uninsured individuals for the purposes of this targeted allocation.
- Reimbursement will be made for: specimen collection, diagnostic and antibody testing; testing-related visits; treatment; an FDA-approved vaccine once available.
- Reimbursement must be requested through the COVID-19 Uninsured Program Portal.
- For more information, see HRSA's FAQs.

- Must meet Provider Relief Fund Terms and Conditions above as well as certifying that:
  - Recipient will not engage in "balance billing" or charge any type of cost sharing for any items or services provided to Uninsured Individuals receiving care or treatment for a positive diagnosis of COVID-19 for which the Recipient receives a Payment from the Relief Fund. The Recipient shall consider Payment received from the Relief Fund to be payment in full for such care or treatment; and
  - If Recipient, prior to signing the Terms and Conditions, charged any Uninsured Individuals a fee for COVID-19-related care or treatment for which the Recipient subsequently received a Payment from the Relief Fund, the Recipient will communicate to the Uninsured Individuals that they do not owe Recipient any money for that care or treatment and will timely return the payment.

Provider Relief Fund—$175 billion

High Impact Relief Fund—$12 billion • Distributed May 7 to hospitals with 100 or more COVID-19 admissions Jan 1–Apr 10	• June 15 deadline for submissions for consideration for second round of distributions based on admissions Jan 1–June 10. • Must meet Provider Relief Fund Terms and Conditions above
Rural Relief Fund—$10 billion • Distributed May 6 • For acute care hospitals, CAHs, RHCs, and CHCs	• HRSA stated in call with IHS that rural tribal providers would qualify, but in fact no IHS/tribal providers received this funding. • Must meet Provider Relief Fund Terms and Conditions above
Skilled Nursing Facility Relief Fund—$4.9 billion • Allocated May 22 • For nursing facilities with 6 or more certified beds	• Payment will be $50,000 plus $2,500 per bed • Must meet Provider Relief Fund Terms and Conditions above

Provider Relief Fund—$175 billion

Safety Net Provider Relief Fund—$10 billion • Announced June 9 • For qualifying acute care facilities and children's hospitals • Acute care facilities must have: (1) a Medicare disproportionate patient percentage of 20.2% or greater; (2) annual uncompensated care of at least $25,000 per bed; and (3) a net operating margin of 3.0% or less.	• Eligibility is based on 2018 CMS cost report • Must meet Provider Relief Fund Terms and Conditions above
Safety Net Provider Relief Fund—Additional $3 billion (HRSA) • Announced July 10 • For acute care hospitals meeting (1) a revised profitability threshold of less than or equal to 3% averaged consecutively over 2 or more years of the last five reporting periods; and (2) an annualized uncompensated care cost of at least $25,000 per bed in the most recent cost report. • Must also meet the Medicare disproportionate patient percentage of 20.2% or higher criterion.	• HHS expects to distribute the additional funds across approximately 214 facilities nationwide. • HHS released a state-by-state chart of targeted providers and total payments, but it does not identify the type of provider.

Provider Relief Fund—$175 billion

Medicaid & Chip Provider Relief Fund—approx. $15 billion
• Announced June 9. **Deadline to apply is July 20, 2020** and applications can be submitted through Enhanced Provider Relief Fund Payment Portal.
• Payment dependent on provider submission and will be at least 2% of revenue
• Must have directly billed Medicaid between January 1, 2018 and December 31, 2019
	• According to HHS's FAQs:
	  ○ Providers who received a General Distribution payment are not eligible
	  ○ Providers who received targeted distributions, such as from the IHS Relief Fund, are still eligible
	  ○ Providers at FQHCs are eligible so long as they meet other eligibility criteria, such as not having received a General Distribution
	• Must meet Provider Relief Fund Terms and Conditions above

Small City and Rural Specialty Hospitals—$1 billion (HRSA) • Announced July 10 • Targeted funding for certain special rural Medicare designation hospitals in urban areas and smaller non-rural metropolitan areas. • The funding formula varied depending on hospital location and Medicare designation with payment amounts based roughly on 1-2% of operating expenses, subject to minimum and maximum payment thresholds.	• Eligibility limited to qualifying providers that have not received payment under the Rural Targeted Distribution. • HHS expects to distribute this funding to approx. 479 small city and rural specialty hospitals. • HHS released a state-by-state chart of targeted providers and total payments, but it does not indentify the type of provider.

IHS Supplemental Testing Funds—$750 million

Source: Paycheck Protection Program and Health Care Enhancement Act, P.L. 116-139

Enacted: April 24, 2020

Purpose and Permitted Uses:

For necessary expenses to develop, purchase, administer, process, and analyze COVID-19 tests, including support for workforce, epidemiology, use by employers or in other settings, scale up of testing by public health, academic, commercial, and hospital laboratories, and community-based testing sites, health care facilities, and other entities engaged in COVID-19 testing, conduct surveillance, trace contacts, and other related activities related to COVID-19 testing.

IHS Supplemental Testing Funds—$750 million

Administering Agency: IHS

Terms and Conditions:

Tribal health programs must provide a one-time spend plan, including an all-inclusive budget, as a condition of receiving the funds.

Funds must be used for statutory purpose of testing-related activities.

Recipients must also meet the requirements of their Annual Funding Agreements or Funding Agreements.

IHS Supplemental Testing Funds—$750 million

Expenditure Deadline: None.

Reporting Requirements:

Must submit a spend plan, including an all-inclusive budget, as a condition of receiving funds.

According to the statute, the plan should include goals for the remainder of calendar year 2020, to include: (1) the number of tests needed, month-by-month, to include diagnostic, serological, and other tests, as appropriate; (2) month-by-month estimates of laboratory and testing capacity, including related to workforce, equipment and supplies, and available tests; and (3) a description of how tribe or tribal organization will use its resources for testing, including as it relates to easing any COVID-19 community mitigation policies.

IHS Supplemental Testing Funds—$750 million

Distribution: Funds began to be distributed in May 2020 and are distributed through bilateral modifications to existing ISDEAA agreements. Tribes will need to sign these modifications.

Other notes:

This is a narrow source of funding that can only be used for testing, contact tracing, and other testing-related expenses.

For more information, see IHS's May 19, 2020 DTLL.

Questions?

Part II –
Funding for Tribal Governments

Summary

Two main sets of coronavirus stimulus funds for Tribal Governments:

1. Funding for Tribes and Tribal Health Care Providers as Employers
2. Relief Funding for Tribal Governments

Disclaimer: This presentation is not intended to be legal advice and tribes should check with their counsel before making any determinations regarding use of funds.

Non-CARES Relief Funding – PPP Program

Source: Paycheck Protection Program and Health Care Enhancement Act, P.L. 116-139

Enacted: April 24, 2020

Purpose and Permitted Uses: Primarily payroll expenses, but also for rent, utilities, or interest payments

PPP Loans Administered through Banks & Lenders (like CDFIs):

- Open to employers of fewer than 500 employees
- NOT available for governments, but tribal business entities and tribal non-profits are eligible.
- Designed to cover payroll for workers
  - 60% used on payroll expenses, 40% on other eligible costs = forgivable loan.
- Extended loan period through August 8.

Non-CARES Funding – FFCRA Paid Leave

Source: Families First Coronavirus Response Act, P.L. 116-127

Enacted: March 18, 2020

Purpose and Permitted Uses: Requires covered employers to provide two weeks of paid sick leave and 10 weeks of paid family/medical leave for Coronavirus related reasons. Leave paid by employer, and repaid from the Federal Government through payroll tax credits.

Only Applies to Covered Employers:

- Generally: 500 employees or less, but waivers for employers with <50 or medical providers.
- Not clear if it applies to Tribal Governments or tribal entities – you should check with counsel and applicability of the law under "Generally Applicable Law" tests.
- Dep't of Labor has not said whether Tribes are eligible for payroll tax credit repayment if they DO offer leave.

CARES Act BIA Direct Appropriation—$522 million

Distribution: Funds have been Distributed except for $20 million

BIA Direct Appropriation Funds:

- $453 million for BIA and $69 million for BIE.
- $420 million of BIA funds are for direct funding of tribes, primarily through ISDEAA or specific agreements to fund
  - Aid to Tribal Governments ($380 million)
  - Welfare Assistance ($20 million)
    - General Assistance, Adult Care, Burial Assistance, Child Assistance
- Funds must be used for Coronavirurs-related purposes; can be reprogrammed if in ISDEAA agreements.
- Can not be used for health care activities
- FAQs at: https://www.bia.gov/coronavirus.

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Coronavirus Relief Fund (CRF)

$150 billion for tribal, state, local, and territorial governments, to plan for, prevent, or respond to the coronavirus, and to provide for resources for handling its effects on governments.

$8 billion set aside for tribal governments

Administered by the U.S. Department of Treasury

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

3 Main Rules for CRF Spending

1. *Necessary* expenditures incurred due to the public health emergency with respect to COVID–19.
2. Costs were not accounted for in the budget most recently approved as of March 27, 2020.
3. Costs were were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Primary Guidance at https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf

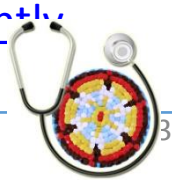
CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Important Tenets When Deciding on Uses

- Use must be tied to COVID-19 cause, effects, or prevention.
- Funds must be expended this calendar year, and projects should be complete such that benefits are realized for this health emergency, not sometime in the future.
- Treasury has indicated it will look closely at all spending.
- Important to account for funds separately and with precision.
- Justification for spending should be spelled out

CRF Frequently Asked Questions at:
https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf



CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Categories of Allowable Uses of CRF Funds

- Medical Expenses
- Public Health Expenses
- Payroll for Governmental Employees in COVID-19 Roles.
- Expenses to facilitate public health measures
- Expenses for economic support
- Expenses necessary for function of government that satisfy eligibility criteria (the 3 main rules).

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

INELIGIBLE uses of CRF Funds

- Damages or costs covered by insurance or other federal funds (no duplication of funding)
- Payroll for working employees in non-COVID-19 Roles
- Costs that will be reimbursed by other sources or that are covered by donors.
- Bonuses to employees (other than hazard pay and overtime)
- Severance pay
- Legal Settlements
- Costs incurred or to be incurred outside the 3-27 / 12-30 period.

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Medical and Public Health Expenses

- Wide eligibility for medical purposes related to coronavirus (treatment, testing, isolation, tracking, etc.).
- Establishing temporary facilities for testing or isolation.
- Costs of telemedicine and related equipment.
- Costs to communicate and enforce public health orders
- ”PPE” for essential personnel
- Cleaning supplies and disinfecting activities
- Public Safety costs
- Costs for quarantining individuals.

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Costs to Facilitate Compliance with Public Health

- Costs for food delivery; support of at-risk or elderly
- Costs to allow for physical distancing, such as remote school, teleworking, etc.
- Costs of providing paid administrative or sick/family leave to governmental employees when shutdown (unless covered by other programs).
- Expenses to care for unhoused tribal citizens or to alleviate overcrowding if needed to comply with public health orders.

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Expenses for Economic Support

- Grants to small businesses to reimburse the costs of business interruption caused by required closures
- Expenditures related to a tribal government payroll support program (e.g., a tribal PPP).
- 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.
- Need-based family and individual economic relief *

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Common Questions - Construction

- Guidance is skeptical of construction or “capital improvements”
- Not allowed for construction projects for “potential economic development” purposes.
- Construction allowed for coronavirus response purposes (e.g,. temporary medical facilities, testing facilities, or isolation units).
- Construction must be complete and benefits realized in 2020

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Common Questions - Construction

- Less Risk: medical construction necessary due to COVID-19; renovation of medical or public health facilities for response purposes; sanitation projects able to be completed and on-line in this calendar year.

- More Risk: pre-planned construction activities; construction on economic projects for for business; large projects.

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Common Questions – Economic Relief

- Guidance clear that unsupported per capita payments from CRF fund are not allowed.

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.

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Common Questions – Economic Relief

- Tribes may provide for economic relief to individual or families so long as:
  - The need for relief is supported by tribal findings, data, or other information.
  - The need is distributed to those with a demonstrated need or hardship – such as via application.
  - Recipients agree to use funding for eligible costs.
- Tribal General Welfare Programs
- Tribe ultimately responsible for eligible spending, and resources will be against Tribe.

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Common Questions – Economic Relief

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CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Common Questions – Governmental Transfer

- Tribes may transfer funds to other government entities, tribal consortia, etc.
- Not required – tribal decision.
- Tribal non-profits or other entities may run relief programs (e.g., rental assistance program)
  - Recipients agree to use funding for eligible costs.
- Tribal Health Care Entities
- Tribe can and should require reporting, access to audits, etc. sufficient to meet its own reporting needs.

CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

Common Questions – Reporting

- Initial "mini report" of costs incurred between March 27 and June 30 due Friday.
- Reports on funding expenditure required quarterly.
- Single Audit Act applies and certain Supercircular provisions (including internal controls and audit requirements).
- Administrative costs allowed from CRF funds.

- Reporting guidance and requirements are here: https://home.treasury.gov/system/files/136/IG-Coronavirus-Relief-Fund-Recipient-Reporting-Record-Keeping-Requirements.pdf.

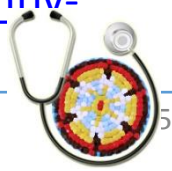
CARES Act – Coronavirus Relief Fund

Source: Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L 116-136, Title IV

REMINDER: Important Tenets When Deciding on Uses

- Use must be tied to COVID-19 cause, effects, or prevention.
- Funds must be expended this calendar year, and projects should be complete such that benefits are realized for this health emergency, not sometime in the future.
- Treasury has indicated it will look closely at all spending.
- Important to account for funds separately and with precision.
- Justification for spending should be spelled out.

CRF Frequently Asked Questions at:
https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf



Questions?

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