THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

July 4, 2020

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

RE: CJN-47-20, *An Action Relating to Budget and Finance and Naabik'iyati' Committees and the Navajo Nation Council; Authorizing the President, Speaker and Chief Justice of the Navajo Nation to Develop an Expenditure Plan(s) in Accordance with Resolution No. CMY-44-20, Federal Cares Act and Attendant Tribal and Federal Regulations, Guidance and Agreements; Allocating $93,059,530.10 from the Navajo Nation Cares Fund*

Dear Speaker Damon,

The Navajo People overwhelmingly supported the initial purpose of the legislation to spend the CARES Act funds and we heard their voice by creating a plan that includes all parts of the Nation. The passage of CJN-47-20 is a victory for the Navajo People; however, there are issues with the final version of the Resolution that were significantly changed but can be made workable. As the Resolution tells us, it is now in the hands of the Branch Chiefs to come together to discuss spending plans, to listen to the voice of the People on how to prepare spending plans, to ensure the needs of all Navajo government and Navajo enterprise employees, to work with the Chapters to help their community members, and to support the economic stabilization for Navajo businesses.

CJN-47-20 began the legislative process as a well-thought out plan on how the Navajo government will come together to help everyone. The purpose of the legislation had two main points. First, it allowed immediate funding for First Responders, for personal protective equipment, for government office preparation or reopening, and other immediate needs in response to the coronavirus pandemic. Second, it set up a Work Group with four representatives from the three branches of government to provide guidance on how and where to spend funds received by the Nation to address COVID-19. The Work Group would have the authority to put the $550,000,000 where it was needed – for Navajo Nation employees, Navajo Chapters, Navajo enterprises, and to improve the Navajo Nation infrastructure by completing waterline and powerline connections to homes across the Nation. All these important pieces were taken out of the legislation in what appears as a move by certain Council Delegates to strike back at the Office of the President and Vice President. These questionable actions do not help the Navajo Nation or the Navajo People.

We fully understand the frustration of the Navajo People on how government cannot come to an agreement on spending funds that are badly needed by everyone. We realize their frustration. We hoped that the Navajo Nation Council had better respect the entire Executive Branch's tireless effort to help people during this pandemic. We have pointed out time and time again the Navajo Nation's process for spending money but for unknown reasons a few Council Delegates wish to

not follow that process. Whether it is a Council Delegate who wishes to go back to the days of fierce in-fighting with the Chairman or an unseasoned Council Delegate who does not fully understand the legislative process and looks to score points by forcing the Office of the President and Vice President to make tough decisions or capitulate. However, we look to those Delegates, like the sponsors, who are mindful of the Navajo Nation's law and regulations and who ask the right questions but do not get a proper answer; these are the Council members who will work to move matters forward.

The only thing accomplished by the unthoughtful amendments is a delay in the process of getting funds to the Navajo People. The three Branch Chiefs will now have to go back to the beginning to start the process over again. We will be submitting the Navajo People's proposed expenditure plans to the Branch Chiefs for discussion. The Navajo Nation Council, by their changes in CJN-47-20, will have to wait before taking up appropriation legislation to spend our money. By layering the committees' actions, we have become our own delay. CJN-47-20 is an expenditure or appropriation and the contents of the Resolution are subject to the authority given by the People to the Navajo Nation President, and so the following items are a concern:

1. Burnout assistance of $7,000,000 with no budget details or explanation of how this assistance will comply with Navajo law, a law that limits the amount of assistance, or how the Department of Health will work with the Division of Social Services to provide burnout assistance. The Executive Divisions may present a comprehensive plan to the Branch Chiefs or work out an internal mechanism to provide assistance to those in need.
2. Appropriation to LGA certified and non-LGA certified Chapters of $55,000,000 with a spending deadline of August 31. This short timeframe is not workable for Chapters. All Chapters are encouraged to work with the Executive Divisions to present a comprehensive plan to address the specific needs of their communities, the accountability and transparency of their spending plans, and assurance to comply with the guidelines for spending. The Executive Branch will work with Chapters to expedite the funding plans and submit the expenditure plan for the Chapters to the next Branch Chiefs discussion.
3. Distribution to the Judicial Branch of $10,000,000 is a change that does not help the Judicial Branch. The appropriate procedure is presenting an expenditure plan to the Branch Chiefs. To leave the distribution in the Resolution would send the $10,000,000 to the Health Command Operations Center, Department of Health for distribution creating a transfer that under our policies is not allowed. The Executive Branch supports an appropriation free from complications.
4. The Kayenta Township may present an expenditure plan to the Branch Chiefs for consideration. The changes to the Resolution now give the Branch Chiefs the responsibility for final expenditure plans; as before the change to the legislation, the President would have the responsibility. The President will continue to work with all Navajo entities in presenting their plans to the Branch Chiefs.
5. The Directives to the various Divisions may be accomplished through the Office of the President and Vice President and Executive Branch as part of the executive authority and as the entity to carry out the purpose of the Resolution.

The line item veto of CMY-44-20 and its subsequent failed override created a resolution that will not produce anything any longer. However, certain Council Delegates will keep bringing it back expecting a miracle. The only thing created is confusion and delay. The Navajo Nation Council

assured the merging of CMY-44-20 and CJN-47-20; however, this was before the failed override and done without the input of OPVP. The references to the failed appropriation resolution cannot be incorporated into CJN-47-20 whether it is considered a line-item vetoed resolution or a general veto resolution that failed an override. The fact of the matter is that the failed resolution is no longer viable and cannot be relied on for any purpose. Any reference to a failed resolution may create further confusion and delay in providing for our People.

Despite the gutting of CJN-47-20 we believe there is enough left to make it work for the benefit of the Nation. Because the Navajo Nation Council wishes to rely on federal law, regulation, policy, and guidelines we have no choice but to remove those appropriated items in CJN-47-20 that do not comply with the federal mandates. The Office of the President and Vice President is for safeguarding the assets of the Navajo Nation. We may no longer have the option to challenge the federal government's position on how we, as a sovereign nation, allocate our money to help our People.

The President and the Vice President have the responsibility to watch over the Navajo People's money, to ensure accountability and transparency in spending, and to prevent troubles caused by misspending as done with discretionary funding. There is increased monitoring of these federal funds and the Navajo Nation must act with care. The responsibility for the delivery of the funds and projects falls to the Executive Branch as the representatives of the Navajo Nation and the executive authority over the Divisions. The Legislative Branch's responsibility is limited to establishing the proposed laws and policy as recommended by Executive Offices and Programs; not to overstep to establish proposed laws **and** executing those laws. Each has a responsibility and must stay within those spheres of authority, otherwise we create chaos and disharmony for the Navajo Nation.

During this pandemic we are learning to adjust to a COVID world and one such adjustment is the telephonic or virtual meetings we have every day. We hoped by now the Navajo Nation Council would initiate rules or procedures for having Council or Committee meetings by telephone or a web-based system because the current method is frustrating and irritating to the public and government employees who need information. Dropped calls, questionable voting, in-attention to the topic, no access to amendments, and recorded side conversations lead to confusion. These issues could be addressed with simple rules or procedures. We urge the Legislative Branch to find a way to communicate that provides transparency, if not for themselves, then surely for the listening public.

Pursuant to the authority vested by the Navajo People in the Navajo Nation President, I am exercising the line item veto authority in CJN-47-20.

Sincerely,

Jonathan Nez, President
THE NAVAJO NATION

Myron Lizer, Vice President
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION
RELATING TO BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; AUTHORIZING THE PRESIDENT, SPEAKER AND CHIEF JUSTICE OF THE NAVAJO NATION TO DEVELOP AN EXPENDITURE PLAN(S) IN ACCORDANCE WITH ~~RESOLUTION NO. CMY-44-20,~~ FEDERAL CARES ACT AND ATTENDANT TRIBAL AND FEDERAL REGULATIONS, GUIDANCE AND AGREEMENTS; ALLOCATING ~~$93,059,530.10 FROM~~ THE NAVAJO NATION CARES FUND JMN mf JMN mf

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 relative to contracting and financial matters. 2 N.N.C. §§ 300 (B)(1) and (2).

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, at times, 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. The pandemic has reached the Navajo Nation.

B. On March 11, 2020, the Navajo Nation Commission on Emergency Management, with the concurrence of the Navajo Nation President and Vice President, declared a Public Health State of Emergency

on the Navajo Nation due to the presence of COVID-19 in areas surrounding the Navajo Nation. Resolution No. CEM 20-03-11. The President and Commission have issued other Public Health Emergency Orders: including: Order No. 2020-001 dated March 18, 2020 (declaring the outbreak of COVID-19 and limiting mass gatherings); Order No. 2020-002 dated March 19, 2020 (quarantining the Chilchinbeto Community); Order No. 2020-003 dated March 20, 2020 (ordering individuals living on the Navajo Nation to stay home and shelter in place except for essential activities, prohibiting visitors to the Navajo Nation, and closing all businesses on the Navajo Nation except essential businesses); Order No. 2020-004 dated March 29, 2020 (implementing a daily curfew from 8:00 p.m. to 5:00 a.m. for all Navajo Nation residents, extending the shelter in place order, and further limiting public gatherings); Order No. 2020-005 dated April 5, 2020 (implementing a 57-hour weekend curfew on April 10-13); Order No. 2020-006 dated April 16, 2020 (extending the weekend curfew for April 17-20 and April 24-27, and closing Navajo Nation essential businesses during curfew hours); Order No. 2020-007 (requiring face masks in public); and Order No. 2020-008 dated April 29, 2020 (extending the weekend curfew to May 11, 2020). The Navajo Nation Office of the President and Vice President issued Executive Order 002-20 on March 31, 2020 (closing all Navajo Nation offices except essential personnel through April 21, 2020); and Executive Order 003-20 on April 21, 2020 (extending the closure order to May 17, 2020).

C. As of June 7, 2020, the Navajo Nation Health Command Operations Center confirmed a total of 6,020 COVID-19 cases on the Navajo Nation and 277 related deaths, these numbers continue to increase.

D. The U.S. Congress on March 27, 2020, enacted the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Pub. L. No. 116-136, 134 Stat. 281 (2020). The federal CARES Act, at Title V, § 5001, entitled "Coronavirus Relief Funds," set aside $8 billion in emergency aid for Tribal governments to address the COVID-19 pandemic. Title V of the federal CARES Act is attached as **Exhibit 1-A**.

E. On April 22, 2020, the U.S. Treasury issued "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments" (hereinafter "Treasury's Guidance") related to the permissible uses of the Coronavirus Relief Fund. See, **Exhibit 1-B**. Examples of eligible expenditures and ineligible expenditures are included in Treasury's Guidance. After litigation in *Confederated Tribes of the Chehalis Reservation*

v. Mnuchin, Case No. 1:20-cv-01002-APM, in which the Navajo Nation participated as a party, on May 5, 2020, the U.S. Departments of Treasury and Interior issued a joint press release announcing that the U.S. Treasury would distribute 60% of the $8 billion, or $4.8 billion, to Tribal governments. Of this, the Navajo Nation's share from the federal Coronavirus Relief Fund initially distributed from the U.S. Treasury on or about May 5, 2020 is $600,559,530.10. The funds have been received by the Navajo Nation and deposited into a holding account until the President and the Navajo Nation Council have finalized funding allocations.

F. The federal CARES Act expressly provides that Coronavirus Relief Fund shall be used to cover costs that are necessary expenditures incurred due to the public health emergency with respect to COVID-19 and related purposes. The determination of what expenditures are necessary to provide relief services to residents of the Navajo Nation is a sovereign decision for the Navajo Nation alone to make within the confines of the federal funding. For example, water and telecommunication developments are not specifically mentioned in the federal CARES Act or Treasury's Guidance, but it is needed to provide Navajo families with water and communication as part of the effort to combat the COVID-19 pandemic. Further, Navajo Nation needs to prepare for a possible second wave of COVID-19. Navajo families are running into lockdowns of towns bordering the Navajo Nation and cannot shop as they wish. The Navajo Nation may need to use federal CARES Act fund to provide relief to Navajo families to shop for necessary commodities when border towns are locked down; Navajo Nation may have to provide needed relief to Navajo families to obtain fuel, food, sanitizing products, personal protective equipment, and other necessary supplies.

G. As set forth in 2 N.N.C. § 1005 (B), the President shall represent the Navajo Nation in relations with governmental agencies; this delegation of authority extends to the negotiation of intergovernmental agreements with federal agencies to expand the use of the Coronavirus Relief Funds to provide for needed relief to Navajo families, *see* 2 N.N.C. § 1005 (C) (2), subject to the final approval of such agreements by the Budget and Finance Committee as set forth in 2 N.N.C. § 301 (B) (15).

H. Like the States, the pandemic was not expected by the Navajo Nation and no funds were appropriated in anticipation of the pandemic response. Thus, federal CARES Act funds are not general fund revenues. They are limited emergency federal funds provided by the federal government to the Navajo Nation.

Existing laws of the Navajo Nation cannot accommodate the rapid expenditure of the federal CARES Act funds and special expending and auditing procedures need to be devised.

I. Because the funds are not projected revenue, they should not be subject to any provisions of the Navajo Nation Code which requires a portion of funds to be set-aside and deposited into any other fund of the Navajo Nation.

J. The Navajo Nation Council further finds that because the Coronavirus Relief Fund can only be used for expenditures through December 30, 2020, procurements expending these funds must be expedited ~~through all programs' adherence to the CARES Fund Expedited Procurement Rules and Procedures as set forth in Section Five and Exhibit E of Resolution No. CMY-44-20.~~ JMN mL

K. Since the restructuring of Navajo Nation government in 1989, the Navajo Nation is facing a pandemic for the first time requiring social distancing, hygiene practices, healthcare treatment at a distance, distant educational learning, provision of food, water, fuel, and other supplies to quarantined or curfewed Navajo families and other issues of first impression. Navajo Nation has to decrease the number of infectious cases, take measures for the safeguarding of Navajo population, construct infrastructure to treat patients, provide for water to homes, institute telemedicine and telehealth, establish distance learning, development of businesses on Navajo land, reconfigure work stations and offices for employees, and to supplement governmental efforts like providing or selling food, water, personal protective equipment, and other necessary supplies.

L. ~~Navajo Nation Council Resolution CMY-44-20, attached as **Exhibit 1**, enacted the Navajo Nation CARES Fund Act and established the Navajo Nation CARES Fund, codified as 12 N.N.C. §§ 2601 et seq.; the purpose of the~~ Navajo Nation Cares Fund is "to serve as a depository into which the Coronavirus Relief Funds appropriated by the United States for ~~the benefit of the CARES Act are deposited, and from which the Navajo Nation appropriates funds exclusively and only for the uses specified in this Chapter (i.e. 12 N.N.C. §§ 2601 et seq.)." 12 N.N.C. § 2603 [explanation added].~~ JMN mL JMN mL

M. ~~The Navajo Nation CARES Fund establishes that the Navajo Nation's expenditures of the Coronavirus Relief Funds will be "accomplished through the approval of an Expenditure Plan(s) adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council, subject to final action of the President~~ JMN mL

~~pursuant to 2 N.N.C. § 1005 (C)(10), (11), and (12)," 12 N.N.C. § 2604 (A).~~ JMN ML

N. The President of the Navajo Nation, Speaker of the Navajo Nation Council and Chief Justice of the Navajo Nation shall jointly develop and prepare Expenditure Plans that incorporate the needs of the whole of the Navajo Nation, including the needs of all three branches. ~~The President shall incorporate the needs of the Kayenta Township, after consulting with the Township, in an expenditure plan for the Township.~~ JMN ML Such expenditure plans shall be in accordance with Title V of the federal CARES Act, U.S. Treasury guidance and any other guidelines or regulations as stated herein in paragraph C above.

O. The Navajo Nation further finds it in the best interests of the Navajo People to authorize the immediate expenditure of ~~ninety-three million fifty-nine thousand five hundred thirty dollars and ten cents ($93,059,530.10) of~~ JMN ML Navajo Nation CARES Funds to stop the spread and mitigate the effects of the COVID-19 pandemic on the Navajo Nation.

P. Notwithstanding the above, first priority for all expenditure from and contracts using the Navajo Nation CARES Funds shall be given to Priority One and Priority Two Contractors or Firms ("Preference Contractors") on the Navajo Nation Business Opportunity Act Source List maintained by the Navajo Business Regulatory Department of the Division of Economic Development. Only in such cases as there are no qualifying bids from qualified Preference Contractors, shall consideration be given to qualified non-Preference Contractors. If the Office of Hearings and Appeals finds this subsection is violated, the adversely affected party shall have such remedies as are available under the Navajo Business Opportunity Act.

SECTION THREE. AUTHORIZING IMMEDIATE EXPENDITURES

A. The Navajo Nation Council hereby authorizes the immediate expenditure of ~~$93,059,530.10~~ from the Navajo Nation CARES Fund JMN ML by the Health Incident Command Center, within the Department of Health, for the following purposes:

1. Food, Water and Basic Necessities care packages and related items in the amount of $10,000,000;

2. Computer hardware and software for Navajo Nation government offices to improve telework capabilities for Government Employees in the amount of $2,000,000

3. Bathroom additions and upgrades in the amount of $3,500,000;

~~4. Burnout assistance in the amount of $7,000,000, to allow for 156 homes to receive $45,000 each;~~ JMN ML

5. Assistance to P.L. 93-638 healthcare facilities on the Navajo Nation in the amount of $3,000,000, provided that if this amount is not expended or necessary then it shall be incorporated into the other categories in this section at the recommendation of the President and approval of the Naabik'íyáti' Committee; and

6. Expenses to facilitate the procurement and/or improvement of the Navajo Nation's Financial System to process Navajo Nation CARES Fund expenditures in the amount of $2,559,530.10.

~~7. LGA Certified Chapters and non-LGA Certified Chapters to address COVID-19 relief and mitigation issues at the local level in the amount of $55,000,000 to be distributed pursuant to the 50/50 formula set forth at 12 N.N.C. § 820 (O).~~ JMN ML

~~8. Distribution of $10,000,000 to the Navajo Nation Judicial Branch to combat its COVID-19 response. This distribution is not subject to the time frame restriction in Paragraph D below.~~ JMN ML

B. The Office of the Controller shall assist in the budgeting and expenditure of these funds and shall be responsible for ensuring that any expenditures meet the requirements of the Coronavirus Relief Fund, Treasury Guidance ~~and the Navajo Nation CARES Fund Act.~~ JMN ML

C. These immediate expenditures shall not be part of an initial expenditure plan ~~or subject to CMY-44-20, Section Four,~~ and may be supplemented in future expenditure plan(s). JMN ML

D. Failure to expend these funds by August 31, 2020, shall result in such funds being redeposited into the Navajo Nation CARES Fund.

SECTION FOUR. EXPENDITURE PLAN(S) ADMINISTRATION

A. The President, Speaker of the Navajo Nation Council and Chief Justice shall then present a final expenditure plan(s) ~~to~~ JMN ML

~~expend $507,500,000,~~ as well as future deposits in the Navajo Nation Cares Fund, to the Budget and Finance Committee, Naabik'íyáti' Committee, and the Navajo Nation Council for approval.

B. The Office of the Controller shall produce a report within 30 days from the enactment of this legislation of total COVID-19 expenditures the Navajo Nation has spent from March 1, 2020 to date. This amount will be deducted from the remaining balance the President, Speaker, and Chief Justice must produce an expenditure plan for. The amount presented must qualify as an expenditure under Coronavirus Relief Fund and the U.S. Treasury Guidelines.

SECTION FIVE. AUTHORIZING EXPENDITURES FOR WATERLINE, ELECTRICITY, TELECOMMUNICATION, AND OTHER PROJECTS TO COMBAT COVID-19

As allowed by the Coronavirus Relief Fund and the U.S. Treasury Guidelines and/or Navajo Nation agreements with the federal government, the implementation and construction of waterline, electricity, telecommunication projects and other infrastructure projects may be incorporated into the expenditure plan(s) ~~using the $507,500,000 as long as such projects are eligible expenditures under the Navajo Nation CARES Fund Act.~~

SECTION SIX. PREVAILING LAW; ALLOWING FOR EXPEDITED PROCUREMENT RULES AND PROCEDURES.

To ensure that Navajo Nation expenditures using Coronavirus Relief Funds are expended by December 30, 2020 as required by the U.S. Treasury and notwithstanding any provision of Navajo Nation law to the contrary, the provisions of this legislation ~~and Resolution No. CMY-44-20~~ shall take priority and govern the expenditure of funding from the Coronavirus Relief Fund. As determined by the Attorney General of the Navajo Nation, any contradicting financial, procurement, preference, construction, or other general laws of the Navajo Nation, as well as any attendant regulations, shall yield ~~to the Navajo Nation CARES Fund Act~~ so that the funds may be expended in a timely manner and purchases and construction occur in an expeditious manner.

SECTION SEVEN. EFFECTIVE DATE

This Act is effective upon its approval pursuant to 2 N.N.C. § 221(B).

SECTION EIGHT. SAVINGS CLAUSE

Should any provision of the Navajo Nation CARES Fund Act ("Act") or the expenditure plan(s) thereunder 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 Act or expenditure plan which are not determined invalid shall remain the law of the Navajo Nation.

~~**SECTION NINE. DIRECTIVES**~~

~~The Directives set forth in Section Nine of Resolution No. CMY-44-20 are reaffirmed and incorporated herein.~~ JMN ML

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 20 in Favor, and 01 Opposed, on this 19th day of June 2020.

Honorable Seth Damon, Speaker
24th Navajo Nation Council

June 26, 2020
DATE

Motion: Honorable Vince James
Second: Honorable Wilson Stewart, Jr.

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

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

_____
Jonathan Nez, President
Navajo Nation

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

_____
Jonathan Nez, President
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the 2010 Certified Initiative, over the supplemental appropriations approved herein by the Navajo Nation Council; on this 04 day of July, 2020.

J Nez Myron Lizer

Jonathan Nez, President
Navajo Nation

CMY-44-20

EXHIBIT 1

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACT RELATING TO LAW AND ORDER, BUDGET AND FINANCE, AND NABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; WAIVING 12 N.N.C. §§ 301 *ET SEQ.*; ENACTING THE "NAVAJO NATION CARES FUND ACT" BY AMENDING TITLE 12 OF THE NAVAJO NATION CODE AND ESTABLISHING "THE NAVAJO NATION CARES FUND" ~~TO BE COMPRISED OF THE NATION'S SHARE OF THE CORONAVIRUS RELIEF FUND~~ RECEIVED FROM THE UNITED STATES PURSUANT TO TITLE V OF THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT ("CARES ACT")

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 Navajo Nation Appropriations Act states that "[f]unds received in excess of the initial or current revenue projection shall be deposited into the General Fund unless otherwise designated by the Navajo Nation Council." 12 N.N.C. § 820(K).

C. 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).

D. 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 relative to contracting and financial matters. 2 N.N.C. §§ 300 (B)(1) and (2).

E. The Law and Order Committee is a standing committee of the Navajo Nation Council with the enumerated power to review and make recommendations to the Navajo Nation Council on proposed amendments to enactments to the Navajo Nation Code. 2 N.N.C. § 601 (B)(14).

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. On March 11, 2020, the Navajo Nation Commission on Emergency Management, with the concurrence of the Navajo Nation President and Vice President, declared a Public Health State of Emergency on the Navajo Nation due to the presence of COVID-19 in areas surrounding the Navajo Nation. Resolution No. CEM 20-03-11.

C. The Navajo Nation Department of Health has issued Public Health Emergency Orders including: Order No. 2020-001 dated March 18, 2020 (declaring the outbreak of COVID-19 and limiting mass gatherings); Order No. 2020-002 dated March 19, 2020 (quarantining the Chilchinbeto Community); Order No. 2020-003 dated March 20, 2020 (ordering individuals living on the Navajo Nation to stay home and shelter in place except for essential activities, prohibiting visitors to the Navajo Nation, and closing all businesses on the Navajo Nation except essential businesses); Order No. 2020-004 dated March 29, 2020 (implementing a daily curfew from 8:00 p.m. to 5:00 a.m. for all Navajo Nation residents, extending the shelter in place order, and further limiting public gatherings); Order No. 2020-005 dated April 5, 2020 (implementing a 57-hour weekend curfew on April 10-13); Order No. 2020-006 dated April 16, 2020 (extending the weekend curfew for April 17-20 and April 24-27, and closing Navajo Nation essential businesses during curfew hours); Order No. 2020-007 (requiring face masks in public); and Order No. 2020-008 dated April 29, 2020 (extending the weekend curfew to May 11). The Navajo Nation Office of the President and Vice President issued Executive Order 002-20 on March 31, 2020 (closing all Navajo Nation offices except essential personnel through April 21); and Executive Order 003-20 on April 21, 2020 (extending the closure order to May 17, 2020).

D. As of May 5, 2020, the Navajo Nation Health Command Operations Center has confirmed a total of 2,474 COVID-19 cases on the Navajo Nation and 73 related deaths.

E. The U.S. Congress on March 27, 2020, enacted the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Pub. L. No. 116-136, 134 Stat. 281 (2020). The CARES Act, at Title V, §5001, entitled "Coronavirus Relief Funds," attached as **Exhibit A**, setting aside $8 billion in emergency aid for Tribal governments for the COVID-19 pandemic.

F. The CARES Act provides the Coronavirus Relief Fund shall be used to cover only those costs that:

a. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;

b. were not accounted for in the Tribal budget most recently approved as of March 27, 2020; and

c. are incurred from March 1, 2020 through December 30, 2020.

G. On April 22, 2020, the U.S. Treasury issued "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments" (hereinafter "Treasury's Guidance") related to the permissible uses of the Coronavirus Relief Fund. **Exhibit B.** Examples of eligible expenditures and ineligible expenditures are included in Treasury's Guidance.

H. Under the CARES Act, the Department of the Treasury Inspector General has authority for monitoring and oversight of the receipt, disbursement, and use of the Coronavirus Relief Fund. A Tribal government's use of the funds for ineligible purposes will become a debt owed to the federal government and the federal government is authorized to recoup the ineligible funds from the Tribal government. In addition, the Tribal government must return unexpended funds to the U.S. Treasury.

I. The Secretary of the Treasury, in consultation with the Secretary of the Interior and Indian Tribes, was tasked with establishing the methodology to determine the exact amount any one Tribal government would receive based on the Tribal government's increased expenditures relative to aggregate expenditures in Fiscal Year 2019 and on May 5, 2020, the U.S. Treasury issued the document entitled "Coronavirus Relief Fund Allocations to Tribal Governments," which described the methodology used for distributing the $8 billion to Tribal governments, attached as **Exhibit C**.

J. On May 5, 2020, the U.S. Departments of Treasury and Interior issued the press release entitled, "Joint Statement by Treasury Secretary Steven T. Mnuchin and Secretary of the Interior David

L. Bernhardt on Distribution of Coronavirus Relief Fund Dollars to Native American Tribes," which announced that on or about May 5, 2020, the U.S. Treasury would distribute 60% of the $8 billion, or $4.8 billion, to Tribal governments, attached as **Exhibit D.**

K. The Navajo Nation's share of the $4.8 billion from the Coronavirus Relief Fund initially distributed from the U.S. Treasury on or about May 5, 2020 is six hundred million five hundred fifty-nine thousand five hundred thirty dollars and ten cents ($600,559,530.10). The Navajo Nation CARES Fund Act applies to this initial distribution and to any subsequent distributions by the U.S. Treasury from the Coronavirus Relief Fund.

L. The CARES Act expressly provides that Coronavirus Relief Fund shall be used to cover only those costs that are necessary expenditures incurred due to the public health emergency with respect to COVID-19 and related purposes. The Navajo Nation Council therefore acknowledges and designates, if necessary, pursuant to its authorities in 12 N.N.C. §820(K), that the Coronavirus Relief Funds that the Navajo Nation receives from the United States under Title V of the CARES Act are not projected revenues within the meaning of the Navajo Nation Appropriations Act, 12 N.N.C. §§800 *et seq.*, and other provisions of the Navajo Nation Code; and shall not be deposited into the Nation's General Fund, but instead shall be deposited into the Navajo Nation CARES Fund. Because the funds are not projected revenue, they shall not be subject to any provisions of the Navajo Nation Code that require a portion of funds to be set-aside and deposited into any other fund of the Navajo Nation.

M. The Navajo Nation Council finds it in the best interests of the Navajo Nation to enact the "Navajo Nation CARES Fund Act" by amending Title 12 of the Navajo Nation Code and establishing the "Navajo Nation CARES Fund" to be comprised of the Navajo Nation's share of the Coronavirus Relief Fund received from the United States pursuant to Title V of the CARES Act.

N. The Navajo Nation Council further finds that because the Coronavirus Relief Fund can and shall only be used for expenditures through December 30, 2020, procurements expending these funds must be expedited, and that CARES Fund expenditures should not be subject to the Navajo Nation Procurement Act, 12 N.N.C. §§ 301 *et seq.*, and its attendant regulations, and instead shall be governed by the "CARES Fund Expedited Procurement Rules and Procedures" attached as **Exhibit E.**

SECTION THREE. ENACTING THE "NAVAJO NATION CARES FUND ACT" AND ESTABLISHING THE "NAVAJO NATION CARES FUND"

The Navajo Nation hereby amends Title 12 of the Navajo Nation Code, 12 N.N.C. §§ 2601, *et seq.*, as follows:

****

TITLE 12. FISCAL MATTERS

CHAPTER 26. NAVAJO NATION CARES FUND ACT

§2601. Short Title

This Act shall be titled the "Navajo Nation CARES Fund Act."

§2602. Establishment

There is established the "Navajo Nation CARES Fund" (hereinafter "Fund").

~~A. The Navajo Nation hereby designates that the monies that the Navajo Nation has received and will receive from the United States from the Coronavirus Relief Fund pursuant to the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), P.L. No. 116-136, at Title V, §5001 (the "Coronavirus Relief Fund") shall be deposited into the Fund.~~ JMN

B. ~~Any monies deposited into the Fund shall be used exclusively and only as provided in this Chapter~~ and in compliance with the permissible uses of the funds as set forth in the Coronavirus Relief Fund and CARES Act, the Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments issued by the U.S. Treasury on April 22, 2020, and any and all future rulemaking and regulations of the Department of the Treasury or the Department of the Interior. JMN

C. ~~The Fund shall be a continuing account and shall not lapse on an annual basis pursuant to 12 N.N.C. § 820(N).~~ JMN

§2603. Purpose

The purpose of the Fund is to serve as a depository into which the Coronavirus Relief Funds appropriated by the United States for the benefit of the Navajo Nation under Title V of the CARES Act are deposited, and from which the Navajo Nation appropriates funds exclusively and only for the uses specified in this Chapter.

§2604. Expenditures of the Fund

A. ~~Any expenditure of the Fund shall be by an appropriation within the meaning of the Appropriations Act, 12 N.N.C. §§ 800 et seq.~~, and accomplished through the approval of an Expenditure Plan(s) adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council, subject to final action of the President of the Navajo Nation pursuant to 2 N.N.C. § 1005(C)(10), (11), and (12). JMN

B. ~~Expenditures of the Fund shall only be for eligible uses of the Coronavirus Relief Fund as defined in Title V of the CARES Act, which includes only those costs that~~: JMN

1. are necessary expenditures incurred due to the public health emergency with respect to COVID-19;

2. were not accounted for in the Tribal budget most recently approved as of March 27, 2020;

3. are incurred from March 1, 2020 through December 30, 2020;

4. are eligible uses as defined in the Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments issued by the U.S. Treasury on April 22, 2020, which includes the following requirements:

   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; and

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.

d. expenditures must be for costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020; a cost is "incurred" when the responsible unit of government has expended funds to cover the cost.

5. The eligible uses as defined in any and all future rulemaking, rules, and regulations of the Department of the Treasury or the Department of the Interior related to the Coronavirus Relief Fund as appropriated by the U.S. Congress in Title V of the CARES Act.

§2605. Audit

The Controller shall keep records sufficient to demonstrate that the Coronavirus Relief Funds appropriated by the U.S. Congress to the Navajo Nation have been used in accordance with the CARES Act and §601(d) of the Social Security Act. The Fund shall be subject to an annual audited report by the Navajo Nation's independent auditor. The Navajo Nation Council and/or the Navajo Nation President may require an audit at any time. The Controller is responsible for providing any and all records required by the Department of the Treasury Inspector General. Pursuant to the CARES Act, Title V, the Department of the Treasury Inspector General has authority for monitoring and oversight of the receipt, disbursement, and use of the Coronavirus Relief Fund; and a Tribal government's use of the funds for ineligible purposes will become a debt owed to the federal government, the federal government is authorized to recoup the ineligible funds from the Tribal

government, and the Tribal government must return unexpended funds to the U.S. Treasury.

§2606. Amendments

This Act may be amended by a two-thirds (2/3) vote of the full membership of the Navajo Nation Council subject to action of the President of the Navajo Nation under 2 N.N.C. §221 (B).

****

SECTION FOUR. EXPENDITURE PLAN REQUIREMENTS AND ADMINISTRATION

A. ~~To be eligible to receive an appropriation of Coronavirus Relief Funds as defined in Title V of the CARES Act, Expenditure Plan(s) required by the Navajo Nation CARES Fund Act ("Act") shall, at a minimum, include provisions specifying~~ the following: JMN

1. The specific purposes for which the requested funds will be used and detailed explanation of how such uses satisfy the criteria for eligible costs specified in the Act;

2. Affirmation that the requested funds shall only be used for the purposes specified in the Act;

3. The Navajo Nation division, department, program, chapter, Kayenta Township or entity to which the appropriations are assigned and allocated;

4. The Navajo Nation division, department, program, chapter, Kayenta Township or entity that is responsible for managing and implementing or monitoring the Expenditure Plan;

5. The job title of the person or persons that will administer the Expenditure Plan and appropriated funds;

6. The mechanism for allocating the funding to Navajo Nation and external entities, programs, and projects through: direct funding; a memorandum of agreement ("MOA") executed by the President of the Navajo Nation; a grant agreement through a specific Navajo Nation department or program; or other mechanism;

7. The accounting and reporting requirements applicable to the funding;

8. The Standing Committee of the Navajo Nation Council with legislative oversight over the activity;

9. Affirmation that the administration, management, and implementation of the Expenditure Plan shall be consistent with the Act, this legislation, and other applicable laws and regulations of the Navajo Nation; and

10. If the recipient of the funding is a non-Navajo Nation government entity, an affirmation that the entity will indemnify the Nation for any expenditures deemed ineligible by the Department of Treasury Inspector General or other federal entity.

B. ~~An Expenditure Plan may be approved by the Navajo Nation Council without detailed budget forms, provided the Navajo Nation division, department, program, chapter, Kayenta Township or entity to which the appropriations are allocated complies with the expedited budget procedures developed by the Office of Management and Budget and approved by the Budget and Finance Committee;~~ in the event the entity to which appropriation(s) are allocated fails to comply with and complete the expedited budget procedures within fifteen (15) days of the date the Expenditure Plan becomes law, the funds allocated to that entity will revert back to the Navajo Nation CARES Fund. JMN

SECTION FIVE. WAIVING 12 N.N.C. §§ 301 *et seq.* AND ADOPTING CARES FUND EXPEDITED PROCUREMENT RULES AND PROCEDURES

To ensure Navajo Nation expenditures using Coronavirus Relief Funds are expended by December 30, 2020 as required by the U.S. Treasury and to prevent the Navajo Nation from being required to repay the U.S. Treasury for any ineligible uses of the funds, the Navajo Nation hereby waives the applicability of the Navajo Nation Procurement Act, 12 N.N.C. §§301 *et seq.*, and its attendant regulations, to the expenditure of CARES Act funding; the expenditure of CARES Act funding shall instead be governed by the Navajo Nation CARES Fund Act, this legislation and the "CARES Fund Expedited Procurement Rules and Procedures" attached as **Exhibit E.**

Notwithstanding the above, no less than twenty-five percent (25%) of all expenditures from, and contracts using, the Navajo Nation CARES Fund shall go to Navajo-owned businesses.

SECTION SIX. PREVAILING LAW

Notwithstanding any provision of Navajo Nation law to the contrary, the provisions of this legislation shall prevail and govern the appropriation and expenditure of funding from the CARES Fund.

SECTION SEVEN. EFFECTIVE DATE

This Act is effective upon its approval pursuant to 2 N.N.C. § 221(B).

SECTION EIGHT. SAVING CLAUSE

Should any provision of this legislation or the Navajo Nation CARES Fund Act ("Act") 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 Action or Act which are not determined invalid shall remain the law of the Navajo Nation.

SECTION NINE. DIRECTIVES

A. The Controller, with the support of the Attorney General, is directed to enter into a contract with a firm to provide consulting services in a capacity akin to an independent inspector general or auditor general to determine whether expenditures of the CARES Act funding are in compliance with the permissible uses of the appropriated funding as set forth in the Coronavirus Relief Fund and CARES Act, the Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments issued by the U.S. Treasury, the Navajo Nation CARES Fund Act and the applicable Expenditure Plan; to notify the Navajo Nation division, department, program, chapter, or entity to which the appropriations are allocated if any expenditures are ineligible under the CARES Act, etc.; and to provide written reports to the Naabik'íyáti' Committee and the President of the Navajo Nation of all ineligible expenditures.

B. The Office of Management and Budget is directed to develop expedited budget procedures, including forms, if necessary, for the expeditious expenditure of CARES Act funding for

approval by the Budget and Finance Committee within ten (10) days of the enactment of this legislation.

C. The Office of the Controller, Department of Justice, Office of Management and Budget and Office of Legislative Counsel are directed to develop an Expenditure Plan template within ten (10) days of the enactment of this legislation.

D. To ensure transparency, the Office of Management & Budget, with the assistance of the Department of Information Technology, shall develop a website allowing the public to view the Expenditure Plan(s) and the expenditures thereunder.

E. The Controller, and Office of Management & Budget, and with the support of the Attorney General, are directed to evaluate the possibilities of contracting with an outside firm to process budgets, contract payments, expenditures, etc. for the purposes of implementing the Navajo Nation CARES Funds and report their analysis to the Budget & Finance Committee within no more than twenty (20) days after the enactment of this legislation.

F. First priority for all expenditures from and contracts using the Navajo Nation CARES Funds shall be given to Priority One and Priority Two Contractors on the Navajo Nation Business Opportunity Source List maintained by the Navajo Business Regulatory Department of the Division of Economic Development. Only in such cases as there are no qualified Priority One or Two Contractors, or no qualifying bids from qualified Priority One or Two Contractors, shall consideration be given to non-Navajo-owned businesses.

G. The Executive Director of the Division of Natural Resources is to coordinate with the Navajo Land Department, General Land Development Office, Fish and Wild Life Department, Heritage & Historic Preservation Department, Minerals Department, to develop an expedited process within the Navajo Nation environmental review approval process of rights-of-way, service line agreements, utilizing categorical exclusions, and administrative approvals within all current pending right-of-ways and all other compliance processes that need approval permits for Navajo Nation Environmental Compliance for the expeditious implementation and completion of CARES Act funded projects; and to identify the need for any waivers of any Navajo Nation laws and policies that could impede the expedited processes for projects.

H. The Speaker and Resources and Development Committee Chairperson are directed to send formal correspondence to the Bureau of Indian Affairs Navajo Regional Director requesting that they coordinate with the Bureau of Indian Affairs Realty Office, National Environmental Protection Agency Coordinator, Regional Archeologist, and others to develop an expedited process as it pertains to Title 25, Code of Federal Regulations, Part 169-Rights of Way Over Indian Land (25 CFR 169) for purposes of approval permits and environmental compliance, assessments, and or Impact Statements to expedite implementation and completion of CARES Act funded projects.

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 19 in Favor, and 04 Opposed, on this 15th day of May 2020.

Honorable Seth Damon, Speaker
24th Navajo Nation Council

5.20.2020
DATE

Motion: Honorable Vince James
Second: Honorable Nathaniel Brown

Speaker Seth Damon not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

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

_____
Jonathan Nez, President
Navajo Nation

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

_____
Jonathan Nez, President
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the 2010 Certified Initiative, over the supplemental appropriations approved herein by the Navajo Nation Council; on this 30th day of MAY, 2020.

Jonathan Nez, President
Navajo Nation

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

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

(A) $3,000,000; and

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

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

SEC. 4117. TAX PAYER PROTECTION.

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

SEC. 4118. REPORTS.

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

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

SEC. 4119. COORDINATION.

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

SEC. 4120. DIRECT APPROPRIATION.

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

TITLE V—CORONAVIRUS RELIEF FUNDS

SEC. 5001. CORONAVIRUS RELIEF FUND.

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

"TITLE VI—CORONAVIRUS RELIEF FUND

"SEC. 601. CORONAVIRUS RELIEF FUND.

"(a) APPROPRIATION.—

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

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

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

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

"(b) AUTHORITY TO MAKE PAYMENTS.—

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

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

"(c) PAYMENT AMOUNTS.—

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

"(2) MINIMUM PAYMENT.—

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

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

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

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

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

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

"(A) the population of the State; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(f) INSPECTOR GENERAL OVERSIGHT; RECOUPMENT.—

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

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

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

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

"(g) DEFINITIONS.—In this section:

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



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

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

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

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

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

(b) APPLICATION OF PROVISIONS.—Amounts appropriated for fiscal year 2020 under section 601(a)(1) of the Social Security Act (as added by subsection (a)) shall be subject to the requirements contained in Public Law 116-94 for funds for programs authorized under sections 330 through 340 of the Public Health Service Act (42 U.S.C. 254 through 256).

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 6001. COVID-19 BORROWING AUTHORITY FOR THE UNITED STATES POSTAL SERVICE.

(a) DEFINITIONS.—In this section—

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

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

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

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

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

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

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

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

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

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

SEC. 6002. EMERGENCY DESIGNATION.

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

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

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

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

TITLE I

AGRICULTURAL PROGRAMS

OFFICE OF THE SECRETARY

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

OFFICE OF INSPECTOR GENERAL

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

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

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

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

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

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for "Food Safety and Inspection Service", $33,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including for support of temporary and intermittent workers, relocation of inspectors, and, notwithstanding 21 U.S.C. 468, 695 and 1053 and 7 U.S.C. 2219a, costs of overtime inspectors under the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FARM PRODUCTION AND CONSERVATION PROGRAMS

FARM SERVICE AGENCY

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

RURAL DEVELOPMENT PROGRAMS

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

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

RURAL UTILITIES SERVICE

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

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

DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

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

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

For an additional amount for "Supplemental Nutrition Assistance Program", $15,810,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That of the amount provided under this heading in this Act, $15,510,000,000 shall be placed in a contingency reserve to be allocated as the Secretary deems necessary to support participation should cost or participation exceed budget estimates to prevent, prepare for, and respond to coronavirus: *Provided further*, That of the amount provided under this

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

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

(A) $3,000,000; and

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

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

SEC. 4117. TAX PAYER PROTECTION.

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

SEC. 4118. REPORTS.

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

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

SEC. 4119. COORDINATION.

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

SEC. 4120. DIRECT APPROPRIATION.

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

TITLE V—CORONAVIRUS RELIEF FUNDS

SEC. 5001. CORONAVIRUS RELIEF FUND.

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

"TITLE VI—CORONAVIRUS RELIEF FUND

"SEC. 601. CORONAVIRUS RELIEF FUND.

"(a) APPROPRIATION.—

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

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

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

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

"(b) AUTHORITY TO MAKE PAYMENTS.—

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

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

"(c) PAYMENT AMOUNTS.—

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

"(2) MINIMUM PAYMENT.—

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

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

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

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

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

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

"(A) the population of the State; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(f) INSPECTOR GENERAL OVERSIGHT, RECOUPMENT.—

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

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

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

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

"(g) DEFINITIONS.—In this section:

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

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

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

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

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

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

(b) APPLICATION OF PROVISIONS.—Amounts appropriated for fiscal year 2020 under section 601(a)(1) of the Social Security Act (as added by subsection (a)) shall be subject to the requirements contained in Public Law 116–94 for funds for programs authorized under sections 330 through 340 of the Public Health Service Act (42 U.S.C. 254 through 256).

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 6001. COVID–19 BORROWING AUTHORITY FOR THE UNITED STATES POSTAL SERVICE.

(a) DEFINITIONS.—In this section—

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

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

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

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

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

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

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

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

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

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

SEC. 6002. EMERGENCY DESIGNATION.

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

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

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

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

TITLE I

AGRICULTURAL PROGRAMS

OFFICE OF THE SECRETARY

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

OFFICE OF INSPECTOR GENERAL

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

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

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

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

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

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for "Food Safety and Inspection Service", $33,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including for support of temporary and intermittent workers, relocation of inspectors, and, notwithstanding 21 U.S.C. 468, 695 and 1053 and 7 U.S.C. 2219a, costs of overtime inspectors under the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FARM PRODUCTION AND CONSERVATION PROGRAMS

FARM SERVICE AGENCY

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

RURAL DEVELOPMENT PROGRAMS

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS PROGRAM ACCOUNT

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

RURAL UTILITIES SERVICE

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

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

DOMESTIC FOOD PROGRAMS

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

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

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

For an additional amount for "Supplemental Nutrition Assistance Program", $15,810,000,000, to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, domestically or internationally: *Provided*, That of the amount provided under this heading in this Act, $15,510,000,000 shall be placed in a contingency reserve to be allocated as the Secretary deems necessary to support participation should cost or participation exceed budget estimates to prevent, prepare for, and respond to coronavirus: *Provided further*, That of the amount provided under this

EXHIBIT
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1-B

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

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

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

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

[1] *See* Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

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

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

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

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

Nonexclusive examples of eligible expenditures

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

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

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

Nonexclusive examples of ineligible expenditures[2]

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.

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

[3] *See* 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

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



Coronavirus Relief Fund
Allocations to Tribal Governments
May 5, 2020

The CARES Act reserves $8 billion from the Coronavirus Relief Fund (the Fund) for payments to Tribal governments and provides that the allocation of payments to Tribal governments is to be determined by the Secretary of the Treasury in consultation with the Secretary of the Interior and Indian Tribes.[1]

Consultation process

In accordance with Treasury's Tribal consultation policy, Treasury and the Bureau of Indian Affairs conducted two telephonic Tribal consultations with Tribal leaders and received written comments from Indian Tribes. Treasury also appreciates the submissions made by Indian Tribes in response to Treasury's request for information.

Allocation determination

The CARES Act provides that the Tribal allocation is to be "based on increased expenditures of each such Tribal government (or a tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019 by the Tribal government (or tribally-owned entity)" and "determined in such manner as the Secretary [of the Treasury] determines appropriate to ensure that all amounts" are distributed to Tribal governments.[2]

Based on a reasonable assessment of the reliability, verifiability, and relevance of available data and after consulting with the Bureau of Indian Affairs and Indian Tribes, Treasury has determined that it is reasonable and appropriate to allocate payments based on a formula takes into account population data, employment data, and expenditure data. This determination is also based on considerations of administrative feasibility—a particularly important factor in light of the need for prompt payment to Tribal governments to meet immediate needs.

By necessity and due to the statutory design, any allocation formula will yield only an estimate of increased eligible expenditures, and the statute therefore grants the Secretary discretion to devise a formula that the Secretary deems appropriate to ensure that all amounts are distributed to Tribal governments.[3] It is of course unknown at present what a Tribal government's increased expenditures will be over the course of the period beginning March 1, 2020, and ending December 30, 2020, during which expenses to be covered using payments from the Fund may be incurred.[4] Treasury determined that it would not be appropriate to rely entirely on Tribal governments' fiscal year 2019 expenditures in making allocations, *e.g.*, by providing payments to each Tribal government based on a fixed percentage of such Tribal government's fiscal year 2019 expenditures.

Treasury believes the allocation of payments should be focused on, to the extent administratively feasible, necessary expenditures that are due to the public health emergency, which are the only expenditures that may be made using payments from the Fund.[5] Treasury observed wide variability in expenditures reported by Tribal governments that appears to be related to differences in the extent to which Tribes and tribally-owned businesses engage in business activities. Although Treasury interprets the CARES Act to permit the provision of certain economic support to affected businesses, not all business expenses will be eligible. Treasury expects that Indian Tribes with less extensive tribally-owned businesses (and therefore

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[1] *See* section 601(c)(7) of the Social Security Act, as added by § 5001(a) of the CARES Act.

[2] *See id.*

[3] *See id.*

[4] *See id.* at section 601(d)(3).

[5] *See id.* at section 601(d)(1).

lower overall expenditures) will have a proportionately greater increase in eligible expenditures than those Tribes whose prior year expenditure amount would include expenditures associated with large tribally-owned businesses.

In contrast, Tribal population is expected to correlate reasonably well with the amount of increased expenditures of Tribal governments related directly to the public health emergency, such as increased costs to address medical and public health needs. The Federal government also has reliable and consistently-prepared data for this key variable, discussed further below, that permits payments to be made at this time. Given the importance of providing funding as soon as possible to Tribal governments to address health and human services costs and other costs directly related to COVID-19, Treasury has determined to distribute 60 percent of the $8 billion reserved for Tribal governments immediately based on population.

Treasury will distribute the remaining 40 percent of the $8 billion reserved for Tribal governments based on employment and expenditures data of Tribes and tribally-owned entities. The use of employment data is expected to correlate reasonably well with expenditures related to effects of the emergency, such as the provision of economic support to those experiencing unemployment or business interruptions due to COVID-19-related business closures. Data relating to expected increased expenditures is expected to correlate reasonably well with the variability in the per person costs of service delivery in different tribal environments. Treasury believes it is important to ensure that this data is as consistent across Tribal governments as possible and for that reason intends to request additional information in the near future from Tribal governments as to their employment and expenditures. Treasury intends to determine the specific weight given to employment and expenditure data after receiving such additional submissions. Final payments will be made after data on employment and expenditures are received, reasonably verified, and accounted for in the allocation formula.

Treasury determined that the total number of land acres held by the Tribal government and any tribally-owned entity would not provide a useful indicator of increased expenditures. Although the total number of land acres can indicate increased costs of providing services over a larger area, particularly in remote locations, there are some areas that are so sparsely populated that reliance on this factor likely would overstate the increased marginal costs of Tribal governments in these areas.

Tribal population data

For purposes of the payments based on Tribal population, Treasury will refer to the Tribal population data used by the Department of Housing and Urban Development (HUD) in connection with the Indian Housing Block Grant (IHBG) program.[6] This population data is based on Census Bureau data, and Tribal governments are familiar with it and have already been provided the opportunity to scrutinize and challenge its accuracy.[7]

The IHBG program allocation formula uses the American Indian and Alaska Native population count as determined by the Census of each Tribe's "formula area."[8] Although the definition of "formula area" was developed by HUD for the specific context of the IHBG program, the formula area corresponds broadly with the area of a Tribal government's jurisdiction and other areas to which the Tribal government's

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[6] The IHBG formula includes total American Indian and Alaska Native (AIAN) population as part of the needs component. The remainder of the IHBG formula will not be referenced by Treasury in making payments from the Fund.

[7] *See* 24 C.F.R. §§ 1000.330(c), 1000.336.

[8] *See id.* at § 1000.302.

provision of services and economic influence extend. The IHBG formula area is also useful because it incorporates adjustments to address overlapping jurisdictions.

The IHBG population data used by Treasury for the Fund allocation is available from HUD.[9] For Indian Tribes not included in the IHBG population data, HUD provided population figures at Treasury's request. Treasury will not include state-recognized Tribes that participate in the IHBG program but that are not Indian Tribes as defined by Title V of the CARES Act. Treasury will follow the IHBG practice of calculating a payment amount for each Tribal government based on single-race and then multi-race data and allocating the larger calculation amount for each Tribe.[10]

Minimum payment amount

The population-based allocation will assign a minimum payment of $100,000 to the smallest Indian Tribes as set forth in step 2, below. Only Tribal governments with a population of less than 37 will receive the minimum payment. The decision to apply a minimum payment to such Indian Tribes reflects the greater relative significance that variations in population would have at the low end of the range and the greater marginal costs that small Indian Tribes have in providing services to their people. The establishment of this minimum amount also reflects the clear desire expressed by a substantial number of Indian Tribes during the Tribal consultation process and is set at an amount that should allow funds to be used by Tribes of this size for eligible expenditures.

Alaska Native corporations

As previously stated, Treasury, after consultation with the Department of the Interior, has concluded that Alaska Native regional and village corporations as defined in or established pursuant to the Alaska Native Claims Settlement Act are eligible to receive payments from the Fund. Payments are not being made to the Alaska Native corporations at this time due to pending litigation.

Population-based component of allocation formula

The allocation will result from Treasury taking the following steps:

> Step 1. Calculate the pro-rata payment for each Tribal government based on single-race and then multi-race data for each Tribe's IHBG formula area, and use the larger result for each Tribal government.
>
> Step 2. Assign a minimum payment of $100,000 to those Tribal government that would otherwise receive less than that amount under step 1.
>
> Step 3. For Tribal governments that would receive a payment greater than the minimum, a pro-rata reduction is made for those amounts above the minimum for each Tribe so that the total amount for all Tribes does not exceed $4.8 billion.

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[9] *See* https://www.hud.gov/sites/dfiles/PIH/documents/FY%202020%20Estimate%20Allocation%20Single-Multi.xlsx.

[10] Prior to 2000, the Census required a person to choose a single racial category. Starting in 2000, a person was allowed multiple responses. For example, a person with mixed ancestry could report that they were both AIAN and Asian. Since 2006, successive appropriations acts have directed HUD to run the IHBG formula twice—once counting the needs of all persons who report that they are AIAN, whether they say they are AIAN alone or AIAN in combination with some other race, and then again counting only the needs of persons who identify solely as AIAN. A Tribe's allocation is based on the definition—either AIAN alone or the broader definition of multi-race AIAN—which provides it with a higher share of total funds. *See, e.g.*, Further Consolidated Appropriations Act, 2020, Public Law 116-94, Div. H, Title II; 133 Stat 2534, 2985.

EXHIBIT
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U.S. TREASURY DEPARTMENT
OFFICE OF PUBLIC AFFAIRS

Press Release: May 5, 2020
Contact: Treasury Public Affairs, (202) 622-2960

Joint Statement by Treasury Secretary Steven T. Mnuchin and Secretary of the Interior David L. Bernhardt on Distribution of Coronavirus Relief Fund Dollars to Native American Tribes

WASHINGTON – U.S. Secretary of the Treasury Steven T. Mnuchin and Secretary of the Interior David L. Bernhardt today issued the following statement after agreeing on a path forward to provide Coronavirus Relief Fund dollars to Native American Tribes:

"We are pleased to begin making $4.8 billion in critical funds available to Tribal governments in all states," said Secretary Mnuchin. "Our approach is based on the fair balancing of tribal needs."

"Thanks to President Trump and Secretary Mnuchin for working with Congress to pass the CARES Act as historic financial support will now begin to be disbursed to Native Americans battling the COVID-19 health crisis," said Secretary Bernhardt. "I appreciate the Secretary of the Treasury's determination in providing a clear pathway to get these resources promptly delivered."

The path forward agreed to by the Secretaries will:

- Distribute 60 percent of the $8 billion to Tribes based on population data used in the distribution of the Indian Housing Block Grant (IHBG), subject to a floor of $100,000. This data is based on U.S. Census figures and is already familiar to Tribal governments.
- Distribute the remaining 40 percent of the $8 billion based on the total number of persons employed by the Indian tribe and any tribally-owned entity, and further data to be collected related to the amount of higher expenses faced by the tribe in the fight against COVID-19.
- Payment to Tribes will begin today based on the population allocation, and will take place over several banking days. Amounts calculated for Alaska Native Claims Settlement Act regional and village corporations will be held back until pending litigation relating to their eligibility is resolved.

- Payments to tribes based on employment and expenditure data will be made at a later date. Treasury will work with Tribes to confirm employment numbers and seek additional information regarding higher expenses due to the public health emergency.

Treasury notes that the pending litigation has introduced additional uncertainty into the process of implementing the allocation and making payments to the Tribes, but Treasury is endeavoring to make payments of the remaining amounts as promptly as possible consistent with the Department's obligation to ensure that allocations are made in a fair and appropriate manner.



CARES Fund Expedited Procurement Rules and Procedures

§ 100. Purpose

The Navajo Nation Council has determined that because federal law provides that the Coronavirus Relief Funds shall be for expenditures only through December 30, 2020, Procurement using the CARES Fund must be expedited. To meet the urgent needs of the Navajo People and the Navajo Nation government related to the COVID-19 public health emergency, Procurements utilizing the CARES Fund shall be governed by the Navajo Nation CARES Fund Act and these Expedited Procurement Rules and Procedures, shall adhere to applicable federal procurement requirements, and shall not be subject to the Navajo Nation Procurement Act and its attendant Regulations.

§ 200. Applicability

A. Procurements funded through CARES Fund expenditures shall, and shall be pursuant to the Procurement rules and procedures ("CARES Fund Expedited Procurement") outlined in this Act once all of the following criteria are satisfied:

1. Shall be used only when necessary for preparation, prevention, and/or response to the COVID-19 public health emergency consistent with guidance issued by the U.S. Department of Treasury, attached as Exhibit B to this Act;

2. The CARES Fund expenditures comply with the Navajo Nation CARES Fund Act and are authorized pursuant to an approved Navajo Nation Fund Expenditure Plan.

B. CARES Fund expenditures must be completed on or before December 30, 2020.

§300. Definitions.

A. "Bid" means an offer to perform a Contract for the provision of Services and/or Goods at a specified price.

B. "Bid Security" means a Bid bond or deposit submitted with a Bid, to guarantee to the Procuring Party that the Bidder, if awarded the Contract, will execute the Contract within a specified period of time and will furnish any bonds or other requirements of the Bid documents.

C. "Blanket Purchase Agreement" is a simplified method of filling anticipated repetitive needs for small quantities of Goods or Services by establishing "charge accounts" with qualified sources. Blanket Purchase Agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

D. "Construction" or "Construction-related" means anything related to and/or the process of building, altering, repairing, improving, renovating or demolishing any structure or building, or other improvements of any kind to any real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

E. "Contract Performance Bond" means a surety bond issued to guarantee satisfactory completion of a project by a Contractor. A Contract Performance Bond must be issued in a form satisfactory to the Controller of the Navajo Nation, and underwritten by a surety company authorized to do business within the Navajo Nation in an amount equal to one hundred percent (100%) of the price specified in the Contract "Payment Bond" means a surety bond posted by a Contractor to guarantee that all its subcontractors and material suppliers for the project will be paid per their Contracts. A Payment Bond must be issued in a form satisfactory to the Controller of the Navajo Nation underwritten, and by a surety company authorized to do business within the Navajo Nation for the protection of all persons supplying labor and material to the Contractor or its subcontractor for the performance of the work provided in the Contract in an amount equal to one hundred percent (100%) of the price specified in the Contract.

F. "Contract" means all types of Navajo Nation agreements, reflecting mutual decisions, arrangements, or positions, regardless of what they may be called, for the Procurement of Goods, Services, or Construction or Construction-related activities. The term Contract does not include agreements, including prime Contracts and grants, between the Navajo Nation and federal, state, and local governments for the provision of governmental Services to Navajos and other persons within the Navajo Nation.

G. "Contractor" means any person having a Procurement Contract with a Division, Department, Office, or Program of the Navajo Nation.

H. "Designee" means an individual who is an authorized representative acting within the limits of authority.

I. "Fund Expenditure Plan" means a plan approved by the Navajo Nation Council pursuant to a Resolution approving an appropriation from the CARES Fund. A Fund Expenditure Plan must comply with the requirements set forth in the Navajo Nation CARES Fund Act and must explain how the appropriated CARES Fund monies will be managed and expended.

J. "Goods" means all moveable tangible items of personal property, such as materials, supplies, equipment, and commodities; printing and insurance; and may also include Services such as delivery, setup, installation, and/or warranties incidental to the Goods, costing not more than the lesser of (a) ten percent (10%) of the total cost of the Goods, or (b) $5,000.00.

K. "Maximum Feasible Price" means the estimated cost of the Good and/or Service being solicited. This Maximum Feasible Price establishes the highest amount of funds the Procuring Party is willing to expend on the Procurement, and restricts the price for which a Procurement can be made.

L. "May" denotes the permissive.

M. "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any Goods, Services, and/or Construction. It also includes all functions pertaining to the acquisition of any such Goods, Services, and/or Construction.

N. "Procurement File" means a compilation of all documents related to a CARES Fund Procurement, detailing all of the actions taken in relation to the Procurement.

O. "Procuring Party" means any Division, Department, Office, Program, and non-LGA certified Chapter of the Navajo Nation.

P. "Public Notice" shall include publication on an official Navajo Nation website, publication in a print or online newspaper of general circulation, or publication in a print or online journal for the profession or trade relevant to the Goods and/or Services sought.

Q. "Purchase Order" means a Contract executed for Goods. All required Procurement and requisition procedures must be completed before a Purchase Order is issued. Only the standard Navajo Nation Purchase Order form, approved by the Navajo Department of Justice and the Office of the Controller, shall be used in Navajo Nation Purchase Order Procurements.

R. "Quotation" means a document submitted by an entity detailing their proposed delivery of a Good, Service, Construction, or Construction-related activity, including but not limited to price, quantity, delivery method, and time for completion.

S. "Scope of Work" means the Contractual terms describing Services to be performed. The Scope of Work should include, but not be limited to, any milestones, reports, deliverables, and end products that are expected to be provided by the Contractor, and may contain a time line.

T. "Services" means the furnishing of labor, time, or effort by a Contractor, not involving the delivery of a specific end product other than reports which are incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

U. "Shall" denotes the imperative.

V. "Solicitation" means the process of seeking information, proposals, Bids, and/or Quotations.

W. "Source List" means a list maintained and published by the Business Regulatory Department of the Division of Economic Development, certifying Priority #1 and #2 entities and persons as defined and required by the Navajo Business Opportunity Act, 5 N.N.C. § 201 *et seq.*

X. "Division, Department, Office, or Program of the Navajo Nation" means any Department, Commission, Council, Board, Bureau, Committee, Institution, Legislative Body, Agency, Government Corporation, non-Local Governance Act ("LGA") certified Chapter, or other establishment or official of the Executive, Legislative, or Judicial Branch of the Navajo Nation government. It does not mean an a LGA certified Chapter of the Navajo Nation, an Enterprise or Authority of the Navajo Nation.

§ 400. CARES Fund Expedited Procurement Rules and Procedures

Procurements utilizing the CARES Fund shall be governed by the following rules and procedures:

A. Compliance with the Navajo Business Opportunity Act.

1. To the fullest extent possible, the Procuring Party shall procure in a manner consistent with the Navajo Business Opportunity Act, 5 N.N.C. § 201 *et seq.*, so that certified entities receive preference under CARES Fund Expedited Procurement.

2. The Procuring Party shall review the latest available *Source List*, compiled by the Business Regulatory Department of the Division of Economic Development, as their primary source for identifying entities certified under the Navajo Business Opportunity Act.

3. The Procuring Party may look beyond the *Source* List only when no certified entity can be found on the *Source List* to fulfill the required need. In such cases, the Procuring Party shall keep on file a copy of the *Source List* used to determine that no certified entity was available.

B. Construction and Construction-related activities.

1. Construction and Construction-related activities can only be conducted by those Navajo Nation Departments and Divisions vested with the power to engage in Construction and Construction-related activities, per Navajo law.

2. Bid Security shall be required for all Construction and Construction-related Contracts with an estimated price exceeding fifty thousand dollars ($50,000). A Procuring Party may require Bid Security for all Construction and Construction-related Contracts when the Contract price is estimated to be below fifty thousand dollars ($50,000) if the Procuring Party believes circumstances warrant such a requirement.

3. Bid Security shall be in an amount equal to at least ten percent (10%) of the Bid amount, and acceptable Bid Security is limited to an annual or one-time bond in a form satisfactory to the Controller of the Navajo Nation underwritten by a surety company authorized to do business within the Navajo Nation or the equivalent in cash, a bank certified check, or cashier's check payable to the Navajo Nation.

4. A Contract Performance Bond and Payment Bond shall each be required for all Construction and Construction-related Contracts with an estimated price exceeding fifty thousand dollars ($50,000). The Contract Performance Bond and Payment Bond shall be delivered by the Contractor to the Procuring Party following award of a Contract and before commencement, and shall become binding upon the parties to the Contract upon execution of the Contract.

   a. A Contract Performance Bond shall be delivered in a form satisfactory to the Controller of the Navajo Nation, and underwritten by a surety company authorized to do business within the Navajo Nation in an amount equal to one hundred percent (100%) of the price specified in the Contract;

   b. A Payment Bond shall be delivered in a form satisfactory to the Controller of the Navajo Nation, and underwritten by a surety company authorized to do business within the Navajo Nation in an amount equal to one hundred percent (100%) of the price specified in the Contract.

5. The head of the Procuring Party's Department or the designated Chapter Official, with the concurrence of the Controller of the Navajo Nation or designee, may reduce the amount of the Contract Performance and Payment Bonds to fifty percent (50%) of the Contract price for each Bond only when:

   a. retention on the Contract is set at fifty percent (50%) or above; or

b. the Contractor provides an irrevocable letter of credit equal to at least fifty percent (50%) of the Contract price.

C. Solicitation.

1. Pre-Solicitation documentation
The Procuring Party shall create a Procurement File at the beginning of all CARES Fund Procurements, documenting all of the following:

a. A Navajo Nation Council Resolution appropriating funds from the CARES Fund for the proposed expenditure;

b. A Navajo Nation Fund Expenditure Plan permitting the proposed expenditure;

c. Creation of a Scope of Work detailing the required Good, Service, Construction or Construction-related Procurement, including, at minimum, a description of the quantity and type needed;

d. How the Good, Service, Construction, or Construction-related Procurement is necessary to prepare, prevent, or respond to the Navajo Nation's public health emergency with respect to the COVID-19 virus;

e. Determination of a Maximum Feasible Price for the proposed Procurement based on budget constraints and an independent cost estimate, including but not limited to current market price, unit price from a previous purchase, prototype cost, or price from a vendor catalog or other published advertisement. This Maximum Feasible Price shall not be revealed to the public, including any respondents to the Solicitation, until a final award is made, Public revelation of the Maximum Feasible Price for a Solicitation shall result in the immediate cancellation of the Solicitation;

f. The criteria for evaluating responses to the Solicitation request, including price, qualifications, and time constraints, as applicable.

2. Manner of Solicitation

a. All Solicitations must detail all of the following, a copy of which shall be kept in the Procurement File:

i. The Good, Service, Construction, or Construction-related need required;

ii. What documents must be submitted as part of an entity's response, along with any other submission details, including but not limited to page limits, and proof of certification under the Navajo Business Opportunity Act;

iii. Required insurance coverage, which must be developed in conjunction with the Risk Management Program. A memorandum, from the Risk Management Program, must certify that the insurance coverage required has been reviewed and approved by that office;

iv. Required Contract Performance and Payment Bonds for Construction and Construction-related Procurement, which must be developed in conjunction with the Risk Management Program, the Capital Projects Management Department of the Division of Community Development, and the Department of Justice for Executive Branch Procurement, the Office of Legislative Counsel for Legislative Branch Procurement, or the Chief Justice for Judicial Branch Procurement, and shall include the following:

a. the closing date for receiving responses,

b. the manner in which an interested entity can submit a response, including the following where the Procuring Party chooses to allow e-mail response submissions:

i. Notice that the response must be copied to the Business Regulatory Department at mcheromiah@navajobusiness.com,

ii. That the e-mail response title must state only the entity's certified Priority status, followed by the title of the Procurement solicitation,

iii. The body of email response shall only contain a copy of the entity's Priority certificate, and

iv. The details of the entity's response, including but not limited to qualifications and price, shall be included in separate attachments to the email response;

c. the evaluation criteria to be used in selecting a respondent for an award. This listing of evaluation criteria must not include the Maximum Feasible Price set by the Procuring Party, and if it does, shall result in immediate cancellation of the Solicitation;

d. Notice that the Navajo Nation is not required to enter a Contract pursuant to the Solicitation, and may reissue a Solicitation for the

same Good, Service, Construction or Construction-related Procurement;

e. Notice that the Navajo Nation is a sovereign government and all Contracts entered into as a result for the Solicitation shall comply with the Navajo Nation law, rules and regulations, including the Navajo Preference in Employment Act, and applicable federal law, rules, and regulations;

b. Oral and Written Solicitation

i. All Construction and Construction-related Solicitations must be in writing and require Public Notice.

ii. All responses to Solicitations must be in writing, and included in the Procurement File.

iii. The Procuring Party may solicit Quotations orally, if the Good and/or Service to be provided would not exceed a cost of twenty-five thousand dollars ($25,000). The Procuring Party must make and keep records of the oral Solicitation, which together with all responses received, shall be kept in the Procurement File.

iv. The Procuring Party must solicit Quotation(s) in writing, if the Goods or Services, to be provided would exceed a cost of twenty-five thousand dollars ($25,000). The Procuring Party must keep records of the written Solicitation, which together with all responses received, shall be kept in the Procurement File.

c. Public Notice

i. Public Notice shall be required for all Construction and Construction-related Procurement.

ii. For non-Construction and non-Construction-related Procurement, no Public Notice shall be required if the cost to procure the Good and/or Service does not exceed one hundred thousand dollars ($100,000).

iii. The Procuring Party shall give Public Notice of the Solicitation for a reasonable time, based on circumstances such as the urgency of the need and the size and complexity of the Procurement, prior to the closing date for receiving responses to the Solicitation.

iv. The Procuring Party shall also provide the Business Regulatory Department, of the Division of Economic Development with the following, as applicable:

a. A copy of the solicitation issued;

b. a copy of any public notices issued;

c. A list of all entities notified of the procurement opportunity, including the date and manner of notification.

The above-listed documents must be submitted to the Business Regulatory Department before the closing date for receiving solicitation responses.

d. Number of Solicitations Required

i. For Procurements of Goods and/or Services costing less than twenty-five thousand dollars ($25,000), the Procuring Party shall solicit at least one (1) Quotation from vendors/Contractors customarily providing the Good and/or Service being procured.

ii. For Procurements of Goods and/or Services costing less than seventy-five thousand dollars ($75,000), the Procuring Party shall solicit at least two (2) Quotations from vendors/Contractors customarily providing the Good and/or Service being procured.

iii. For Procurements of Goods and/or Services costing more than seventy-five thousand dollars ($75,000) shall solicit at least three (3) Quotations from vendors/Contractors customarily providing the Good and/or Service being procured.

iv. If the Procuring Party determines that it is in the Navajo Nation's best interest, the Procuring Party may request additional and/or revised Quotations. Any such determination must be documented and included in the Procurement File.

e. Single Source Solicitation

i. For Procurements of Goods and Services costing up to one hundred thousand dollars ($100,000), the Procuring Party may solicit from a single source if the Procuring Party determines the price to be fair and reasonable based on research, previous purchases, or experience, and satisfies the following:

ii. For purchases exceeding one hundred thousand dollars ($100,000), the Procuring Party may solicit from a single source if the Procuring Party, with the concurrence of the Division Head, determines that there is only one reasonably available source that can provide the type, quality, and quantity of Goods and/or Services sought, within the given time constraints. In determining whether only one source is reasonably available, the Procuring Party shall evaluate whether, in light of all circumstances surrounding the Procurement, it is reasonable and justifiable to procure without competition. Factors to consider include, but are not limited to whether:

a. there is a unique Procurement need;

b. one source is uniquely qualified to fulfill the Procurement need due to offering proprietary products, or Services specifically tailored to the Navajo Nation;

c. one source has specialized knowledge of Navajo Nation requirements and systems, as well as expertise serving the Navajo Nation;

d. one source has served the Navajo Nation in the past and that maintaining continuity in the provision of specific Goods, Services, Construction, or Construction-related activities by that vendor is in the best interest of the Navajo Nation;

e. The vendor's location and delivery/Service area is in close proximity to the Navajo Nation, which would facilitate fast delivery of the required Good, Service, Construction, or Construction-related item;

f. no other Goods, Services, Construction, or Construction-related item will satisfy the Procurement request.

iii. The Procuring Party must document, in a memorandum concurred with by the Division Head, the reason for procuring from a single source, including why the chosen source is the only reasonably available choice. This memorandum shall be included in the Procurement File.

iv. Single source Solicitation of Construction or Construction-related Procurement

a. Construction or Construction-related Solicitation can only be done from a single source with written concurrence of the Head of the Procuring Party's Division and the Department of Justice for Procurement by the Executive Branch, the Office of Legislative Counsel for Procurement by the Legislative Branch, or the Chief Justice for Procurement by the Judicial Branch.

b. The written concurrence detailed above must be in the form of a memorandum, and must detail the need for Construction or Construction-related single source Solicitation, showing at minimum, that there is no other practicable option. This memorandum shall be included in the Procurement File.

D. Evaluation of responses

1. The Procuring Party shall open and evaluate all responses received, in conjunction with the Business Regulatory Department of the Division of Economic Development, and in keeping with the Navajo Business Opportunity Act.

2. The Procuring Party shall document all of the following:

   a. The name, address, and contact information of all entities responding to the Solicitation; and

   b. The date and details of each response submitted, including price and all other factors to be used in evaluating responses.

E. Award

1. The Procuring Party shall select an entity with whom to negotiate a Contract based on the criteria previously enumerated in the Solicitation, and provide the details of the chosen entity's response and the reason for selecting the entity to the Head of the Procuring Party's Division for review and approval.

2. The Procuring Party must document the name, address, and contact information for the entity selected for Contract award, adding it to the Procurement File.

3. Following review and approval by the Head of the Procuring Party's Division, the Procuring Party shall deliver an award letter to the chosen entity, and require that the chosen entity respond with a letter accepting or denying the Contract.

4. The award letter shall include language stating that the Navajo Nation is not bound to enter a Contract pursuant to the Solicitation, and may reissue a Solicitation for the same Good, Service, Construction or Construction-related Procurement.

5. The Procuring Party must document the approval by the Head of the Procuring Party's Division, as well as the award letter and any response from the chosen entity, adding it to the Procurement File.

F. Contract

1. Once the required steps have all been completed for the Procurement in question, the Procuring Party shall develop a written Contract covering the Procurement identified in the Solicitation, compliant with Navajo Nation law. The Contract shall be developed in conjunction with the Department of Justice for all Executive Branch Procurement, the Office of Legislative Counsel for all Legislative Branch Procurement, and the Chief Justice for all Judicial Branch Procurement.

2. Purchase Orders may be used to Contract for the Procurement of Goods, but shall not be used to Contract for the Procurement of Services. Generally, when a Procurement involves both Goods and Services, a Service Contract shall be used. The Purchasing Section of the Office of the Controller, in consultation with the Navajo Nation Department of Justice, or Office of Legislative Counsel for Procurements involving the Legislative Branch, or the Chief Justice for Procurements involving the Judicial Branch, shall make the final determination of whether to classify the Procurement as a Procurement of Goods or a Procurement of Services. Draft contract packages shall be reviewed and deemed (in)sufficient by all the following offices, and within the following timelines, prior to execution of the contract:

    a. Within three (3) business days
        i. Division Director of the Procuring Party's office;

        ii. The Department of Justice for Executive Branch Procurement, the Office of Legislative Counsel for Legislative Branch Procurement, or the Chief Justice for Judicial Branch Procurement;

        iii. The Office of the Controller;

    b. Within two (2) business days

        i. The Office of Management and Budget;

        ii. The Business Regulatory Department.

3. The above submission must also include a copy of the Risk Management Program memorandum certifying that the insurance coverage required has been reviewed and approved by that office.

G. Blanket Purchase Agreements

1. Procurements utilizing Blanket Purchase Agreements shall follow the CARES Fund Expedited Procurement rules and procedures.

2. Blanket Purchase Agreements may be used for Procurement of Goods and/or Services in the 2020 and 2021 fiscal year, but may not exceed a completion date of December 30, 2020.

3. Blanket Purchase Agreements for Goods shall be treated as a Procurement for Goods, and Blanket Purchase Agreements for Services shall be treated as Procurement of Services, and both shall initially be procured and Contracted for in adherence to these CARES Fund Expedited Procurement Rules and Procedures.

4. Non Construction or Construction-related Blanket Purchase Agreements for Services shall be completed utilizing the *Navajo Nation Standard Professional Services Contract*, available through the Navajo Nation Department of Justice, and shall contain a scope of work broad enough to permit filling anticipated repetitive needs. The Procurement File for Blanket Purchase Agreements for Services shall include a memorandum detailing each request for Service fulfillment, and indicating that the request does not include a change in cost for the Agreement.

    a. Blanket Purchase Agreements for Construction or Construction-related services shall be completed utilizing the Construction contract appropriate for the Services contemplated, a decision to be made in conjunction with the Capital Projects Management Department of the Division of Community Development, and the Department of Justice for Executive Branch Procurement, the Office of Legislative Counsel for Legislative Branch Procurement, or the Chief Justice for Judicial Branch Procurement.

5. To the extent practicable, Blanket Purchase Agreements for Goods or Services of the same type should be placed concurrently with more than one qualified entity. All competitive sources be given an equal opportunity to furnish Goods or Services under Blanket Purchase Agreements.

6. At a minimum, Blanket Purchase Agreements shall contain the following provisions:

a. A statement that the chosen entity shall furnish the Goods or Services described, during a specified period and within a stipulated aggregate amount, if any;
b. A statement that the Navajo Nation is obligated only to the extent of authorized orders actually placed against the Blanket Purchase Agreement;

c. A detailed description of the required ordering, invoicing, and delivery procedures;

d. A statement that the Procuring Party or the Office of the Controller of the Division of Finance shall provide the chosen entity with a notice of individuals authorized to place orders under the agreement, identified by organizational component and the dollar limitation per order for each individual.

7. Once the required steps have all been completed for the Procurement in question, the Procuring Party shall develop a written Blanket Purchase Agreement, compliant with Navajo Nation law. The Blanket Purchase Agreement shall be developed in conjunction with the Department of Justice for all Executive Branch Procurement, the Office of Legislative Counsel for all Legislative Branch Procurement, and the Chief Justice for all Judicial Branch Procurement.

    a. Draft Blanket Purchase Agreements shall be reviewed and deemed (in)sufficient by all the following offices, and within the following timelines, prior to execution of the contract:

        i. Within three (3) business days

            1. Division Director of the Procuring Party's office;

            2. The Department of Justice for Executive Branch Procurement, the Office of Legislative Counsel for Legislative Branch Procurement, or the Chief Justice for Judicial Branch Procurement;

            3. The Office of the Controller;

        ii. Within two (2) business days

            1. The Office of Management and Budget;

2. The Business Regulatory Department.

b. The above submission must also include a copy of the Risk Management Program memorandum certifying that the insurance coverage required has been reviewed and approved by that office.

8. Orders against Blanket Purchase Agreements shall be placed only after prices are obtained. When concurrent Blanket Purchase Agreements for similar Goods or Services are in effect, orders shall be equitably distributed to the extent practicable. In those instances, where there is an insufficient number of Blanket Purchase Agreements for any given class of Goods or Services to assure adequate competition, the Procuring Party shall solicit Quotations from other sources.

9. Orders against Blanket Purchase Agreements shall only be made by individuals formally authorized to place orders and generally will be made orally, except that informal correspondence may be used when ordering against agreements outside the local trade area. Written orders may be executed on forms approved by the Office of the Controller within the Division of Finance.

10. Pre-existing Blanket Purchase Agreements shall not be used for Procurements utilizing the CARES Fund. Blanket Purchase Agreements utilizing the CARES Fund shall not be used with a different fund source, nor after December 30, 2020.

11. All details of Blanket Purchase Agreements, from Solicitation to Contract award and any recurring options, must be documented in a Procurement File.

H. Insurance

The entity selected for award must provide proof of insurance coverage, as outlined above in this CARES Fund Expedited Procurement Rules and Procedures.

I. Payments

1. The payment procedures established by the Office of the Controller, Division of Finance shall be adhered to and shall not begin until Goods have been remitted and/or Services have been performed pursuant to the Contract and completed to the satisfaction of the Procuring Party.

2. The Procuring Party is responsible for filling out a Receiving Record form for Procurement of Services, available from the Office of Management and Budget, by stating exactly what Services were performed and completed, and that the completed Services are satisfactory to the Procuring Party.

a. The Procuring Party is responsible for filling out a Receiving Prints form for Procurement of Goods, available from the Office of the Controller, stating with specificity what Goods were received and that the Goods were deemed satisfactory and accepted by the Procuring Party.

3. The completed Receiving Record form and the Vendor's Invoices shall be submitted to Accounts Payable Section of the Office of the Controller of the Division of Finance for processing of payment. It is the responsibility of the Procuring Party to ensure entities are paid within a reasonable time period, by promptly submitting all invoices to the Office of the Controller of the Division of Finance.

24th Navajo Nation Council
Special Session
Teleconference

ACTION: Legislation 0115-20

MOTION: Vince R. James SECOND: Nathaniel Brown

		Yea	Nay
1.	Elmer P. Begay	✓	
2.	Kee Allen Begay, Jr.	✓	
3.	Paul Begay	✓	
4.	Nathaniel Brown	✓	
5.	Eugenia Charles-Newton	✓	
6.	Amber Kanazbah Crotty	✓	
7.	Herman M. Daniels		✓
8.	Seth Damon		
9.	Mark A. Freeland	✓	
10.	Pernell Halona	✓	
11.	Jamie Henio	✓	
12.	Vince R. James	✓	
13.	Rickie Nez		✓
14.	Carl R. Slater	✓	
15.	Raymond Smith, Jr.	✓	
16.	Wilson C. Stewart, Jr.		✓
17.	Daniel E. Tso	✓	
18.	Charlaine Tso	✓	
19.	Eugene Tso	✓	
20.	Otto Tso	✓	
21.	Thomas Walker, Jr.	✓	
22.	Edison J. Wauneka	✓	
23.	Edmund Yazzie		✓
24.	Jimmy Yellowhair	✓	
	TOTAL:	19	4

CERTIFICATION:

Honorable Speaker Seth Damon

5.15.2020
Date

NAVAJO NATION

341 6/19/2020

Navajo Nation Council Special Session 09:12:31 PM

Amd# to Amd#	Legislation 0116-20:	PASSED
MOT James, V	Establishing the Navajo Nation	
SEC Stewart, W	CARES Fund to be Comprised of the Share of the Coronavirus...	

Yeas : 20 **Nays : 1** **Excused : 1** **Not Voting : 1**

Yea : 20

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

Nay : 1

Smith

Excused : 1

Daniels

Not Voting : 1

Tso, C

Presiding Speaker: Damon