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# Tribal CARES Act WHITE PAPER

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## Introduction

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In response to the COVID-19 pandemic the US Government has announced an unprecedented 10 billion dollars in assistance. These new funds come through many different federal departments in the form of grants and most recently fund for the \$8 Billion CARES package have started to make its way to Tribal coffers.

The first 60% of the allocated 8B is based on population of all Tribes reported in the IHBG formula used by HUD. The first allocation of these funds to the Navajo Nation is equal to just over \$600 million.

All funds that Tribes receive in this allocation and planned future funding must be spent by December 30, 2020. This may seem a daunting task for tribes that are traditionally not equipped to expend large amounts of funds in such a short period of time that are not guided by traditional grant literature.

The McCabe CPA and Consulting Group, LLC is a 100% owned CPA firm that has served Indian Country for the last 15 years and has done much research on this funding, staying abreast of the issues in consulting to Tribes across the country. We present this opinion paper on the considerations the Navajo Nation might consider in administering this money.

Our paper visits accounting and compliance implications, Economic Development considerations, Health policies and culture from a “10,000 foot” point of view.. While this paper is written for the Navajo Nation award, other tribes could consider the following.



## Accounting and Compliance Considerations

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In participating on several tribal consultations leading up to the release of the CARES funding, the question most often posed was “what are tribes allowed to spend the money on”. The general edict on this topic is tribes should take the necessary steps to ensure the funds on expenditures “in response to the COVID-19 pandemic”. As of this writing there still is not specific compliance language giving tribes the framework to ensure funds are spent by the deadline and in line with the funds purpose. Although it has been made clear that these funds are subject to

audit. It is apparent that the federal government is leaving it to Tribes to determine how they will accomplish expending the funds for qualifying “response to the COVID-19 pandemic” purposes. Like



American Recovery and Reinvestment Act funding a few years ago this presents Tribes with potential unique challenges. There are several steps that Tribes should consider to assist decision making bodies in efficiently accomplishing Tribal health, economic and cultural goals while staying compliant with the purpose of the funding. We present these steps below:

### Policy and Procedure Review

The COVID-19 pandemic has proven that the whole world was massively unprepared to respond quickly and efficiently to help continue the health and economic policies of governments. Outside of the tragic devastation that the virus causes on the health of our Navajo population, it has also caused unmatched economic disruption and cultural issues for our people. This is amplified on the Navajo Nation due to the lack of infrastructure and basic access to food sources, health care, internet access and in some cases electricity and water. Considering this, the Navajo Nation needs a rapid review of existing laws and policies and procedures to identify where changes can be made to enhance tribal response time to efficiently deploy resources to where they are needed quickly. Procurement policies should be reviewed and redesigned to assist the Navajo Nation in getting quality goods and services to where they are needed. Adding red tape to this process will only result in slowing down the Navajo Nation's ability to respond quickly when this happens again. Rallying and uniting all chapters in this process is also key. Allocating funds for chapters that are historically ill-equipped to administer funds without clearly developed and communicated policies and procedures can only lead to potential audit and compliance issues for the Navajo Nation. In addition, current guidance says the funds must be expended by December 30 and not obligated. Efficiency and expediency are key.

### Technology

To achieve an efficient protocol for deployment of resources, the Navajo Nation must take a very hard look at its existing technology as the world transitions to online working and learning capacities. There are several areas for improvement in the existing technology infrastructure The Nation might identify areas for improvement in technology infrastructure to facilitate streamlining policy and procedure considerations discussed above. Information technology initiatives should include reporting and procurement upgrades as well upgrades to enhanced security, network, software, and hardware infrastructure. The upgrade needs to be Navajo Nation wide. In addition, the Nation might contemplate allocating funds to increase Wi-Fi connectivity through increased broadband in all areas of the reservation, where there is no service. This is necessary to be able to achieve faster response times to expend resources. In addition, it will allow the proper reporting for the Navajo Nation to keep track of Funds expended.

### Accounting management

The Navajo Nation might also consider improvements to enhance these accounting and compliance components:

#### Documentation

To mitigate any audit or fraud risks, the Navajo Nation might look in to revising policies for proper documentation of all transactions of CARES funds from procurement to payment. This should include the possibility to digital process allowing for digital signatures and other



considerations to expedite transactions while ensuring all internal controls designed to safeguard assets and proper recording. The goal should be efficiency and expedience and not “red tape”.

#### Chart of accounts, funds, and compliance

The use of funds and a new chart of accounts specifically designed to account for the CARES funding should be developed and communicated to all divisions, chapters and agencies who will administer the funds. This will build the recordation and compliance foundation for the administering of CARES funds. In designing these, the Nation might consider following existing allowable cost guidance in the OMB Super Circular. While it will not apply universally to the CARES funds, it serves as a good guideline for audit purposes for the Nation to follow to mitigate audit risk and stay in line with otherwise used federal cost guidelines.

#### Budget etc.

The Nation might consider compiling a fund spending plan or budget for the new funds. Given that the funds must be spent by the end of the calendar year, the budget should cover the next seven months and reported monthly. The budget will span two fiscal years, so it is important that the Nation budget the amounts and track expenditures to be revisited and amended as necessary monthly.

#### Coordination

The CARES Act funding is not the only available funds for the Navajo Nation to utilize. In addition to CARES Act funding there are Tribal allocations through BIA, BIE, DHHS, HUD, CDBG, Children and family services, Distance learning and telehealth grants, rural health grants, education waivers, and museum and library assistance. The Nation might coordinate all divisions, enterprises, health care facilities, small business leadership, housing, schools, and agencies to ensure the most efficient use of funds allocation under newly developed policies and procedures and systems. A master spending plan should come out of this effort to help prevent audit and compliance issues<sup>i</sup> and overlapping of expenditures. Getting out of the traditional “silos” will prove to be valuable in managing expenditures in response and prevention efforts.



## Economic Development Considerations

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While the current prevailing requirement for the \$600 million funding is that it must be spent on expenditures resulting from the COVID-19 pandemic, there is a lot of latitude given to tribes for use of the funds. Above we present considerations for the Navajo Nation to help ensure compliance with the funds intended use and proper reporting and upon implementation of a proper accounting system for these and futures funds there are specific clauses in the current guidance where the Navajo Nation could develop programs and infrastructure that can benefit both pandemic response and economic development. The ability to

develop enhanced telework and distance learning infrastructure would include the development of Wi-Fi networks that can also be used for business development. In addition, there is a specific clause for grants to businesses for business interruption because of COVID-19 related closures. Lastly, with the amount of the award this is an unprecedented “shot in the arm” for the local economy and could result in the emergence of much needed small business development in our local communities. Keeping the money on Navajo will lead the way in accomplishing this and have a potential \$36 million ancillary tax benefit if this money is spent on Navajo.

### Business Infrastructure

The amount of money allocated to the Navajo Nation presents an unprecedented opportunity to develop the technological infrastructure to not only assist with COVID-19 and future pandemics but also boosting small business development and housing capabilities. The Nation might strongly consider utilizing a big portion of the awarded funding and potential future funding (the first \$600 million is the first 60% of the overall award) to develop a Wi-Fi network that can facilitate health policy and economic initiatives across the Navajo Nation. In addition, the Nation might consider a portion of the funding be used for sustainable renewable energy networks that fuel the ability to respond to health crisis but also economic development. Lastly, considerations should be made for other traditional infrastructure that is lacking on the Navajo Nation that inhibits crisis response and economic development. This include water systems, food and other supply chain development and access to tele-healthcare Navajo Nation wide. The world is slowly moving away from traditional “brick and mortar” health and economic applications and the Navajo Nation has an opportunity, with this funding to lead the way. We feel the above will not only put the Navajo Nation in a good position to account for and deploy current funding but also build the infrastructure for any future pandemic response and provide the accounting, reporting and procurement protocol for future phases of CARES funding. We understand that additional CARES Act funds are being contemplated in Phase 4 will include funds related to economic and capital construction. This includes planned funding for Drinking Water, Clean Energy Development, Broadband and Communications, Public Safety Communications, Wastewater Infrastructure, Housing, Road infrastructure, Transit (public transportation), and Airports. Developing a listing for capital economic



development projects will be key for tribal nations to quickly begin or finish capital infrastructure projects

### Other funding available and other considerations

The Coronavirus Aid, Relief and Economic Security (CARES) Act, approved by Congress and signed into law by the President of the United States on March 27, 2020, provided the Economic Development Administration (EDA) \$1.5 billion in funding for economic development programs to assist communities in the preparing, preventing and responding to COVID-19.

The Economic Adjustment Assistance (EAA) program will oversee administering the EDA CARES Act Recovery Assistance by providing a wide range of financial assistance options for communities to respond and recover from the adverse economic effects of the coronavirus pandemic.

The Navajo Nation is eligible for this funding, in addition to other appropriations in the legislation specific to Tribal governments. Furthermore, the Secretary of Commerce published an Addendum to its FY 2020 Public Works and Economic Adjustment Assistance Notice of Funding Opportunity, whereby the EDA states its intent to deploy CARES Act funding in a quick, effective and efficient manner, tailored to community needs.

Tribes can benefit from this program in many ways, such as supporting businesses and communities impacted by the coronavirus by providing technical assistance or job retention and new employee hiring; providing tribal members workforce development projects to help in competing for high-quality jobs and by assisting tribal governments to develop and implement strategies to diversify their economies to create jobs in new and existing industries.

Examples of eligible projects include recovery planning, preparation of technical strategies to address economic dislocations caused by the coronavirus pandemic, preparing or updating resiliency plans to respond to future pandemics, implementation of programs that assist entrepreneurs in diversifying the economy, construction of public works and facilities to support economic recovery, including broadband projects supporting tele-health and remote learning. This program can also help Tribes with dollars for their lending programs and to support business incubators.

Remember that once you receive the funding it is important to keep every dollar received circulating in the Navajo economy for as long as possible. There is an immediate potential \$36 million ancillary sales tax implication for this new spending between now and December 30. The Navajo Nation might coordinate with Division of Economic Development, Navajo Tax Commission, and business leaders to discuss the Navajo Business Opportunity Act and do everything necessary to keep this funding spent in the Nation. This could fuel new jobs and result in a “recycling” effect for monies spent within the nation and thereby multiplying the potential tax benefit. Lastly, there are new provisions in the CARES Act that make your Tribes Opportunity Zones much more attractive, which, in many cases, in addition to protecting your investors’ contributions to a project from capital gains taxes, also give them rebates for past losses for up to five years.



## Health considerations

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Tribal Communities have been especially vulnerable to the COVID 19 Pandemic as we are seeing currently. Some Tribal Nations have been hardest hit because of continuing health disparities and lack of healthcare funding that has affected Native American Tribal Nations. Furthermore, because of the lack of tax structures to fund Tribal Programs, infrastructure, and healthcare needs Tribes have traditionally been unable to meet their local tribal communities operating budgets. The CARES Act funding might be contemplated to bridge this traditional funding gap that inhibits health initiatives.



The Navajo Nation might consider funds to:

- Enhance/develop public health policies and protocols. Given the widespread nature of pandemics public health policies might be developed/revisited to set up the infrastructure necessary to deploy fiscal and professional resources, as necessary. Quick response to health crisis such as COVID-19 has far reaching benefits not health related but also economic and cultural.
- Enhance/develop epidemiological systems and reporting structures. Data driven decision making is a key aspect to being able to respond to a plan for pandemic crisis. The Navajo nation might consider a complete revamp of epidemiology protocol and setting up technology based reporting systems so that data can be collected and implemented and shared so that, again, health, economic and cultural priorities can be adhered to and maintained.
- Developing a coordination protocol health crisis response. The Nation may consider developing communication and coordination protocol and platforms both externally and internally. Coordination with Federal, State, and other Local Governments is imperative for response and prevention. Further, internal coordination and communication protocol among all divisions, enterprises, and agencies so that all updates and necessary information is communicated quickly and widespread.
- Development of a “FEMA” type response team. The Nation might consider setting aside funds to develop a FEMA type structure that can quickly respond to health and other disaster type events. With the allocated funding, now is a good time to consider developing this type of response team and funding plan.
- Culturally sensitive communication protocol. As Natives the term “social distancing” is counter intuitive to our way of life. So, the Nation might consider funding to set up pandemic related educational media that is culturally sensitive and available widespread. The message currently given out from the federal government does not quite align with Native belief systems and an effort to interpret and communicate these criteria might prove successful in prevention and preparation measures.

Some other key areas to consider for use of the funding include (but not be limited to):



Develop a budget for the Return to Work Protocol

- Access to proper personal protective equipment will be important in reopening schools, agencies, and businesses. Using this funding to set up this protocol will be critical.
- Work with all entities and enterprises to develop a uniform reopening policy. This might apply to small businesses as well. A unified position from the Navajo Nation can be leveraged to ensure that all economic interests on the Nation follow the same protocol and enhance safety to those visiting and spending money.

- COVID 19 Prevention Planning, including data collection and analysis through technology
- Health and Safety Procedures
- Social Distancing Guideline Development
- Cleaning and Sanitation Policy Development
- Surveillance Strategies
- Contact Tracing Strategies
- Employee Public Health Mitigation Policy Development
- Customer Hotel and Gaming Floor Public Health Mitigation Policy Development
- Employee Benefit Review and Value-Added Purchasing Strategy Development
- Employee Health Insurance Third Party Administrator
- Telehealth/Telemedicine Services
- Personal Protective Equipment (PPE) Sourcing
- Public Health Media Campaigns and Learning/Educational Resource Development
- Public Health Cultural Sensitivity and Competency Training
- Healthcare related Real Estate Development for local Tribal Member Employee Services
- Healthcare Feasibility Studies

## Cultural Statement

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Native Social society has changed due to the coronavirus pandemic. This new funding can help fund new ways to conduct healthcare and spiritual/cultural healing through traditional ceremonies. Funding considerations might include set aside to work with various traditional healers to set traditional health criteria, construction of traditional structures, and assist in keeping both patient and traditional healers safe from contracting the coronavirus. Lastly, Navajo language policies to help communicate COVID-19 related information to the far reaches of our language and traditions.





As with all things Navajo, we humbly offer these professional suggestions in the spirit of Ké. Our hope is that proper steps are taken to implement systems to get much needed resources, both financial and nonfinancial, to where it is needed. Investing in the future of our great people will be paramount in all of this. We want to express a humble a'hé'hee to our Na'táanii for your leadership during this time and are willing to work with you in achieving your objectives and priorities.



**McCabe CPA and Consulting Group, LLC is a 100% Navajo owned firm with offices in Albuquerque, Phoenix and soon Chinle. We are guided by the principals of giving back to our communities. With over 100 years of combined experience in auditing, accounting, compliance, economic development, public health, and policy development. We are a team of Native Professionals here to help our Native American Governments, enterprises, agencies, or Tribally owned small business.**