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CHEROKEE NATION®



CARES Act Title V Coronavirus Relief Fund Proposed Spending Plan

Advisory Notice

Please be aware that this proposed spending plan is subject to change as the U.S. Treasury releases further guidance on the allowable uses of these funds and/or as guidance from legal counsel evolves.

Additionally, the unpredictable nature of COVID-19 requires that we be reactive as the health crisis evolves.

CARES Act, Title V

Coronavirus Relief Fund (“CRF”)

- ⊖ \$8 billion set aside for Tribal governments
- ⊖ Allocated and distributed by the U.S. Department of Treasury
- ⊖ Statute calls for allocation based on increased expenditures of each “Tribal government” including “tribally-owned entities”
- ⊖ Under the statute, funds were to be distributed no later than April 27, 2020
- ⊖ Ongoing litigation regarding the eligibility of Alaska Native Corporations (“ANCs”) has delayed full distribution of funds
 - » Treasury has held-back the ANCs allocation pending the outcome of the lawsuit.

CARES Act, Title V

Coronavirus Relief Fund (“CRF”)

- ⊖ 60% (\$4.8 billion) of the CRF was allocated based on tribal population per HUD/IHBG
 - » Cherokee Nation received \$332 million on May 6, 2020
- ⊖ 40% (\$3.2 billion) of the CRF will be allocated based on employment and government expenditures
 - » Expected distribution on or about June 5, 2020
- ⊖ If the Court decides ANCs are not eligible to receive funds, Treasury will make a 3rd distribution to Tribes of the funds that have been held-back for ANCs

Limited Uses of the Coronavirus Relief Fund

- ⊖ By law, funds may only be used to cover costs that meet all three of the following:
 - » Are ***necessary*** expenditures incurred ***due to*** COVID-19;
 - » Were ***not accounted for*** in the most recently approved budget; and
 - » Were incurred during the period ***between March 1, 2020 and Dec. 30, 2020.***

Treasury Guidance: “Necessary” and “Due To”

- ⊖ Necessary means that, in the best judgment of the government officials, the expenditure is reasonably necessary to the function of the government.
- ⊖ Due to means that COVID-19 is the cause of the expenditure, either directly or indirectly.
 - » First-order/direct expenditures are those made to address immediate threats of the COVID-19 health crisis, such as purchasing personal protective equipment.
 - » Second-order/indirect expenditures are those made to address the collateral effects of the COVID-19 health crisis, such as “providing economic support to those suffering from employment or business interruptions.”

Treasury Guidance: “Necessary” and “Due To”

- ⊖ Funds may not be used to fill shortfalls in government revenue that would not otherwise qualify under the statute.
 - » This means that if the expenditure itself does not meet the three requirements (as stated on slide #5), CRF funds may *not* be used to pay for the expenditure even though COVID-19 is the cause of the revenue shortfall.

Treasury Guidance: “Not Accounted For”

- ⊖ The CRF permits costs to be reimbursed only if those costs were “not previously accounted” for in the tribe’s most recently approved budget prior to March 27, 2020.
 - » This essentially means that only unbudgeted expenses are allowable; however, Treasury defined two circumstances where costs that were included in the budget are still considered “not accounted for.”
- ⊕ First, the cost is for a substantially different use than any expected use under the appropriation
 - » Example: Education budgeted for a 3D printer to be used in a STEM class, but when that printer arrived it was redirected to Health to make ventilators.* The cost of the 3D printer would be considered “not accounted for” and therefore an allowable CRF expense, so long as it met the other two requirements (as stated on slide #5).

*This is a fictitious example for illustrative purposes only.

Con’t.

Treasury Guidance:

“Not Accounted For” con’t.

- ⊕ Second, the cost “cannot lawfully be funded using the line item, allotment or allocation within that budget”
 - » Per Cherokee Nation law¹, expenditures cannot exceed revenues (i.e. prohibits budget deficits). This means that even though an expense may have been budgeted, if Cherokee Nation does not receive the revenue that was budgeted to pay for the expense, the expenditure cannot legally be made.
 - » Therefore, per Cherokee Nation law, an expense that was budgeted, but does not have the associated revenue needed to pay for that expense would be considered “not accounted for” and therefore an allowable CRF expense, so long as it met the other two requirements (as stated on slide #5).

¹**64 CNCA §31(A)** The budgeted expenditures formulated as provided for in this subsection shall not exceed total estimated revenues.

Treasury Guidance: “Incurred” between March 1, 2020 and December 30, 2020

⊖ Cost is “incurred” when the Cherokee Nation has “**expended** the funds to cover the cost.”

- » This means that appropriated and encumbered funds will not be considered “incurred”
- » Treasury further states that a government should not pre-pay costs in order to expend the CRF prior to the deadline
- » **All CRF funds must be spent by December 30, 2020**

⊕ Unspent funds must be returned to Treasury

Subject to Audit

- ⊖ Per the CARES Act, CRF expenditures are subject to audit by the U.S. Department of Treasury's Inspector General
- ⊖ If a cost is deemed ineligible by the Inspector General, the Cherokee Nation will be required to return those funds to Treasury.
- ⊖ **Documenting** that costs were allowable uses is essential to managing compliance and minimizing the possibility that the costs are deemed unallowable.
- ⊖ Federal dollars cannot, under any circumstances, be claimed twice for the same spending (no "double-dipping").

General Fund Revenue Shortfall

Gen-Fund Revenue Source	Estimated Shortfall
CNB Statutory Dividends	(29,982,285)
CNB Special Dividends	(3,522,136)
CNB Capital Investments	(58,828,299)
CNB / Gaming Commission	(1,493,411)
Tobacco, Sales & Alcohol Tax Revenue	(1,771,360)
Motor Fuels Tax Revenue	(1,041,571)
Motor Vehicle Tax Revenue	(5,028,981)
Other Income	590,721
TOTAL GEN-FUND SHORTFALL:	(101,077,322)

TOTAL COVID-19 RELIEF FUNDING RECEIVED TO DATE

Source	Amount	Use
IHS self governance - CARES Act - COVID	\$29,578,211	wide range of COVID-19 Operated Programs & activities w/in healthcare system
IHS self governance - CARES Act - COVID	\$6,403,463	COVID19 Purchased/Referred Care (aka Contract Health Services - all tribes)
IHS self governance - Families First - COVID	\$3,613,538	COVID Testing w/in healthcare system
NAHASDA	\$9,387,252	temp rental assistance, transitional emergency housing, housing mgt & repairs
Treasury Coronavirus Relief Fund - CARES	\$332,078,629	necessary expenditures due to COVID; not accounted for; between 3/1 - 12/30
DOI- Self Governance - CARES funding	\$4,000,000	Self-Governance: prevent, prepare for, and respond to coronavirus
DOI- Self Governance - CARES funding	\$3,459,874	Welfare Assistance: prevent, prepare for, and respond to coronavirus
HHS - Families First Coronavirus Response Act	\$63,940	(grant) Native Americans Nutrition Services
CDC #2 - Public Health Crisis Response	\$750,000	(grant) increase emergency response capabilities
DHHS - CARES Act	\$118,480	Nutrition Services for Native Americans - CARES
CDC #3 - Public Health Prepared & Response	\$750,000	Pre-award COVID expenses back to Jan 20,2020 allowed, IDC approved
DHHS - CARES Act	\$165,008	Child Welfare Services
CCDBG - CARES Act	\$13,316,899	**have not yet received Authority to Obligate**
IHS Compact	\$2,783,617	Amendment 11
IHS Compact	\$2,985,861	Amendment 11
IHS Compact	\$2,106,828	Maintenance & Improvement
IHS Compact	\$2,393,398	Recover lost Medicare revenue
First Nations Dev Institute	\$15,000	COVID-19
DHHS - CARES?	\$500,000	CN Emergency COVID-19 Project
DHHS - CARES Act?	\$97,402	SAMHSA, COVID-19
CDC #1 Public Health Emergency Response	\$750,000	Added to prior award. Pre-award COVID expenses back to Jan 20,2020 allowed

Total COVID-19 relief funding to date \$415,317,400

*Please note that this presentation is related only to the Treasury Coronavirus Relief Fund under the CARES Act.
All federal COVID-19 relief funding is one-time funding.*

Spending Plan Framework

1. Respond
2. Recover
3. Rebuild

Respond

Respond = The immediate steps taken in response to the onset of the COVID-19 crisis.

- This tier includes all the expenditures that CN & CNB has or will incur as a result of our early & decisive response to close our businesses, reduce staff to essential personnel, and address the most critical needs of our citizens thru increased food security programs and healthcare.
- The use of the funds under “Respond” will be to “pay ourselves back” for all those unbudgeted expenses such as PPE, food, cleaning supplies, payroll for those on COVID Admin Leave, and IT costs to facilitate teleworking.

Recover

Recover = The steps being taken to reopen our businesses and government in a manner that is safe for employees and visitors.

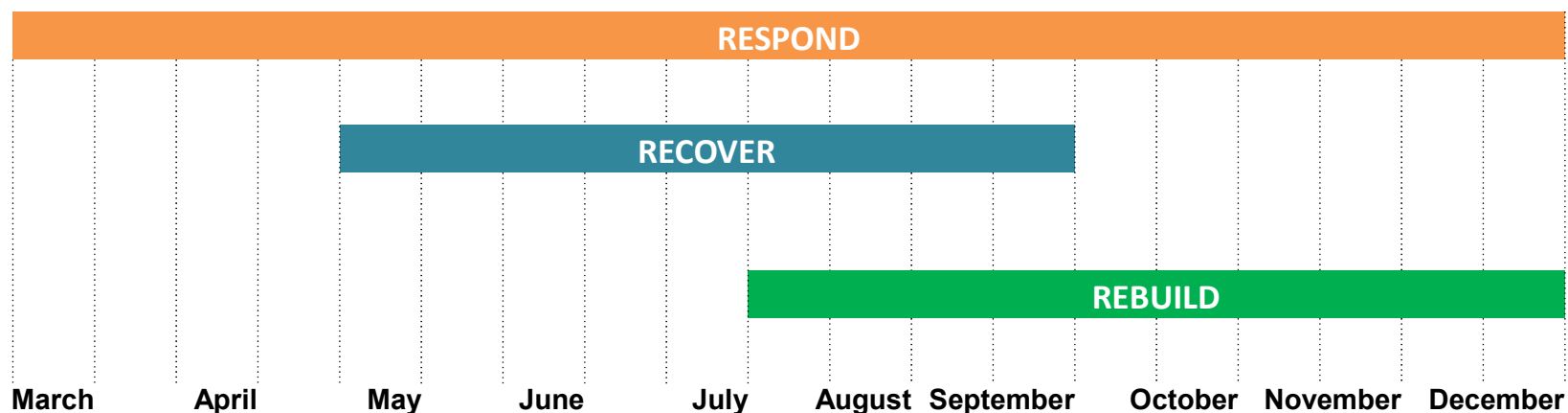
- This tier will include expenses such as additional office space to allow employees to maintain CDC recommendations, such as: social distancing, upgrades to offices to better control areas accessible to the public, equipment to screen employees and visitors, physical barriers to protect employees who interact with the public, hiring of temp staff to clean/disinfect high traffic areas. This will also include costs associated with improvements made to be better prepared should COVID-19 have a resurgence in the Fall/Winter months.
- The use of funds under “Recover” is focused on getting our government and businesses reopened so that we can safely and efficiently provide services to our citizens.

Rebuild

Rebuild = The steps we are taking to stabilize our citizens and communities through services and economic support.

- Expenditures made under this tier will include the addition/expansion of programs that help heal our Nation physically, emotionally, and economically. Examples include grants to community organizations, first responders & schools. Expanded programs in Career Services, Human Services, Food Distribution, etc.
- The use of funds under “Rebuild” will be to help our citizens and communities overcome the many hardships that they are facing during this unprecedented health crisis.

Timeline



This timeline is fluid*, and may be adjusted as necessary to respond to the virus.

*Except that the statutory requirement to spend the CRF by December 30, 2020 is not fluid.

Coronavirus Relief Fund Spending Plan Summary

- ⊖ \$100 million to restore governmental revenue entities, and protect more than 5,000 jobs
- ⊖ \$100 million to fortify essential government functions
- ⊖ \$100 million to strengthen Cherokee communities
- ⊖ \$ 32 million to complete OSU Med School and Wilma P. Mankiller Clinic, and establish an Epidemiological Center
 - » Remaining 40% of Cherokee Nation's allocation is not yet included in this spending plan.
 - » This spending plan is subject to change based on additional guidance from Treasury and/or legal counsel.

Deadline

All Coronavirus Relief
Funds must be *spent* by
December 30, 2020!

Any unspent funds must be
returned to Treasury.