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### **AMERICAN RESCUE PLAN ACT (ARPA) DISTRIBUTION IS COMING SOON— ARE YOU READY?**

Many issues that previously caused problems with the CARES Act funding and distribution seem to have been avoided this time around. Most notably, each tribe's number of members is based on self-certification rather than the deeply flawed number reflected under HUD's Indian Block Grant program. This is good news and will hopefully result in a fairer and more equitable distribution of the ARPA funds.

While tribal leaders have been inundated with information and guidance since the passage of the ARPA, we seek to highlight those areas that we think are most noteworthy:

#### **Bureau of Indian Affairs \$700 Billion Allocation**

##### **Enrollment Group Allocation**

Allocation of the ARPA will be based on tribal enrollment data and tribes will be grouped by size. Tribes will be categorized into twenty groups of similar enrollment-level tribes called "bands" to make the allocations more equitable between smaller and larger tribes.

Tribes with enrollment up to 60 will be allocated a minimum of \$50,000.

The top four Tribes will have the following weighted amounts applied:

- 20% increase over the highest band for the one tribe that has twice the enrollment as the largest tribe in the highest band (\$5.3 million)
- 80% increase over the highest band for the three tribes with 5 to 7 times the enrollment as the largest tribe in the highest band. (\$8 million)

The \$700 million will be distributed to the tribes through their 638 contracts, specifically their "Aid to Tribal Government" funding. Tribes will be allowed to re-program across the "Tribal Priority Allocation" (TPA) programs as necessary. Some of these programs are: Human Services (social services, welfare assistance, ICWA); Education; Public Safety and Justice (law enforcement, courts, and fire protection); Community Development (includes road maintenance); and Economic Development.

### Tribes in Public Law 280 States will Receive \$30 Million for “Public Safety and Justice”

After an outpour of complaints to the BIA for excluding tribes located in PL 280 states from the \$30 million being set aside for “public safety and justice,” the BIA has recalculated the \$700 billion ARFA funds to set aside an additional \$30 million dollars for tribes in PL 280 for “public safety and justice.” This funding will not be channeled to tribes through the TPA “public safety and justice” funding category but instead will be distributed through “social services” under the TPA and will be subject to re-programming.

The funding for “public safety and justice” being allocated through tribes’ “social service” 638 contracts can be used for tribal safety needs that fall outside of a formal law enforcement program. The tribe can determine whether to reprogram the funds to other needed areas such as tribal courts. It is not clear the funding formula that will be used to allocate the \$30 million, but it is anticipated that the funding may be allocated based on existing annual BIA allocation to tribes for social services



### U.S. Department of the Treasury \$20 Billion Allocation

On May 10, 2021, the United States Department of the Treasury (Treasury) announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by ARPA. The ARPA allocates \$350 billion in emergency funding for local, territorial, state, and tribal governments.

Of the \$350 billion in emergency funding, \$20 billion will be allocated to tribal governments as follows:

- \$1 billion is to be allocated equally among tribal governments.
- \$19 billion is to be allocated to tribal governments using a formula based on enrollment and employment data.

Specifically, the Treasury determined that \$12.35 billion of the \$19 billion will be based on enrollment and \$6.65 billion will be based on employment.

#### **Tribal Enrollment Data**

Like the BIA, Treasury will use self-certified enrollment numbers provided by tribes. In April 2021, the BIA collected enrollment numbers from tribal governments and shared this information with the Treasury. For tribes that did not provide self-certified enrollment data, the Treasury will use enrollment data submitted last year under the CARES Act.

#### **Tribal Employment Data**

The Treasury will use tribal employment information that was submitted to the Treasury for distribution of the CARES Act funds. Tribes will be required to provide confirmation to the Treasury that their 2019 employment numbers do not need to be amended. Before the second payment, tribes will have the opportunity to amend their 2019 employment numbers if required. Tribes will also have the chance to submit employment information to the Treasury if they have not already done so.

Under the CARES Act, the Treasury, in 2020, requested tribal governments submit the number of their employees in enterprises or businesses in which the tribal government owns at least a 51% ownership interest for each calendar quarter of 2019. Tribes were required to use the employment numbers submitted to the IRS on Form 941.

## Payment Schedule

The Treasury will make two payments to eligible tribal governments.

### (1) First Payment

The first payment will be approximately \$1.7M for each Tribal government (an equal allocation of the \$1B assigned in ARPA). To receive the first payment, each Tribe **must submit** information online through the [Treasury Submission Portal](#) **no later than June 7, 2021, 11:59 PST**. The Treasury's [Tribal Government Checklist](#) includes information that needs to be submitted to the portal, including the Tribe's EIN, DUNS, authorized representative's information, authorized contact person's information, bank routing, and account number. The authorized representative must sign an award terms document. After the information is submitted online, Treasury will take 4-5 business days to review and process. The designated representative will receive information regarding the timing and amount of the first payment.

### (2) Second Payment

The second payment includes the tribal government's pro-rata share of the remaining \$19 billion based on tribal employment data. In the middle of May, tribal governments should have received a notification that they needed to log into the Treasury Submission Portal to verify or amend their 2019 employment numbers that were previously submitted to the Treasury in May 2020 in connection with the CARES Act. If the tribal government does not confirm or amend its numbers, the tribal government will not be eligible to receive a share of the employment allocation. The deadline to confirm or amend the 2019 numbers is **June 21, 2021, at 11:59 PM PST**.

After the June 21, 2021 deadline, the Treasury will calculate each Tribal government's pro-rata share of the employment allocation for tribal governments that confirmed or submitted amended employment numbers.

## Uses of Funding

Generally, recipients have the flexibility to use the funds to address the diverse needs of their communities and build on eligible expenditures under the CRF. The Treasury Interim Final Rule provides a non-exclusive list of permissible uses.

Below are some *permissible* funding examples:

- Supporting public health response to COVID-19, including vaccination programs, medical care, and support for isolation and quarantine
- Replacing public sector revenue loss
- Water and sewer infrastructure
- Premium pay for essential workers
- Expanding broadband infrastructure and access

To ensure that funding is used for its intended purpose, the ARPA specifies *ineligible* fund uses including:

- Funding reductions in net tax revenue
- Contributions to a pension fund
- Funding debt service costs, legal settlements, or judgments
- Deposits to rainy day funds, financial reserves, or similar funds

## Use of Funds for Administrative Purposes

Funds may be used to cover the portion of payroll and benefits of employees that corresponds to time spent on administrative work necessary due to the COVID-19 public health emergency and its negative economic impacts. Including, but is not limited to, costs related to disbursing payments of Fiscal Recovery Funds and managing new grant programs established using Fiscal Recovery Funds.

### Reporting\*

Financial records and supporting documents must be retained for five years after all funds have been expended or returned to the Treasury, whichever is later. Including records and documents which demonstrate the award funds were used for eligible purposes in accordance with the ARPA, the Treasury's regulations implementing those sections, and the Treasury's guidance on eligible uses of funds.

Tribal governments will be required to submit several reports regarding their use of Coronavirus State and Local Fiscal Recovery Funds. These include an interim report, quarterly project, and expenditure reports. Tribal governments are not required to develop a Recovery Plan Performance report. The Treasury will provide further guidance and instructions on the reporting requirements for the program at a later date.

### Interim Reports

Tribal governments will be required to submit one interim report. The interim report will include a recipient's expenditures by category at the summary level. The interim report will cover activity from the date of award to July 31, 2021 and must be submitted to the Treasury by August 31, 2021.

### Quarterly Project and Expenditure Reports

Tribal governments will be required to submit quarterly project and expenditure reports. This particular report will include financial data, information on contracts and sub-awards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of award funds. Reports will be required quarterly. **An interim report is due on August 31, 2021.** The reports will include the same general data as those submitted by recipients of the CARES Act, with some changes to expenditure categories and data elements related to specific eligible uses. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021 and **must be submitted to Treasury by October 31, 2021.** The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

\* The reporting dates listed above are subject to change in light of Treasury's recent extension of when Tribes' need to submit their authorized representative and other information (June 7<sup>th</sup>) and also provide tribal employment data (June 21<sup>st</sup>)

## How Can CILS Help?

**Grants** - CILS staff can discuss whether the tribe is eligible for a grant and in preparing documentation.

- 1) Ensuring your tribe will be able to meet reporting requirements;
- 2) Assisting the tribe in assessing what its COVID-19 related costs and needs are; and/or
- 3) Providing guidance on what is and is not allowable expenditures.

For assistance contact the CILS office closest to your tribal location at:

Escondido Office  
(760) 746-8941

Bishop Office  
(760) 873-3581

Eureka Office  
(707) 443-8397

Sacramento Office  
(916) 978-0960

## **TRIBAL COVID-19 RESOURCES**

For updates on COVID-19 and Resources for Tribal Communities see the following links:

### **State of California:**

A one-stop page collecting information related to COVID-19 can be located at:  
<https://covid19.ca.gov/>

CDSS Tribal Affairs: COVID-19 resources for California tribal communities:  
<https://cdss.ca.gov/inforesources/cdss-programs/tribal-affairs/tribal-affairs-covid-19>.

### **Federal Resources:**

A one-stop page for Federal COVID-19 information:  
<https://www.coronavirus.gov/>.

**Indian Health Service:**  
<https://www.ihs.gov/coronavirus/>

**Health and Human Services:**  
<https://www.hhs.gov/coronaviruses/index.html>

**Centers for Disease Control:** Providing information on how to protect yourself and what to do if you are sick. Also contains the most update-to-date information on the virus and medical news related to the virus: <https://www.cdc.gov/coronavirus/2019->

**Office of the Assistant Secretary for Preparedness and Response:**  
<https://www.phe.gov/emergency/events/COVID19/Pages/default.aspx>

**Bureau of Indian Affairs:** Includes resources for tribal governments when responding to COVID-19:  
<https://www.bia.gov/coronavirus>

**Treasury:** For more information on ARPA funding and distributions.  
<https://home.treasury.gov/policy-issues/cares/state-and-local-governments>

### **Tribal Specific Webpages with Daily Updates**

**NCAI:** <http://www.ncai.org/covid-19>

**TPLI:** <https://www.home.tlpi.org/covid-19>

**NIWRC:** <https://www.niwrc.org/news/resources-response-coronavirus-covid-19>

**NICWA:** <https://www.nicwa.org/coronavirus/>

**NIHB:** <https://www.nihb.org/covid-19/>

**Turtletalk:** <https://turtletalk.blog/covid-19-tribal-documents/> and <https://turtletalk.blog/tag/covid-19/>

**NAFOA:** [https://nafoa.org/coronavirus?utm\\_source=Nafoa+Mailing+List&utm\\_campaign=09967d5081-newsletter-33020&utm\\_medium=email&utm\\_term=0\\_dcdb537bb2-09967d5081-58514507](https://nafoa.org/coronavirus?utm_source=Nafoa+Mailing+List&utm_campaign=09967d5081-newsletter-33020&utm_medium=email&utm_term=0_dcdb537bb2-09967d5081-58514507)