

Indian Affairs

July 2, 2020

Frequently Asked Questions (FAQs) Regarding Funding Directly Appropriated to Indian Affairs from Division B, Title VII of the CARES Act

Frequently Asked Questions (FAQs) for Indian Affairs Regarding Funding for Division B, Title VII of the CARES Act

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## FAQs regarding CARES Act Aid to Tribal Government (ATG) Funding

1. Q: Can the CARES Act ATG funding be used to provide enrolled tribal members with economic relief payments?
  - a. No. Economic relief per capita payments from Aid to Tribal Government are not allowable under current statutory authorities. However, tribes may develop assistance programs with protocols that ensure that such assistance satisfies the requirements of the Div. B, Title VII of the CARES Act to prevent, prepare for, and respond to COVID-19 and outlines consideration given to other sources of CARES Act Funding.
2. Q: Can a tribe use a portion of their ATG funding to replace the funding that was promised by the state and non-profits that is no longer available because of the pandemic to purchase a building for childcare?
  - a. No. Funding cannot be used to replace funding promised by non-federal entities prior to the pandemic. Funding may be used to procure temporary shelter to be used for pandemic purposes such as separation, but it cannot be used to purchase permanent structures for other purposes. Expenditures must be connected to coronavirus prevention, preparedness, or response.
3. Q: If a Tribe already had a high seasonal unemployment rate, and this pandemic has impacted the seasonal work that was scheduled starting in April (going through October), how can we assist tribal citizens with this lost employment under the CARES Act ATG funding?
  - a. Economic relief per capita payments, without assessment of individual needs, would not be an appropriate use of CARES Act ATG funding.
4. Q: Will there be any extra reporting requirements or other verification that the money is spent for authorized purposes?
  - a. Standard reporting requirements apply to tribes contracting under Title I of P.L. 93-638, with some exceptions. Welfare Assistance reporting is required for both regular FY 2020 and COVID-19 appropriations, however when submitting

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standard reports, funding should be identified separately, to illustrate the segregation of funds.

5. Q: For tribal organizations that did not receive CARES Act ATG funding, can member tribes transfer their CARES Act ATG to the tribal organization to offset administrative expenditures?
  - a. Yes, to the extent that the administrative expenditures satisfy the requirements of the Div. B, Title VII of the CARES Act. The member tribe should notify the BIA of its request in writing for the record.
6. Q: What federal regulations apply to the CARES Act ATG funds? Tribes want to be assured that they can pool some of their CARES Act ATG funding for a common benefit. For example, Tribes in close proximity to each other want to pool some of their funds to support one quarantine center. They do not expect to need one in each location and it would be more efficient to pool/share associated costs.
  - a. Tribes can pool funds, but each tribe should include in their own budgets their respective share/contribution to the costs and have an overarching tracking expenditure managed by a single entity in preparation for future audits. The Div. B, Title VII of the CARES Act regulates the Aid to Tribal Government (ATG) funding. It provides flexibility to address tribal needs related to prevention, preparedness, and response to COVID-19. Funds may not be used to duplicate services but could be used to address shortfalls that a tribe may encounter in addressing COVID-19. For example, establishing quarantine centers is allowable and partnering with the ATG funds is also allowable as long as what is being done with the funds does not duplicate services and adheres to the language in the law: "...to prevent, prepare for, and respond to coronavirus, including to support public safety and justice programs, welfare and social service programs (including assistance to individuals), and for aid to Tribal governments". Tribes may want to enter into a mutual agreement outlining its purpose, participation/roles and funding to be provided for the joint endeavor, including definition of reporting requirements (i.e., which entity will do reporting, accounting, etc.).

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7. Q: We have some staff working from home. However, other staff such as our Finance staff have had to report to work because the Tribe does not have efficient Internet connection and our government is not networked to allow work from home. However, we now have the opportunity to pull fiber optic into the tribe, primarily connecting our tribal government, including our healthcare center. So, can we use some of our ATG CARES funds to pull the fiber optic?
  - a. Yes, if such costs satisfy the requirements of the Div. B, Title VII of the CARES Act. Expenses incurred to install fiber optic, internet, or broadband to enable staff to telework may be needed during the pandemic. Documentation should be maintained for audit purposes.

## FAQs regarding CARES Act Welfare Assistance (WA) Funding

8. Q: Can the CARES Act Welfare Assistance funds be used to supplement the salaries of tribal employees providing services to tribal citizens in response to Div. B, Title VII of the CARES Act?
  - a. No, Welfare Assistance funds cannot be used to supplement employee salaries.
9. Q: Can the CARES Act Welfare Assistance funds be used for tribal citizens that do not live within the geographical boundaries of the tribe or are they tied to a service area?
  - a. The BIA regulations specify a service area for Welfare Assistance for each federally recognized tribe. Additionally, members of a federally recognized tribe living within the service areas of another federally recognized tribe are eligible to receive services from a WA program operated by a tribe within whose service area they reside as long as there is no duplication of services.
10. Q: Do tribes have to do FASSARs for COVID-19 WA?
  - a. Yes. BIA will soon issue a policy on FASSAR reporting required for COVID-19 WA. Reporting will be similar to reporting as done now for annual appropriations for WA but will reflect the different authorizations and segregation of funds.
11. Q: Can a tribe that is in the 477 program that has a redesign WA program, use the COVID-19 WA funds in the same manner as the redesign?

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- a. Yes, a tribe may use its COVID-19 WA funds consistent with its redesigned program and within the intent of Div. B, Title VII of the CARES Act.
12. Q: May Self Governance tribes use the Title IV regulation authority found in 25 CFR Part 1000 Subpart J to request a waiver of 25 CFR Part 20 to operate a CARES Act Welfare Assistance Program?
  - a. Yes. Self Governance tribes may request a waiver of Welfare Assistance Program regulations using the authority found at 25 CFR Part 1000 Subpart J.
13. Q: Can Self Determination and Self Governance Tribes reprogram Div. B, Title VII of the CARES Act OIP funds between TPA accounts in order to prepare for, prevent, and respond to COVID-19?
  - a. Yes, funds received under Div. B, Title VII of the CARES Act in Tribal Priority Allocation accounts may be reallocated to other Tribal Priority Allocation accounts so long as the funds are expended solely for purposes consistent with Div. B, Title VII of the CARES Act. For Self Determination tribes, the tribe should notify the BIA Regional Director by email identifying the amount to be reallocated and identifying the accounts the funds are moving from and to. For Self Governance tribes, the tribe can notify their Office of Self Governance Compact Negotiator by email.
14. Q: May a Self Governance or a Self Determination Tribe request its CARES Act Welfare Assistance funds be retained at its Region/Agency for direct services?
  - a. Yes, Self Determination tribes should submit requests for direct service in writing to the Region.
  - b. Yes, if a Self Governance tribe wishes for the Region to provide direct services, the tribe should provide written email authorization to the Office of Self Governance Compact Negotiator stating such purpose and provide a copy to the BIA Regional Director. Funds cannot be moved from a tribe without written consent of the tribe.
15. Q: May CARES Act Welfare Assistance funds be transferred from an Alaska Native Village or Tribe to an Alaska Native Consortium to provide services?

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- a. Yes, where a tribe authorizes an Alaska Native Consortium to provide services on behalf of the tribe, CARES Act Welfare Assistance funds may be transferred to an Alaska Native Consortium. Funds retain their identity as Div. B, Title VII of the CARES Act OIP funds and must be used for activities connected to coronavirus prevention, preparedness, or response. A Tribe should notify the BIA Alaska Regional Director in writing, with copy to the OSG Compact Negotiator, as appropriate, of its decision(s).
16. Q: What options are available if a tribe does not wish to return funds so that the funds can be reallocated to a tribe that operates a Welfare Assistance Program in a particular service area?
- a. The BIA cannot reallocate funds from one tribe to another without tribal consent. If a tribe does not wish to return CARES Act WA funds to be reallocated to another tribe providing WA in the service area, the funds will remain for the purposes designed by the Div. B, Title VII of the CARES Act.
17. Q: The Assistant Secretary-Indian Affairs waiver is available for one year. How does this square with the Div. B, Title VII of the CARES Act?
- a. On May 14, 2020, the Assistant Secretary – Indian Affairs issued a waiver of certain welfare assistance regulations contained in 25 C.F.R. 20 for expenditures relating to funds provided under Div. B, Title VII of the CARES Act. This waiver is effective for a period of one year (expiring May 13, 2021) unless otherwise extended or withdrawn by the Assistant Secretary – Indian Affairs. It is important to note that the waiver issued May 14, 2020 applies only to Div. B, Title VII CARES Act funds and is not applicable to regular welfare assistance appropriations.
18. Q: What is the date by which the tribes have to spend all funds?
- a. The deadline for the Federal Government to obligate funds received under Div. B, Title VII of the CARES Act is September 30, 2021. Once placed in a contract or self governance agreement, the funds will be available to the tribe until expended.
19. Q: Are Div. B, Title VII of the CARES Act funds retroactive to the date the Act was signed on March 27, 2020?

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- a. Div. B, Title VII of the CARES Act OIP may cover costs for purposes to prevent, prepare for, and respond to coronavirus prior to the date the CARES Act was enacted. Please note this is different from the eligible period for other provisions in the CARES Act, including the Coronavirus Relief Fund which tribes received payment from the Treasury Department.
20. Q: Was modification language placed in OSG Funding Agreements for CARES Act Welfare Assistance (WA) funding?
  - a. Yes, pursuant to 25 CFR 1000.220 Self Governance Funding Agreements are subject to federal regulations including 25 CFR Part 20. Self Governance Tribes were given the option to use the Assistant Secretary – Indian Affairs WA waivers issued on May 14, 2020. The Authority to Obligate (ATO) document includes language that addresses these special identified need requirements related to the Div. B, Title VII of the CARES Act. However, Tribal Priority Allocation funding may be reallocated to other Tribal Priority Allocation accounts so long as costs satisfy the requirements of the Div. B, Title VII of the CARES Act. A Self Governance Tribe should keep a record of any Div. B, Title VII of the CARES Act reprogrammings for audit purposes.
21. Q: How do programs address eligibility when unemployment denial letters may not be available due to the large backlog of claims?
  - a. Applicants may self-certify due to the ramifications of the COVID-19 pandemic, providing as much supporting documentation (verifying that the individual applied, etc.) as possible.
22. Q: Three agencies at a BIA Region provide direct services. Can they use the CARES Act Welfare Assistance funds for foster care and what are the parameters?
  - a. Agencies may use general Welfare Assistance funds for documented increased foster care needs resulting from circumstances related to coronavirus, as it is an allowable category in the Welfare Assistance regulations.
23. Q: Do applicants for burial assistance need to present evidence of a positive test for COVID-19 related deaths or can applicants self-certify?

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- a. Applicants can self-certify that a decedent's death was caused by COVID-19 or COVID-19 related complications.
24. Q: Some programs allow burial assistance payments in advance and afterwards have applicants apply for reimbursement under General Assistance. Will this be allowed?
- a. The normal guidelines remain in place for burial assistance payments.
25. Q: How is eligibility determined?
- a. 25 CFR 20.100 eligibility requirements are not waived. The applicant must be a member of a federally recognized tribe and reside within an identified service area (funded with Welfare Assistance funds).
26. Q: How will newly recognized tribes with no reservation boundary be serviced for their immediate needs?
- a. 25 CFR 20 provides a process for the Secretary to establish the service area. The tribe must provide the Region with its decision on how to expend the funds allocated to it.

## FAQs regarding Individuals/Tribal Members

27. Q: Can hazardous pay be paid for tribal office employees who have worked in the tribal office during the pandemic? Can their payments be retroactive to January 1, 2020?
- a. A tribe may provide hazard pay, so long as there is a tribal policy regarding hazard pay and it is applied across the board regardless of source of funding.

## FAQs regarding Allowable Expenditures and Equipment for CARES ATG Funds

Q: Are the following allowable equipment purchases or expense costs?

28. Purchase of food staples for tribal member households/tribal member food security assistance;
- a. Yes, however, for audit purposes, tribes should consider establishing a written protocol that meets the requirements of the CARES Act and consideration given to other sources of CARES Act funding.



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29. Providing a credit at the local store for tribal members to purchase PPE, cleaning supplies, and food;
  - a. Yes, arrangements may be made by the tribe with a local store for tribal members to purchase food, PPE, and cleaning supplies used for COVID-19 purposes under CARES Act ATG. Tribes should consider establishing a written protocol that satisfied the requirements of the Div. B, Title VII of the CARES Act with consideration given to other sources of CARES Act funding.
30. Freight costs for flying food into the village;
  - a. Yes, freight costs for transporting food into a village may be appropriate use of Div. B, Title VII of the CARES Act OIP funds if it is determined to be necessary to prevent, prepare for, or respond to COVID-19. For audit purposes, tribes should consider establishing a written protocol that satisfies the requirements of the Div. B, Title VII of the CARES Act.
31. Purchase of skiff and trailer, or four-wheeler to haul water, freight, wood for community members;
  - a. Purchase or lease of such equipment may be an appropriate use of Div. B, Title VII of the CARES Act OIP funds if it is determined to be necessary to prevent, prepare for, or respond to COVID-19. A tribe must be able to justify an increased need for transportation services because usual means of transportation are impacted by COVID-19 or demonstrate a new need resulting from COVID-19 where no need previously existed. Procurement must meet the requirements of the Div. B, Title VII of the CARES Act and the tribe's procurement and property procedures.
32. Purchase of an ambulance for a tribally owned clinic as well as payroll for on-call ambulance driver;
  - a. No, purchase of an ambulance and the salary of an ambulance driver are not allowable uses of Div. B, Title VII of the CARES Act OIP funds. Anything medically oriented such as this are under the auspices of the Indian Health Service, not the BIA.

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33. Paying for tribal members' water and sewer to be hooked up because of delinquent accounts;
- a. Yes, paying to reestablish water and sewer services on delinquent accounts may be an appropriate use of Div. B, Title VII of the CARES Act OIP funds. For audit purposes, tribes should consider establishing a written protocol that satisfies the requirements of Div. B, Title VII of the CARES Act.
34. Utility assistance to individual tribal members;
- a. Yes, providing utility assistance to tribal members may be an appropriate use of Div. B, Title VII of the CARES Act OIP funds. For audit purposes, tribes should consider establishing a written protocol that satisfies the requirements of Div. B, Title VII of the CARES Act.
35. Purchase of fuel for tribal members homes/heating fuel assistance;
- a. Yes, providing fuel or heating fuel assistance to tribal members may be an appropriate use of Div. B, Title VII of the CARES Act OIP funds. For audit purposes, tribes should consider establishing a written protocol that satisfies the requirements of Div. B, Title VII of the CARES Act.
36. Hiring workers to cut and deliver wood to elders;
- a. Yes, cutting and delivering wood to elders may be an appropriate use of Div. B, Title VII of the CARES Act OIP funds. For audit purposes, tribes should consider establishing a written protocol that satisfies the requirements of the Div. B, Title VII of the CARES Act.
37. Direct support for elders, nutrition, childcare, rent/mortgage;
- a. Yes, direct support for elders, nutrition, childcare or rent/mortgage payments may be an appropriate use of Div. B, Title VII of the CARES Act OIP funds. For audit purposes, tribes should consider establishing a written protocol that satisfies the requirements of Div. B, Title VII of the CARES Act.
38. Garbage pickup;
- a. Yes, garbage pick-up may be an appropriate use of Div. B, Title VII of the CARES Act OIP funding. For audit purposes, tribes should consider establishing

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a written protocol that satisfies the requirements of Div. B, Title VII of the CARES Act.

39. Purchase of tablets, internet access and exercise equipment for the children to complete schoolwork and physical education while in-person school is closed;
  - a. For tribally operated BIE schools, CARES Act funding is being provided to BIE funded schools for distance learning. If the local school district is not covering such costs, Div. B, Title VII of the CARES Act OIP funds may be used and tribes must maintain proper documentation.
40. Purchase of mobile storage unit for PPE and cleaning supplies;
  - a. Yes, purchase of mobile storage unit(s) for PPE and cleaning supplies may be an appropriate use of Div. B, Title VII of the CARES Act OIP funds.
41. Purchase of a quarantine building;
  - a. No, the purchase of a building for quarantine is not an appropriate use of Div. B, Title VII of the CARES Act OIP funding. However, temporary lease of a building or a temporary structure to quarantine individuals with COVID-19 or who have been exposed to COVID-19 may be an appropriate use of Div. B, Title VII of the CARES Act OIP funding.
42. Payment for hotel/B&B stay for tribal members who are quarantined and cannot return home? Can this also include per diem?
  - a. Yes, funds may be used for these purposes if there is a written tribal policy in place that satisfies the requirements of the Div. B, Title VII of the CARES Act.
43. Use funds to bid for airport - for medevac program since the tribe runs the clinic;
  - a. No, Div. B, Title VII of the CARES Act OIP funding may not be used to bid for an airport.
44. Washer and dryer purchases for households since the city owned laundry mat is unreliable;
  - a. No, Div. B, Title VII of the CARES Act OIP funding may not be used to purchase washers and dryers for households.
45. Purchase of furnaces for houses without permanent heat;

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- a. No, Div. B, Title VII of the CARES Act OIP funding may not be used to purchase furnaces for homes without permanent heat.
46. Replacement windows;
- a. No, Div. B, Title VII of the CARES Act OIP funding may not be used to purchase replacement windows.

## Other FAQs

47. Q: The regulations for the Div. B, Title VII of the CARES Act funding is specific, can you give me some ideas or is there a document that is more specific as to what is allowable?
- a. There needs to be a rationale and documentation of expenses and how they relate to the COVID-19 crisis. Funding appropriated to BIA Operation of Indian Programs under Division B, Title VII of the CARES Act must be used to prevent, prepare for, and respond to coronavirus, domestically or internationally, including, but not limited to, funds for public safety and justice programs, executive direction to carry out deep cleaning of facilities, purchase of personal protective equipment, purchase of information technology to improve teleworking capability, welfare assistance and social services programs (including assistance to individuals), and assistance to tribal governments, including tribal governments who participate in the “Small and Needy” program.
48. Q: What is the period the tribes may code expenses to? I have heard back to January 1, 2020 and I have heard March 1, 2020.
- a. Div. B, Title VII of the CARES Act OIP may cover costs for purposes to prevent, prepare for, and respond to coronavirus prior to the date the CARES Act was enacted. Please note this is different from the eligible period for other provisions in the CARES Act, including the Coronavirus Relief Fund which tribes received payment from the Treasury Department.
49. Q: Can tribes allocate funds for food security to help in the effort to harvest and distribute when a food emergency is declared?

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- a. Yes, the costs for harvesting and distributing food may be an appropriate use of Div. B, Title VII of the CARES Act OIP funding. Tribes should consider establishing a written protocol that satisfies the requirements of Div. B, Title VII of the CARES Act.
50. Q: Can tribes' use the COVID-19 funding to help buy supplies for subsistence needs? There are signs that the food chain has been impacted (i.e. meat processing plants has been shut down or down sized).
- a. Yes, purchase of supplies for subsistence and food pantry needs may be an appropriate use of Div. B, Title VII of the CARES Act OIP funding. Tribes, for audit purposes, should consider establishing a written protocol that satisfies the requirements of the Div. B, Title VII of the CARES Act.
51. Q: Will unspent Div. B, Title VII of the CARES Act funding be required to be returned to Indian Affairs?
- a. No, once Div. B, Title VII CARES Act funds are obligated to an ISDEAA agreement, they are available until expended. See Question 60.
52. Q: Can Div. B, Title VII of the CARES Act funding be carried over into Fiscal Year 2021?
- a. Yes, this funding is available for use by the Federal entity through September 30, 2021. The last day for Indian Affairs to obligate Div. B, Title VII of the CARES Act funding is September 30, 2021, pursuant to the law. The impacts of COVID-19 and the expenses related to recovery will continue well beyond the initial emergent state and funding obligated to a tribal contract or compact is available until expended.
53. Q: What restrictions (if any) exist requiring Div. B, Title VII of the CARES Act OIP Funds to be accounted for separately from regular BIA OIP programs? In simpler terms, may the Div. B, Title VII of the CARES Act OIP and "regular," OIP be commingled?
- a. No, there must be a segregation of funds. There must be separate accounts set up for audit purposes and separate tracking of expenditures. In addition, each appropriation has different purposes and authorizations that must be adhered to.
54. Q: Will CSC funds be added to Div. B, Title VII of the CARES Act program payments?

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- a. Yes, once the fiscal year ends, the process currently being utilized by the Bureau of Indian Affairs (BIA) will continue to be followed to obtain information on the unmet needs of CSC for the Div. B, Title VII of the CARES Act funding of BIA programs. This will be separate and apart from the CSC reported unmet needs for annual direct appropriated funds for BIA programs.
55. Q: What is the process to receive indirect for this amount?
- a. Once the fiscal year ends, the process currently being utilized by the Bureau of Indian Affairs (BIA) will continue to be followed to obtain information on the unmet needs of CSC for the Div. B, Title VII of the CARES Act funding of BIA direct appropriated programs. In short, BIA Regions, BIA Office of Indian Services (on behalf of 477 Tribes), and OSG will work with the tribes in their administrative area to develop a report of CSC unmet needs based on COVID-19 specific funding provided. BIA will then seek funding from the U.S. Treasury Department for past year unmet CSC needs. This is the same process that has been in effect and followed for a couple of years now.
56. Q: Should we use the Catalog of Federal Domestic Assistance (CFDA) as indicated?
- a. Yes
57. Q: How are Tribes to account for the Div. B, Title VII of the CARES Act program spending in our Schedule of Expenditures of Federal Awards (SEFA) when preparing our Fiscal Year 2020 audit report? Meaning, what Catalog of Federal Domestic Assistance (CFDA) number applies - 15.022 Tribal Self Governance or something else?
- a. No new CFDA codes were created for the Div. B, Title VII CARES Act funding. Self-Governance remains 15.022.
58. Q: Since these funds were put into the Self Determination contract, can the tribe ask to extend the Period of Performance if there is still the on-going COVID-19 threat after September 30, 2021.
- a. Yes, but funds must still be used solely to prepare for, prevent, or respond to coronavirus.

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59. Q: Will the Div. B, Title VII of the CARES Act funding received by tribes count towards the annual \$750,000 threshold that would require a Single Audit in accordance with 2 CFR § 200.501(b)?

- a. Yes, Div. B, Title VII of the CARES Act OIP funding is considered to be federal financial assistance subject to the Single Audit Act and will count toward the threshold of the Single Audit Act.

60. Q: When do tribes have to SPEND the money by?

- a. The impacts of COVID-19 and the expenses related to recovery will continue well beyond the initial emergent state. The last day for Indian Affairs to obligate Div. B, Title VII CARES Act funding is September 30, 2021. However, funding obligated under ISDEAA agreements are available until expended.