

# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



January 10, 2022

## TRANSMITTAL

TO : Elizabeth Begay, Acting Controller  
Navajo Nation Office of the Controller (NN OOC)

FROM : CMS  
Cordell Shortey, Contracting Officer  
Contracts and Grants Section / OMB

SUBJECT : Hardship Assistance - Fiscal Recovery Funds (FRF)

### I. Information on Contract (per Original Award):

Hardship Assistance - FRF		U.S. Treasury American Recovery Plan Act (ARPA)		21.019
Title of Contract		Funding Agency		CFDA No. - Federal
CD-62-21	\$ 557,000,000.00	2022	03/11/2021 to 12/31/2026	
Grant No.	Amount	Fiscal Year	Term - Begin and End Date	

### II. Data Entered in FMIS Regarding:

☒ New Contract or Grant Company No. 8059 Business Unit (K#) K211522  
☐ Contract Mod No. \_\_\_\_\_  
☐ Amt of Award \_\_\_\_\_ to \_\_\_\_\_  
AMOUNT FROM TO  
☐ Budget Period - Extend End Date: From \_\_\_\_\_ To \_\_\_\_\_  
☐ Other, specify: \_\_\_\_\_

### Authorizing Document - Attached:

☐ Contract / Agreement - Date executed \_\_\_\_\_  
☐ NNC / Committee Resolution - No. & Date \_\_\_\_\_  
☒ Other, specify: NN Council Resolution CD-62-21

### III. Comments by CGS:

Budget received on January 6, 2022 is authorized for implementation pursuant to FY 2022 NN BIM Appendix L Section II.B.

Attachment

Copy: Contract files  
Contract Accounting / OOC / DPM  
Tom Platero, Interim E.D. - NN FRF Office

Revised April 2018



Office of Management and Budget ♦ Post Office Box 646 ♦ Window Rock, AZ 86515  
(928) 871-6470 Telephone ♦ (928) 871-6567 Facsimile

FY 22

**THE NAVAJO NATION  
PROGRAM BUDGET SUMMARY**

Page 1 of 3  
BUDGET FORM 1

<b>PART I. Business Unit No.:</b> <u>K - [New]</u>		<b>Program Title:</b> <u>ARPA Hardship Assistance</u>		<b>Division/Branch:</b> <u>Executive Branch</u>	
<b>Prepared By:</b> <u>Elizabeth Begay</u>		<b>Phone No.:</b> <u>(928) 871-6308</u>		<b>Email Address:</b> _____	

PART II. FUNDING SOURCE(S)	Fiscal Year /Term	Amount	% of Total	PART III. BUDGET SUMMARY	Fund Type Code	(A) NNC Approved Original Budget	(B) Proposed Budget	(C) Difference or Total
NN Fiscal Recovery Funds		557,000,000.00	100%					
				2001 Personnel Expenses				
				3000 Travel Expenses				
				3500 Meeting Expenses				
				4000 Supplies				
				5000 Lease and Rental				
				5500 Communications and Utilities				
				6000 Repairs and Maintenance				
				6500 Contractual Services				
				7000 Special Transactions				
				8000 Public Assistance			557,000,000	
				9000 Capital Outlay				
				9500 Matching Funds				
				9500 Indirect Cost				
				<b>TOTAL</b>		\$0.00	557,000,000	0

<b>PART IV. POSITIONS AND VEHICLES</b>		(D)	(E)
Total # of Positions Budgeted:			
Total # of Vehicles Budgeted:			

<b>PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE.</b>	
<b>SUBMITTED BY:</b> <u>Elizabeth Begay</u> <div align="center"> <u>Program Manager's Printed Name</u>    <u>Program Manager's Signature and Date</u> <u>1/6/22</u> </div>	<b>APPROVED BY:</b> <u>Paulson Chaco</u> <div align="center"> <u>Division Director / Branch Chief's Printed Name</u>    <u>Division Director / Branch Chief's Signature and Date</u> </div>

FY 22

**THE NAVAJO NATION  
PROGRAM PERFORMANCE CRITERIA**

Page 2 of 2  
BUDGET FORM 2

**PART I. PROGRAM INFORMATION:**Business Unit No.: K - [New]Program Name/Title: ARPA Hardship Assist**PART II. PLAN OF OPERATION/RESOLUTION NUMBER/PURPOSE OF PROGRAM:****PART III. PROGRAM PERFORMANCE CRITERIA:**

1st QTR		2nd QTR		3rd QTR		4th QTR	
Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual

**1. Goal Statement:**Provide Hardship assistance to Navajo negatively impacted by COVID-19**Program Performance Measure/Objective:**Issue checks to 345,000 Navajos

		170,000		175,000			
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**2. Goal Statement:****Program Performance Measure/Objective:**

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**3. Goal Statement:****Program Performance Measure/Objective:**


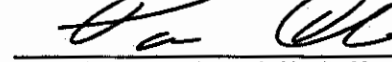
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**4. Goal Statement:****Program Performance Measure/Objective:**

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**5. Goal Statement:****Program Performance Measure/Objective:**


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**PART IV. I HEREBY ACKNOWLEDGE THAT THE ABOVE INFORMATION HAS BEEN THOROUGHLY REVIEWED.**Elizabeth Begay**Program Manager's Printed Name** 1/6/22**Program Manager's Signature and Date**Paulson Chaco**Division Director/Branch Chief's Printed Name****Division Director/Branch Chief's Signature and Date**1/6/22

FY 22

THE NAVAJO NATION  
DETAILED BUDGET AND JUSTIFICATIONPage 3 of 3  
BUDGET FORM 4

PART I. PROGRAM INFORMATION:			
Program Name/Title: <u>ARPA Hardship Assistance</u>		Business Unit No.: <u>K - [New]</u>	
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
8000 Assistance			557,000,000
8020 Social			
8095 Other Public Assistance		557,000,000	
TOTAL		557,000,000	557,000,000

 1/6/22

# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



January 4, 2022

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

RE: CD-62-21, *Relating to an Emergency and the Navajo Nation Council; Allocating \$557,000,000 of Navajo Nation Fiscal Recovery Funds; Approving the Navajo Nation Fiscal Recovery Fund Hardship Assistance Expenditure Plan; Waiving Certain Provisions of Navajo Nation Council Resolution CJY-41-21 and Budget and Finance Committee Resolution BFS-31-21*

Dear Speaker Damon,

We recognize the needs of our People and know what a struggle it has been for all of us during this pandemic. We also recognize that there are many of our People who live off the Navajo Nation who are also struggling; the college students who are working to finish their education, the health care workers who help our People in urban areas, and the many others who find the way to support their families both off and on the Nation. Early in our Administration we made a commitment to help all Navajo members regardless of where they call home. We take another step in helping others.

While there may be questions on the process of supporting our People, the primary concern for us is to ensure our elders, parents, and children can protect themselves from the coronavirus and its many changing forms which may be with us for years to come. We started this campaign against the coronavirus with strict directions to help protect us and the Navajo People have stayed true to that campaign. It is now the responsibility of each of us to help each other, protect our elders, and care for our young ones. This campaign continues and we can do this with the support of our family, our relatives, and our loved ones.

With the action in CD-62-21 we take this first step in the New Year to allocate much needed assistance to our People. We sign CD-62-21 into law. We keep all our People in our thoughts and prayers to keep all safe and protected from harm. God bless the Navajo Nation.

Sincerely,

  
Jonathan Nez, President  
THE NAVAJO NATION

  
Myron Lizer, Vice President  
THE NAVAJO NATION

RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
24<sup>th</sup> NAVAJO NATION COUNCIL - THIRD YEAR, 2021

AN ACTION

RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; ALLOCATING \$557,000,000 OF NAVAJO NATION FISCAL RECOVERY FUNDS; APPROVING THE NAVAJO NATION FISCAL RECOVERY FUND HARDSHIP ASSISTANCE EXPENDITURE PLAN; WAIVING CERTAIN PROVISIONS OF NAVAJO NATION COUNCIL RESOLUTION CJY-41-21 AND BUDGET AND FINANCE COMMITTEE RESOLUTION BFS-31-21

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. Navajo Nation Council Resolution No. CJY-41-21, attached as **Exhibit A**, mandates that Navajo Nation Fiscal Recovery Fund ("NNFRF") Expenditure Plans be duly adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- C. The Navajo Nation Code provides that "[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council. 2 N.N.C. § 164(A)(16).

SECTION TWO. FINDINGS

- A. The World Health Organization ("WHO") declared a Public Health Emergency of International Concern related to the 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. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared a Public Health State of Emergency on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. See Resolution No. CEM 20-03-11, incorporated herein by reference. The Navajo Nation Department of Health has subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2021-020 are incorporated herein by reference. These Public Health Emergency Orders are available at [www.ndoh.navajo-nsn.gov](http://www.ndoh.navajo-nsn.gov).
- C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life throughout the world, the United States, and the Navajo Nation. As of December 16, 2021, the Navajo Nation Health Command Operations Center has confirmed 40,659 COVID-19 cases and 1,570 COVID-related deaths on the Navajo Nation. COVID-19 variants have recently emerged that threaten to increase these numbers and continue the pandemic's assault on the Navajo People.
- D. The devastating effects of COVID-19 continue throughout the Navajo Nation and extend beyond the health and life devastation to wide scale negative financial effects, such as employment losses, business closures, food and housing insecurity, and other economic disruptions.
- E. In response to the pandemic, on March 11, 2021, United States President Joseph Biden signed the American Rescue Plan Act ("ARPA") into law. Section 9901 of ARPA amended Title VI of the Social Security Act to add section 602, which established the Coronavirus State Fiscal Recovery Fund, and section 603, which established the Coronavirus Local Fiscal Recovery Fund (together the "Fiscal Recovery Funds" or "FRF") and provided \$362 billion for state, local, and tribal governments, including \$20 billion specifically designated for tribal governments.
- F. As of November 1, 2021, the United States Department of Treasury has allocated two billion seventy-nine million four hundred sixty-one thousand four hundred sixty-four dollars (\$2,079,461,464) to the Navajo Nation under the Fiscal Recovery Funds provisions of ARPA. The Fiscal Recovery Funds are designed to build on and expand the relief provided in the 2020 Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281 (2020), and are intended to mitigate and contain the spread of COVID-19, as well as to respond to the health, social and economic impacts of COVID-19 suffered by residents and businesses.

G. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds are specifically intended to:

1. Respond to the COVID-19 public health emergency and its negative economic impacts, including assistance to households, small businesses, and non-profits; and/or aid to impacted industries such as tourism, travel, and hospitality;
2. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
3. Provide government services to the extent of the reduction in Navajo Nation revenue due to the COVID-19 public health emergency, relative to revenues collected in the most recent full fiscal year prior to the COVID-19 public health emergency; and
4. Make necessary investments in water, sewer, and/or broadband infrastructure.

H. The U.S. Department of Treasury has issued guidance requiring that the use and expenditure of Fiscal Recovery Funds must fall under one of the four categories above and that funding recipients must report each expenditure under one of the sixty-six (66) "Expenditure Eligibility Categories" set forth in Appendix 1 to the U.S. Department of Treasury's Compliance and Reporting Guidance for State and Local Fiscal Recovery Funds, attached herein as **Exhibit B**.

I. Pursuant to ARPA:

1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the Navajo Nation must obligate FRF funds by that date. Treasury's Interim Final Rule provides that "incurred" shall have the same meaning given to "financial obligation" under the Uniform Guidance at 2 CFR 200.1: "*Financial obligations*, when referencing a recipient's or sub-recipient's use of funds under a Federal award, means orders placed for property and services, contracts and sub-awards made, and similar transactions that require payment."; and
2. The Fiscal Recovery Fund period of performance runs from March 3, 2021 until December 31, 2026, meaning that all FRF-funded projects must be completed and funds must be fully



expended by December 31, 2026.

3. Costs incurred by the Navajo Nation prior to March 3, 2021 are not eligible.
  4. Any funds not obligated or expended for eligible uses by the dates above in sections I (1) and (2) must be returned to Treasury, including any unobligated or unexpended funds that have been provided to sub-recipients and contractors as part of the award closeout process.
- J. While its acceptance of Fiscal Recovery Funds obligates the Navajo Nation to comply with ARPA and other federal laws and regulations, the Navajo Nation can and will fulfill these obligations while retaining and exercising its sovereignty in allocating and disbursing Fiscal Recovery Funds.
- K. On July 23, 2021, the Navajo Nation Council adopted Resolution No. CJY-41-21, attached as **Exhibit A**, establishing the Navajo Nation Fiscal Recovery Fund ("NNFRF") into which the Navajo Nation's allocation of \$2,079,461,464 has been deposited. CJY-41-21 also adopted an expenditure authorization and approval process for the allocation of funds from the NNFRF.
- L. In Section Four of CJY-41-21, the Navajo Nation Council mandated the Budget and Finance Committee to adopt application and review procedures, as well as an expenditure plan template, to be used by entities requesting Navajo Nation Fiscal Recovery Funds. The Budget and Finance Committee approved Resolution No. BFS-31-21 which established mandatory Navajo Nation Fiscal Recovery Fund application procedures, forms, and an expenditure plan template. BFS-31-21 is incorporated herein by reference.
- M. To ensure the Navajo Nation's compliance with ARPA, Section Four of CJY-41-21 also directed the Navajo Nation Department of Justice ("DOJ") to perform "an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws, regulations, and policies and procedures." Resolution No. BFS-31-21 incorporated DOJ's initial determination into the mandatory NNFRF application procedures, forms, and an expenditure plan template, which requires, among other things, identification of the entity with administrative oversight over the Funding Recipient. Administrative oversight means having the authority to monitor the implementation of an approved FRF Expenditure Plan and the expenditure of awarded funds. The duties of the entity with

administrative oversight are set forth in Section Seven of the FRF Procedures in exhibits 1 through 5 of BFS-31-21.

- N. The Office of the President and Vice-President, in coordination with the Division of Community Development ("DCD"), presented ARPA and Fiscal Recovery Fund information at each of the five (5) Agency Council Meetings to hear from the Navajo People, through their elected officials, concerning their needs and priorities for projects and/or services funded through the NNFRF. In addition, DCD has met with Navajo Nation Chapters, individually and collectively, on more than fifty (50) occasions to discuss NNFRF matters.
- O. The Navajo Nation Council hosted twenty-six (26) Naabik'iyáti' Committee Work Sessions, all open to the public, to discuss the needs of the Navajo People and priorities for projects and/or services funded through the Navajo Nation Fiscal Recovery Fund. In addition, Standing Committees of the Navajo Nation Council held more than twenty (20) committee meetings, all open to the public, that have included NNFRF reports and infrastructure specific discussions.
- P. The financial devastation visited on the Navajo People by the COVID-19 pandemic has risen to emergency levels, particularly with winter weather looming, and the Navajo Nation Council has determined that it is vital that the Navajo People be provided immediate financial assistance.
- Q. It is in the best interest of the Navajo People to enact the NNFRF Hardship Assistance Expenditure Plan in the total amount of five hundred fifty-seven million dollars (\$557,000,000), as set forth in **Exhibit C**, as an emergency legislation to counteract limited access to direct services necessary to recover from the devastation caused by the COVID-19 pandemic and mitigate exposure to future variants.

### **SECTION THREE. APPROVAL OF NAVAJO NATION FISCAL RECOVERY FUND HARDSHIP ASSISTANCE EXPENDITURE PLAN**

- A. The Navajo Nation hereby approves and adopts the Navajo Nation Fiscal Recovery Fund Hardship Assistance Expenditure Plan set forth in **Exhibit C**.
- B. The Navajo Nation hereby approves total funding for the NNFRF Hardship Assistance Expenditure Plan from the Navajo Nation Fiscal Recovery Fund in the total amount of five hundred fifty-seven million dollars (\$557,000,000) and allocates the funding as follows:

1. Five hundred fifty-seven million dollars (\$557,000,000) to the Office of the Controller for Household Assistance - Cash Transfers (Expenditure Eligibility Category 2.3), as set forth in **Exhibit C**, with administrative oversight by the Office of the President and Vice-President and legislative oversight by the Budget and Finance Committee.

#### **SECTION FOUR. ADMINISTRATION OF HARDSHIP ASSISTANCE EXPENDITURE PLAN**

- A. All entities receiving Navajo Nation Fiscal Recovery Funds, whether through an immediate allocation under CJY-41-21 or subsequently approved NNFRF Expenditure Plan, shall comply with all Navajo Nation laws, policies, regulations, rules, and procedures, specifically including, but not limited to, those governing the NNFRF and the expenditure of such funds, and any additional terms set forth in a grant, sub-recipient, or similar agreement.
- B. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning that the Navajo Nation must obligate FRF funds by that date. For internal Navajo Nation purposes, the term "obligated" is defined in BFS-31-21, Section Three on page 3 of Exhibits 1 through 5.
- C. Projects and/or services funded with Navajo Nation Fiscal Recovery Funds must be completed and all NNFRF funds fully spent by December 31, 2026.
- D. Navajo Nation Fiscal Recovery Fund Expenditure Plan funds shall be available for use by a funding recipient that is a branch, division, department, or other unit of the Navajo Nation central government as soon as a detailed budget has been administratively approved and the Office of Management and Budget has entered such budget into the Financial Management Information System.
- E. Awarded Navajo Nation Fiscal Recovery Funds shall only be obligated and expended on projects and/or services, including need-based projects and services, that were included as an immediate allocation under CJY-41-21 or are included in a NNFRF Expenditure Plan approved and adopted by a Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).
- F. Awarded Navajo Nation Fiscal Recovery Funds, including cost savings, cannot be moved between Expenditure Plans without approval by a Navajo Nation Council resolution enacted pursuant

to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).

- G. All entities receiving Navajo Nation Fiscal Recovery Funds shall follow and apply Generally Accepted Accounting Principles (GAAP), as established by the Governmental Accounting Standards Board (GASB) for governmental entities and by the Financial Accounting Standards Board (FASB) for public and private companies and non-profits, in reporting, recording, and accounting for such Funds.
- H. Fraud, misuse of funds, violation of applicable Navajo Nation or federal laws and regulations, non-compliance with FRF agreements governing grants or sub-awards, and false statements or claims by any individual or entity receiving or administering Navajo Nation Fiscal Recovery Funds may result in administrative, civil, or criminal sanctions and penalties, debarment and suspension, ineligibility for future Navajo Nation awards or business opportunities, and the Navajo Nation may pursue any other legal action or remedy available by law.

**SECTION FIVE. WAIVING PROVISIONS OF RESOLUTIONS CJY-41-21 AND BFS-31-21**

- A. For the purposes of the NNFRF Hardship Assistance Expenditure Plan only, the Navajo Nation Council hereby waives Section Four (B) of CJY-41-21 which states "The NNDOJ shall do an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws, regulations, and policies and procedures."
- B. For the purposes of the NNFRF Hardship Assistance Expenditure Plan only, the Navajo Nation Council further waives the first sentence of Section Four (H) of CJY-41-21 which states that "Until the third quarter of 2024, NNFRF Expenditure Plans for direct financial assistance to enrolled Navajo Nation members, not including business economic relief or similar programs, shall be limited to ten percent (10%) of the total Fiscal Recovery Funds received by the Navajo Nation."
- C. For the purposes of the NNFRF Hardship Assistance Expenditure Plan only, the Navajo Nation Council also waives any and all provisions in BFS-31-21, including its exhibits and appendices, that require NNDOJ to do an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA

and applicable Navajo Nation laws, regulations, and policies and procedures."

- D. All Navajo Nation Fiscal Recovery Funds that have not been allocated to a NNFRF Expenditure Plan through a Navajo Nation Council resolution enacted pursuant to CJY-41-21 by the end of the second quarter of Fiscal Year 2024 may be re-allocated to the NNFRF Hardship Assistance Expenditure Plan through Navajo Nation Council resolution enacted pursuant to 2 N.N.C. § 164 (A) (17) and 2 N.N.C. §§ 1005(C) (10), (11), and (12).
- E. The allocation of unallocated NNFRF funds to the NNFRF Hardship Assistance Expenditure Plan shall require a separate or revised expenditure plan be submitted to the Navajo Nation Department of Justice for an eligibility determination.

#### **SECTION SIX. REPORTING**

- A. All entities receiving Navajo Nation Fiscal Recovery Funds shall keep and maintain accurate and complete financial data and records sufficient to demonstrate that the Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have been used by the reporting entity in accordance with the provisions of ARPA and timely relay such reports and records to the administrative oversight, Office of Controller, Office of Management and Budget, FRF Office, and legislative oversight as directed in the grant or sub-recipient agreements if any, and when requested. Such reports and records shall be maintained for at least seven (7) years after the project and/or service has been completed. The Office of the Controller shall be responsible for compiling and providing any and all records and financial reports required by the U.S. Treasury.
- B. All entities receiving Navajo Nation Fiscal Recovery Funds through an approved Expenditure Plan shall report the status of their NNFRF allocations to their respective oversight committees at the end of each Fiscal Year quarter. The entity with administrative oversight over the Expenditure Plan shall review the quarterly report prior to its presentation and shall participate in the presentation to the oversight committee(s).
- C. The Office of the Controller, with the assistance of the Executive Director of the NNFRF Office, shall report the status of the NNFRF Hardship Assistance Expenditure Plan to the Budget and Finance and Naabik'iyáti' Committees at the end of each Fiscal Year quarter.

**SECTION SEVEN. EFFECTIVE DATE**

This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).

**SECTION EIGHT. AMENDMENTS**

Amendments to this legislation shall only be adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approval of the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A)(17) and 2 N.N.C. §§ 1005(C)(10), (11), and (12).

**SECTION NINE. SAVINGS CLAUSE**

If any provision of this legislation is determined invalid by the Navajo Nation Supreme Court, or by a Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, those provisions of this legislation not determined invalid shall remain the law of the Navajo Nation.

**SECTION TEN. DIRECTIVES**

All Navajo Nation government programs, offices, and divisions, as well as Navajo Nation owned entities, specifically including those programs, offices, divisions, and Navajo Nation owned entities receiving Navajo Nation Fiscal Recovery Funds, shall prioritize the implementation and completion of NNFRF projects and/or services.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> 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 18 in Favor, and 02 Opposed, on this 29<sup>th</sup> day of December 2021.



Honorable Eugenia Charles-Newton, Speaker Pro Tem  
24<sup>th</sup> Navajo Nation Council

01/03/2022

DATE

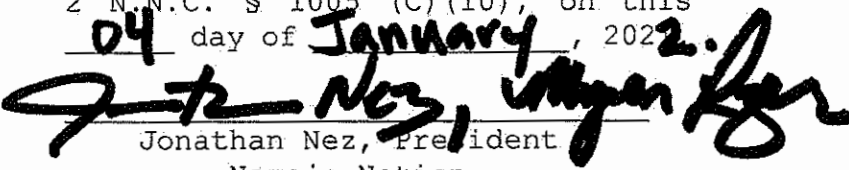
Motion: Honorable Daniel E. Tso

Second: Honorable Paul Begay

Speaker Pro Tem Eugenia Charles-Newton 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 04 day of January, 2022.

  
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 \_\_\_\_\_, 2021 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 budget line-item vetoe authority delegated to the President by vote of the Navajo People in 2009, on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation



# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



August 2, 2021

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

*RE: CJY-41-21, An Action Relating to Budget and Finance and Naabik'iyáti' Committees, and Navajo Nation Council; Establishing the Navajo Nation Fiscal Recovery Fund and the Expenditure Authorization Process Thereunder; Waiving Certain Provisions of the Navajo Nation Appropriations Act; Amending 12 N.N.C. § 334 to Authorize Emergency Procurements; Authorizing Reimbursement of the Síhasin Fund and Undesignated Unreserved Fund Balance; Authorizing Central Support and Regulatory Cost Funding; Authorizing Funding to Complete Defunded Navajo Nation CARES Fund Expenditure Plans; Authorizing the Establishment of a Navajo Nation Fiscal Recovery Fund Office Within the Office of the President and Vice-President*

Dear Speaker Damon,

After decades of struggling with an unfinished infrastructure, a sagging economy, and an inadequate education system, the Navajo Nation is on the doorstep of changing our future for our elders, our children, and our families. Over the past year we had the financial means to respond to the coronavirus and improve the lives of our constituents; we laid the foundation for the Nation. This year, we again have the opportunity to build on what we started – water lines and wastewater systems for communities, powerlines to family homes, and an internet network to help our students, to name a few. Working together we can take a giant leap forward in giving the People the protective measures they need to continue fighting against the coronavirus and its variants.

Thank you to Delegate Carl Slater for his tenacious effort in bringing this resolution through the process. Thank you Speaker for your support and we appreciate the support of the 24<sup>th</sup> Navajo Nation Council. There is much to do over the next few years and we look forward to working with the Navajo Nation Council. We sign CJY-41-21 into law.

Sincerely,

  
Jonathan Nez, President  
THE NAVAJO NATION

  
Myron Lizer, Vice President  
THE NAVAJO NATION

RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
24<sup>th</sup> NAVAJO NATION COUNCIL - THIRD YEAR, 2021

AN ACTION

RELATING TO BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES, AND THE NAVAJO NATION COUNCIL; ESTABLISHING THE NAVAJO NATION FISCAL RECOVERY FUND AND THE EXPENDITURE AUTHORIZATION PROCESS THEREUNDER; WAIVING CERTAIN PROVISIONS OF THE NAVAJO NATION APPROPRIATIONS ACT; AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY PROCUREMENTS; AUTHORIZING REIMBURSEMENT OF THE SÍHASIN FUND AND UNDESIGNATED, UNRESERVED FUND BALANCE; AUTHORIZING CENTRAL SUPPORT AND REGULATORY COST FUNDING; AUTHORIZING FUNDING TO COMPLETE DEFUNDED NAVAJO NATION CARES FUND EXPENDITURE PLANS; AUTHORIZING THE ESTABLISHMENT OF A NAVAJO NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

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 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. The Navajo Nation Commission on Emergency Management, with the concurrence of Navajo Nation President Jonathan Nez, declared

a Public Health State of Emergency on the Navajo Nation on March 11, 2020, due to the COVID-19 outbreak. See Resolution No. CEM 20-03-11 incorporated herein by reference. The Navajo Nation Department of Health has subsequently issued numerous Public Health Emergency Orders. Public Health Orders 2020-001 through 2021-014 are incorporated by reference. These Public Health Emergency Orders are available at [www.ndoh.navajo-nsn.gov](http://www.ndoh.navajo-nsn.gov).

- C. The coronavirus pandemic of 2019 has caused large scale infections and loss of life throughout the world, the United States and the Navajo Nation. As of July 7, 2021, the Navajo Nation Health Command Operations Center has confirmed 31,043 COVID-19 cases and 1,374 COVID-related deaths on the Navajo Nation. COVID-19 variants have emerged that threaten to increase these numbers and continue the pandemic's assault on the Navajo People.
- D. The devastating effects of COVID-19 continue throughout the Navajo Nation, including employment losses, business closures, food and housing insecurity, and other economic disruptions.
- E. On March 11, 2021, President Biden signed the American Rescue Plan Act ("ARPA") into law. Section 9901 of ARPA established the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (together the "Fiscal Recovery Funds") by amending Title VI of the Social Security Act, which provided \$362 billion for state, local, and tribal governments, including \$20 billion designated for tribal governments.
- F. As of May 29, 2021, the United States Department of Treasury ("U.S. Treasury") allocated \$1,861,554,458.43 to the Navajo Nation under the Fiscal Recovery Funds provisions of ARPA. The Fiscal Recovery Funds are designed to build on and expand the relief provided in the Coronavirus Aid, Relief, and Economic Security Act or CARES Act.
- G. The Fiscal Recovery Funds are intended to support governmental efforts to mitigate and contain the spread of COVID-19, as well as to respond to the health, social and economic impacts of COVID-19 suffered by residents and businesses.
- H. As set forth in Central Agency Council Resolution No. CAC 07/21-11, attached as Exhibit A, the Central Agency Council of the Navajo Nation supports the establishment of a Navajo Nation Fiscal Recovery Fund and the expenditure authorization process set forth herein.

I. Pursuant to Section 9901 of ARPA, the Fiscal Recovery Funds were specifically intended to:

1. Respond to the COVID-19 public health emergency and its negative economic impacts, including assistance to households, small businesses, and non-profits; and/or aid to impacted industries such as tourism, travel, and hospitality;
2. Respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the tribal government. Under this category, the Navajo Nation can provide premium pay to government workers performing essential work, and can provide grants to eligible employers that have eligible workers who perform essential work;
3. Provide government services to the extent of the reduction in Navajo Nation revenue due to the COVID-19 public health emergency, relative to revenues collected in the most recent full fiscal year prior to the emergency; and
4. Make necessary investments in water, sewer, or broadband infrastructure.

J. Pursuant to ARPA:

1. Fiscal Recovery Fund costs must be incurred by December 31, 2024, meaning the Navajo Nation must obligate funds by that date; and
2. The Fiscal Recovery Fund period of performance runs until December 31, 2026, meaning funded projects must be completed by that date.

K. While its acceptance of the Fiscal Recovery Funds obligates the Navajo Nation to comply with ARPA and other federal laws and regulations, the Navajo Nation can and will fulfill these obligations while retaining and exercising its tribal sovereignty.

### SECTION THREE. ESTABLISHMENT OF THE NAVAJO NATION FISCAL RECOVERY FUND

- A. There is hereby established the "Navajo Nation Fiscal Recovery Fund" ("NNFRF").
- B. The Navajo Nation hereby designates that the \$1,861,554,458.43 received by the Navajo Nation as of May 29, 2021 from the U.S.

Treasury under the Fiscal Recovery Funds provisions of ARPA, as well as any additional funds that the Navajo Nation may later receive from the United States under the Fiscal Recovery Funds provisions, shall be deposited into the NNFRF.

- C. The purpose of the NNFRF is to serve as a depository into which all Fiscal Recovery Funds and investment earnings therein are deposited, and from which the Navajo Nation shall disburse funds for approved Expenditure Plans which comply with the criteria set forth in the Fiscal Recovery Funds provisions of ARPA.
- D. The Fiscal Recovery Funds allocated to the Navajo Nation are limited emergency funds provided by the federal government and are not subject to the annual set-aside provisions set forth in the Navajo Nation Code.
- E. The Navajo Nation Office of the Controller ("OOC"), acting upon the recommendation of the Navajo Nation Investment Committee, shall oversee investment of the NNFRF in accordance with ARPA and Fiscal Recovery Funds requirements, U.S. Treasury regulations and guidance, and applicable Navajo Nation Investment Policies; investment earnings, when realized, shall be deposited into the NNFRF.
- F. Any funds deposited into the NNFRF shall only be used in compliance with ARPA and Fiscal Recovery Fund purposes and restrictions, U.S. Treasury guidance, applicable federal laws and regulations, Navajo Nation laws, regulations, and policies, and duly adopted procedures and agreements between the Navajo Nation and the federal government regarding the use of the Fiscal Recovery Funds.
- G. Except as set forth in Sections Five through Seven below, expenditures of the NNFRF shall only be authorized through Expenditure Plan(s) duly adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).
- H. OOC and all entities receiving NNFRF shall keep records sufficient to demonstrate that the Fiscal Recovery Funds appropriated by the U.S. Congress to the Navajo Nation have been used in accordance with the provisions of ARPA. The NNFRF shall be subject to an annual audit by the Navajo Nation's independent auditor. Either the Navajo Nation Council or the Navajo Nation President may require an audit at any time. The Controller shall be responsible for providing any and all records and financial reports required by the U.S. Treasury.

- I. Within thirty (30) days of the effective date of this legislation, OOC shall set up an online accountability platform on the NNOOC website that will enable the public to observe the financial transactions conducted with NNFRF funds. To the maximum extent possible and consistent with applicable Navajo Nation and federal laws pertaining to confidential or proprietary information and documents, all checks, electronic deposits, funds transfers, contracts and contract amendments, and other documents supporting NNFRF expenditures shall be displayed on the platform and made available for public view.

**SECTION FOUR. NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURE PLAN ELIGIBILITY DETERMINATIONS AND APPLICATION REQUIREMENTS**

- A. The Office of Management and Budget ("OMB"), in consultation with OOC and Navajo Nation Department of Justice ("NNDJOJ"), shall develop NNFRF application and review procedures, which shall include an NNFRF Expenditure Plan template, for adoption by the Budget and Finance Committee. OMB and OOC shall post the approved NNFRF application procedures, including an NNFRF Expenditure Plan template, and instructions on their respective websites.
- B. The NNDJOJ shall do an initial determination of whether a NNFRF funding request satisfies the legal requirements of the Fiscal Recovery Funds provisions of ARPA and applicable Navajo Nation laws, regulations, and policies and procedures.
- C. Navajo Nation Divisions and Offices, non-LGA-certified Chapters, LGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and external entities seeking NNFRF funds shall comply with the requirements set forth in this legislation and with the requirements set forth in the NNFRF application procedures adopted by resolution of the Budget and Finance Committee ("BFC").
- D. Each proposed NNFRF Expenditure Plan shall identify and designate a Responsible Entity who shall be held accountable for the compliance, implementation, monitoring, and accounting of the proposed projects, proposals, services and/or related assistance.
- E. Following NNFRF Expenditure Plan approval by the Navajo Nation Council and President, the Navajo Nation, with the assistance of NNDJOJ, shall enter into a binding agreement, such as a, grant or sub-recipient agreement, with each Responsible Entity, other than Navajo Nation divisions and offices and non-



LGA-certified chapters, to ensure that all Navajo Nation laws and regulations are followed and complied with at all times.

- F. NNFRF Expenditure Plans involving construction activities shall include a contingency reserve consistent with industry standards adequate to cover projected inflation-based cost increases. The contingency reserve shall only be released by OOC to the Responsible Entity upon receipt of documented justification for the cost increase. After Expenditure Plan completion, any unused contingency funds shall be returned to the NNFRF.
- G. The total funds allocated in an approved NNFRF Expenditure Plan for a non-Navajo Nation government program or office, including Navajo Nation-owned enterprises/authorities/corporations, may include an allocation for administrative costs at a rate not to exceed two percent (2%) of service or project cost to defray the costs of implementing, administering and monitoring said Expenditure Plan and its underlying services and projects.
- H. Until the third quarter of 2024, NNFRF Expenditure Plans for direct financial assistance to enrolled Navajo Nation members, not including business economic relief or similar programs, shall be limited to ten percent (10%) of the total Fiscal Recovery Funds received by the Navajo Nation. After the second quarter of 2024, unallocated or unexpended NNFRF funds can be allocated for direct financial assistance to enrolled members through resolution of the Navajo Nation Council and approval of the President pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C) (10), (11) and (12).

#### SECTION FIVE. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO REIMBURSE SÍHASIN FUND ALLOCATIONS AND UNRESERVED, UNDESIGNATED FUND BALANCE APPROPRIATIONS

OOC, in consultation with OMB, shall immediately reimburse the Síhasin Fund and Unreserved, Undesignated Fund Balance ("UUFB") from the NNFRF for any allocations or appropriations wherein the approving Navajo Nation Council resolution authorized such reimbursement and NNDOJ deems such reimbursement(s) legally defensible under the Fiscal Recovery Funds provisions of ARPA. OMB shall report the amount and status of such reimbursements to the Naabik'íyáti' Committee and the Office of President and Vice-President no later than sixty (60) days after the effective date of this legislation.

#### SECTION SIX. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO DEFUNDED NAVAJO NATION CARES FUND PROJECTS



The Navajo Nation hereby immediately allocates NNFRF funds to replace the Navajo Nation CARES Fund funds that were reallocated to the Navajo Nation Hardship Assistance Expenditure Plan pursuant to Navajo Nation Council Resolution No. CJY-67-20 and Naabik'iyáti' Committee Resolutions No. NABIO-49-20 and NABID-63-20, as well as any CARES Fund funding that was voluntarily returned to the Nation because the project approved by the Navajo Nation Council could not be completed by the federal CARES Act deadline(s). OMB, with the assistance of OOC, shall report the amount and status of such allocations to the Naabik'iyáti' Committee and the Office of President and Vice-President no later than sixty (60) days after the effective date of this legislation.

**SECTION SEVEN. IMMEDIATE ALLOCATION OF NAVAJO NATION FISCAL RECOVERY FUNDS TO FUND CENTRAL SUPPORT AND REGULATORY SERVICES**

- A. The Navajo Nation hereby immediately allocates ten percent (10%) of all Fiscal Recovery Funds received by the Navajo Nation to fund central support service and regulatory costs.
- B. The Office of the President and Vice-President shall be responsible for apportioning ninety percent (90%) of the ten percent (10%) amount amongst Executive Branch programs and offices providing central support and regulatory services, including, the Office of the President and Vice-President, Office of the Controller, Office of Management and Budget, Department of Justice, Navajo Nation Washington Office, Division of Human Resources, Division of Community Development, and other Divisions and offices providing central support and/or regulatory services.
- C. The Speaker of the Navajo Nation Council, after consultation with the Naabik'iyáti' Committee, shall be responsible for apportioning ten percent (10%) of the ten percent (10%) amount amongst Legislative Branch programs and offices providing central support services, including the Office of Legislative Services, Office of Legislative Counsel, Office of the Speaker, and Navajo Nation Council.
- D. The programs and offices receiving NNFRF for central support and/or regulatory services shall use such funding to develop the legal, financial, organizational, managerial, administrative, regulatory, and reporting framework necessary to support the expeditious completion of NNFRF funded projects and the provision of NNFRF funded services.
- E. The detailed budgets for the NNFRF funding allocated here for central support and regulatory services shall be processed through the executive or administrative review process

applicable to each Branch and shall not require further legislative action.

- F. Any central support and/or regulatory services funding unspent or unencumbered at the end of the second quarter of Fiscal Year 2024 shall be reallocated to the NNFRF and be available for allocation to other NNFRF projects and services.

**SECTION EIGHT. AUTHORIZING THE OFFICE OF THE CONTROLLER TO DISTRIBUTE FUNDS FROM THE NAVAJO NATION FISCAL RECOVERY FUND**

- A. After reimbursement of the Sihasin Fund and UUFb, allocations to the defunded Navajo Nation CARES Fund projects, and the release of the immediate disbursements provided for in this legislation, OOC shall only release and distribute NNFRF funds in conformance with duly adopted Expenditure Plans enacted by a two-thirds (2/3) vote of all members of the Navajo Nation Council and approved by the President of the Navajo Nation pursuant to 2 N.N.C. § 164(A) and 2 N.N.C. §§ 1005(C)(10), (11) and (12).
- B. Expenditure Plan funds shall not be released to LGA-certified Chapters, Navajo Nation-owned enterprises/authorities/corporations, non-profit corporations and/or external entities until a binding agreement, e.g., grant or sub-recipient agreement, has been executed between the Navajo Nation and the respective Responsible Entity.
- C. OOC shall be responsible for ensuring that withdrawals from all invested NNFRF funds are timed to balance Expenditure Plan needs with maximum investment earnings.
- D. OOC shall coordinate and collaborate with each Responsible Entity to ensure that all applicable Navajo Nation and federal financial, accounting, and reporting laws and regulations are adhered to and strictly followed.
- E. OOC and the respective Responsible Entity shall provide a written and oral report to the Naabik'iyáti' Committee and the Office of President and Vice-President on or about thirty (30) days after the end of each fiscal year quarter; such report will present an overview and status of all NNFRF funded projects, recommended modifications or adjustments to projects, and compliance challenges, if any.

**SECTION NINE. APPLICABILITY AND WAIVER OF NAVAJO NATION APPROPRIATIONS ACT PROVISIONS TO NAVAJO NATION FISCAL RECOVERY FUNDS**

- A. The NNFRF are externally restricted funds awarded to the Navajo Nation solely for the purposes set forth in the Fiscal Recovery Funds provisions of ARPA. Accordingly, only those provisions of the Appropriations Act, 12 N.N.C. § 800 *et seq.*, that are expressly applicable to externally restricted funds, and any future provisions in the Budget Instructions Manual(s) expressly applicable to NNFRF, as approved by the Budget and Finance Committee, shall apply to the NNFRF and all Expenditure Plan(s) funded thereunder.
- B. NNFRF shall not be a part of, and shall not be, included in the Navajo Nation Fiscal Year Comprehensive Budget and the Navajo Nation hereby waives the application of 12 N.N.C. § 820 [Overall Budget Policies], § 830 [Budget Planning and Preparation], § 840 [Budget Approval, Adoption and Certification], § 850 [Budget Implementation, Monitoring and Control], § 860 [Capital Improvement Process], and § 870 [Local Government Improvement Funds] to the NNFRF and all Expenditure Plan(s) funded thereunder.

SECTION TEN. AMENDING 12 N.N.C. § 334 TO AUTHORIZE EMERGENCY PROCUREMENTS FOR NAVAJO NATION FISCAL RECOVERY FUND EXPENDITURES

- A. Until such time as Navajo Nation procurement laws and regulations are amended to specifically support NNFRF procurements, the Navajo Nation hereby amends 12 N.N.C. § 334 as set forth below.

Title Twelve  
Fiscal Matters  
Chapter 3. Navajo Nation Procurement Act  
Subchapter 1. General Provisions

\*\*\*\*

§ 334. Emergency Procurement

- A. Notwithstanding any other provision of law, the Director, Division of Finance, Purchasing Department, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurement when there exists a threat to public health, welfare, or safety under emergency conditions as defined in regulations promulgated by the Budget and Finance Committee; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of emergency shall be made by the executive director of the affected division, in concert with the Director, Division of Finance, Purchasing Department or authorized designee, and a

representative of the Attorney General's Office (or the Office of Legislative Counsel for emergency procurements by the Legislative Branch). To the extent possible, certified entities under the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et seq., shall receive preference in emergency procurement. The written determination and the selection of the particular contractor shall be included in the contract file. No oversight committee approval shall be required for these contracts.

- B. Notwithstanding any other provision of law, procurements using Navajo Nation Fiscal Recovery Funds may be authorized and executed as Emergency Procurements at the discretion of the Procuring Party without further justification; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. To the extent possible, certified entities under the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 et seq., that are able to complete the good or service within the Fiscal Recovery Fund's strict deadlines shall receive preference in emergency procurement. No oversight committee approval shall be required for these contracts.

\*\*\*\*

- B. Until such time as the Budget and Finance Committee amends the Navajo Nation Procurement Rules and Regulations ("Procurement Regulations") adopted by BFD-192-03, procurements using NNFRF funds shall be deemed to satisfy the definition of EMERGENCY CONDITION set forth at Section VII (B) of the Procurement Regulations without further justification; and the written application and concurrence requirements set forth at Section VII (C) of the Procurement Regulations shall not apply to such procurements.
- C. As set forth in the Navajo Business Opportunity Act, if there are no responsive and responsible Priority One or Priority Two vendors responding to the Nation's solicitation for NNFRF funded goods, services, or construction and construction related services, who are qualified and able to meet the requirements of the procurement, including the demonstrated ability to meet the ARPA and NNFRF time deadlines, the Procuring Party may contract with companies not included on the Business Source List maintained by the Business Regulatory Department, as long as such companies agree to comply with Navajo Nation laws, regulations, and policies, including the Navajo Preference in Employment Act and Navajo Business Opportunity Act.

- D. Navajo citizens, Navajo-owned businesses and non-profits, Navajo business-support organizations, such as the Dineh Chamber of Commerce, and Navajo Nation-owned enterprises/authorities/corporations shall be provided a meaningful opportunity to comment before amendments are made to Navajo Nation procurement laws and regulations.

**SECTION ELEVEN. AUTHORIZING THE ESTABLISHMENT OF A NAVAJO NATION FISCAL RECOVERY FUND OFFICE WITHIN THE OFFICE OF THE PRESIDENT AND VICE-PRESIDENT**

- A. The Office of the President and Vice-President ("OPVP") is authorized to establish a temporary NNFRF Office within OPVP by Executive Order pursuant to 2 N.N.C. §§ 1005(A) and (C) (14).
- B. The NNFRF Office shall be a clearinghouse that will, at a minimum, educate the public on NNFRF matters; coordinate, facilitate and implement NNFRF responsibilities assigned to OPVP or the Executive Branch; ensure expeditious review of NNFRF eligibility determinations and other NNFRF matters by Executive Branch programs and offices; ensure Navajo Nation compliance with Fiscal Recovery Funds provisions of ARPA and Navajo Nation laws and regulations by all entities receiving NNFRF funds; facilitate and expedite the expenditure of all NNFRF funds; ensure the completion and implementation of NNFRF authorized projects and services; and assist/support OOC in monitoring the expenditure of NNFRF funds and submitting timely and accurate ARPA reports to the federal government.
- C. Prior to its opening, OPVP shall present a plan of operation or similar structural document for the NNFRF Office to the Naabik'iyáti' Committee. On or about thirty (30) days after the end of each fiscal year quarter, OPVP shall present a report to the Naabik'iyáti' Committee on overall NNFRF Office operations, accomplishments, and challenges, along with recommended modifications or adjustments to projects and processes.
- D. OPVP and OOC shall only contract with qualified and experienced Navajo Nation-owned enterprises/authorities/corporation or Navajo-owned businesses to assist in the implementation, management, and monitoring of NNFRF funds.
- E. In order to support the purposes and intent of the Navajo Nation Business Opportunity Act and Navajo Nation Preference in Employment Act, within fifty (50) days after the enactment of this legislation, the NNFRF Office shall present a plan to the Budget and Finance and Naabik'iyáti' Committees to provide

bonding, insurance, and other needed support to grow the Navajo Nation economy through private sector contracting, using ARPA, NNFRF, and/or other Navajo Nation or external funding.

#### SECTION ELEVEN. EFFECTIVE DATE

This legislation shall be effective upon its approval pursuant to 2 N.N.C. § 221(B).

#### SECTION TWELVE. SAVING CLAUSE


Should any provision of this legislation 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 provisions of the legislation which are not determined invalid shall remain the law of the Navajo Nation.

#### SECTION THIRTEEN. DIRECTIVES

- A. OMB, in consultation with OOC and DOJ, shall present proposed NNFRF application and review procedures, including an NNFRF Expenditure Plan template, to the Budget and Finance Committee within twenty (20) days after the effective date of this legislation.
- B. The Division of Natural Resources and General Land Development Department shall present a proposed Plan of Operation for a "One-Stop Shop" to facilitate, review, and approval of rights-of-ways, temporary construction permits, mission site permits, leases, etc., to the Resources and Development Committee within forty-five (45) days after the effective date of this legislation.
- C. The Division of Human Resources and Department of Personnel Management shall present proposed amendments to the Navajo Nation Personnel Policies Manual to, at a minimum, facilitate the expeditious hiring of personnel with NNFRF funds to the Health, Education, and Human Services Committee within sixty (60) days after the effective date of this legislation.
- D. OPVP, with the assistance of the Business Regulatory Department and OOC Purchasing Section, shall present proposed amendments to the Navajo Nation's procurement and business opportunity laws and regulations to, at a minimum, expedite NNFRF procurements, to the Budget and Finance Committee within sixty (60) days after the effective date of this legislation.

## CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> 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 21 in Favor, and 01 Opposed, on this 22<sup>nd</sup> day of July 2021.

  
Honorable Seth Damon, Speaker  
24<sup>th</sup> Navajo Nation Council

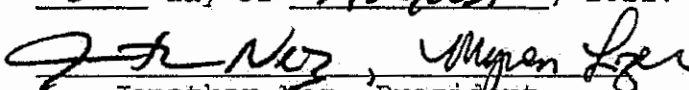
July 23, 2021  
DATE

Motion: Honorable Paul Begay, Jr.  
Second: Honorable Edison J. Wauneka

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 02 day of August, 2021.

  
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 \_\_\_\_\_, 2021 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation



**Appendix 1: Expenditure Categories**

The Expenditure Categories (EC) listed below must be used to categorize each project as noted in Part 2 above. The term "Expenditure Category" refers to the detailed level (e.g., 1.1 COVID-19 Vaccination). When referred to as a category (e.g., EC 1) it includes all Expenditure Categories within that level.

<b>1: Public Health</b>	
1.1	COVID-19 Vaccination ^
1.2	COVID-19 Testing ^
1.3	COVID-19 Contact Tracing
1.4	Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, etc.)*
1.5	Personal Protective Equipment
1.6	Medical Expenses (including Alternative Care Facilities)
1.7	Capital Investments or Physical Plant Changes to Public Facilities that respond to the COVID-19 public health emergency
1.8	Other COVID-19 Public Health Expenses (including Communications, Enforcement, Isolation/Quarantine)
1.9	Payroll Costs for Public Health, Safety, and Other Public Sector Staff Responding to COVID-19
1.10	Mental Health Services*
1.11	Substance Use Services*
1.12	Other Public Health Services
<b>2: Negative Economic Impacts</b>	
2.1	Household Assistance: Food Programs* ^
2.2	Household Assistance: Rent, Mortgage, and Utility Aid* ^
2.3	Household Assistance: Cash Transfers* ^
2.4	Household Assistance: Internet Access Programs* ^
2.5	Household Assistance: Eviction Prevention* ^
2.6	Unemployment Benefits or Cash Assistance to Unemployed Workers*
2.7	Job Training Assistance (e.g., Sectoral job-training, Subsidized Employment, Employment Supports or Incentives)* ^
2.8	Contributions to UI Trust Funds
2.9	Small Business Economic Assistance (General)* ^
2.10	Aid to Nonprofit Organizations*
2.11	Aid to Tourism, Travel, or Hospitality
2.12	Aid to Other Impacted Industries
2.13	Other Economic Support* ^
2.14	Rehiring Public Sector Staff
<b>3: Services to Disproportionately Impacted Communities</b>	
3.1	Education Assistance: Early Learning* ^
3.2	Education Assistance: Aid to High-Poverty Districts ^
3.3	Education Assistance: Academic Services* ^
3.4	Education Assistance: Social, Emotional, and Mental Health Services* ^
3.5	Education Assistance: Other* ^
3.6	Healthy Childhood Environments: Child Care* ^
3.7	Healthy Childhood Environments: Home Visiting* ^
3.8	Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System* ^



3.9	Healthy Childhood Environments: Other* ^
3.10	Housing Support: Affordable Housing* ^
3.11	Housing Support: Services for Unhoused Persons* ^
3.12	Housing Support: Other Housing Assistance* ^
3.13	Social Determinants of Health: Other* ^
3.14	Social Determinants of Health: Community Health Workers or Benefits Navigators* ^
3.15	Social Determinants of Health: Lead Remediation ^
3.16	Social Determinants of Health: Community Violence Interventions* ^
<b>4: Premium Pay</b>	
4.1	Public Sector Employees
4.2	Private Sector: Grants to Other Employers
<b>5: Infrastructure<sup>27</sup></b>	
5.1	Clean Water: Centralized Wastewater Treatment
5.2	Clean Water: Centralized Wastewater Collection and Conveyance
5.3	Clean Water: Decentralized Wastewater
5.4	Clean Water: Combined Sewer Overflows
5.5	Clean Water: Other Sewer Infrastructure
5.6	Clean Water: Stormwater
5.7	Clean Water: Energy Conservation
5.8	Clean Water: Water Conservation
5.9	Clean Water: Nonpoint Source
5.10	Drinking water: Treatment
5.11	Drinking water: Transmission & Distribution
5.12	Drinking water: Transmission & Distribution: Lead Remediation
5.13	Drinking water: Source
5.14	Drinking water: Storage
5.15	Drinking water: Other water infrastructure
5.16	Broadband: "Last Mile" projects
5.17	Broadband: Other projects
<b>6: Revenue Replacement</b>	
6.1	Provision of Government Services
<b>7: Administrative</b>	
7.1	Administrative Expenses
7.2	Evaluation and Data Analysis
7.3	Transfers to Other Units of Government
7.4	Transfers to Non-entitlement Units (States and territories only)

\*Denotes areas where recipients must identify the amount of the total funds that are allocated to evidence-based interventions (see Use of Evidence section above for details)

^Denotes areas where recipients must report on whether projects are primarily serving disadvantaged communities (see Project Demographic Distribution section above for details)

<sup>27</sup> Definitions for water and sewer Expenditure Categories can be found in the EPA's handbooks. For "clean water" expenditure category definitions, please see: <https://www.epa.gov/sites/production/files/2018-03/documents/cwdefinitions.pdf>. For "drinking water" expenditure category definitions, please see: <https://www.epa.gov/dwsrf/drinking-water-state-revolving-fund-national-information-management-system-reports>.



**APPENDIX A**

THE NAVAJO NATION  
FISCAL RECOVERY FUNDS REQUEST FORM & EXPENDITURE PLAN  
FOR NAVAJO NATION GOVERNMENT UNITS

**Part 1. Identification of parties.**

NN Government Unit requesting FRF: Office of the Controller indicate Department, Program, Office, Division, or Branch Date prepared: 12/23/2021

NN Government Unit's mailing address: P.O. Box 708, Window Rock, AZ 86515 phone/email: (928) 871-6308/elizabeth.begay@nnooc.org  
website (if any): \_\_\_\_\_

Form prepared by: Elizabeth Begay phone/email: (928) 871-6308/elizabeth.begay@nnooc.org  
Acting Controller, Office of the Controller same as above  
CONTACT PERSON'S name, title and Department, Program, Office, etc. CONTACT PERSON'S info

Title & type of Project: Hardship Assistance

NN Government Unit's Director or Manager: Elizabeth Begay phone & email: (928) 871-6308/elizabeth.begay@nnooc.org

Division Director (if any): same as above phone & email: \_\_\_\_\_

Branch Chief: Jonathan Nez, Navajo Nation President phone & email: (928)871-7000/jonathannez@navajo-nsn.gov

Funding Recipient will be working with: Executive Branch indicate Branch and/or Division on the Project and the same will be submitting the Funding Request Package for Initial Eligibility Determination Review, and will have Administrative Oversight over this FRF Expenditure Plan.

List names or types of Subcontractors or Subrecipients that will be paid with FRF (if known):

☐ document attached

Amount of FRF requested: \$557,000,000 FRF funding period: 10/01/2021 - 12/31/2024  
indicate Project starting and ending/deadline date

**Part 2. Expenditure Plan details.**

(a) Describe the Program(s) and/or Project(s) to be funded, including how the funds will be used, for what purposes, the location(s) to be served, and what COVID-related needs will be addressed:

The Office of the Controller (OOC) will provide financial hardship assistance, directly related to the COVID-19 pandemic, for eligible Navajo People age 18 and over not to exceed \$2,000 per applicant for up to 250,000 qualifying individuals. In addition, the OOC will provide hardship assistance to minors age below 18 years old not to exceed \$600 per recipient for up to 95,000 qualifying individuals. This financial assistance can be used to purchase personal protective equipment; pay utility bills, rent, mortgage, isolation expenses, livestock-related expenses, and education related expenses.

☐ document attached

(b) Explain how the Program or Project will benefit the Navajo Nation, Navajo Communities, or the Navajo People:

As of December 26, 2021, the Navajo Nation DOH reported 9 new COVID-19 cases and 2 recent deaths. The total number of deaths is now 1,583 and 40,856 confirmed positive cases. In addition, the current unemployment rate is at an all time high at 48.5% and the average household income is \$8,240, well below the federal poverty guidelines. This program will provide much needed assistance as the Nation continues to face the effects and financial hardship due to the pandemic.

☐ document attached

## **APPENDIX A**

- (c) Provide a prospective timeline showing the estimated date of completion of the Project and/or each phase of the Project. Disclose any challenges that may prevent you from incurring costs for all funding by December 31, 2024 and/or fully expending funds and completing the Program(s) or Project(s) by December 31, 2026:

Advertisement by OOC for eligible applications for financial hardship assistance:  
01/01/2022 - 10/31/2022

Execution of funding distribution: 01/01/22 - 12/31/2024

The Office of the Controller does not foresee any challenges preventing them from meeting the December 31, 2024 deadline to incur all costs.

☐ document attached

- (d) Identify who will be responsible for implementing the Program or Project:

Elizabeth Begay, Controller, Navajo Nation Office of the Controller

☐ document attached

- (e) Explain who will be responsible for operations and maintenance costs for the Project once completed, and how such costs will be funded prospectively:

There will be no O&M costs. Once the funding is distributed, there will be no additional costs.

☐ document attached

- (f) State which of the 66 Fiscal Recovery Fund expenditure categories in the attached U.S. Department of the Treasury Appendix 1 listing the proposed Program or Project falls under, and explain the reason why:

### **2.3 Negative Economic Impacts, Household Assistance: Cash Transfers**

This program will focus on adult individuals experiencing financial hardship directly related to the COVID-19 pandemic. Use of the financial assistance will be regulated to approved, eligible uses due to negative economic impacts due to COVID-19. The cash transfer amount of \$2,000 per person for members of the Nation age 18 and over and \$600 per person for members of the Nation age below 18 is reasonable, and not excessive, amount to address the financial hardship experienced by the pandemic. In comparison, the Federal government provided stimulus check for economic impact relief program to person age 18 years and over totaling \$3,200 and to person age below 18 years totaling \$2,500.

☐ document attached

### **Part 3. Additional documents.**

List here all additional supporting documents attached to this FRF Expenditure Plan (or indicate N/A):

1. Sample application of FRF hardship assistance
2. Sample letter to accompany hardship assistance payment stating return of excess financial assistance in entire amount if not used to support eligible costs or is distributed to an individual who has not suffered economic hardship due to COVID-19 pandemic.

**Part 4. Affirmation by Funding Recipient.**

Funding Recipient affirms that its receipt of Fiscal Recovery Funds and the implementation of this FRF Expenditure Plan shall be in accordance with Resolution No. CJY-41-21, the ARPA, ARPA Regulations, and with all applicable federal and Navajo Nation laws, regulations, and policies:

NN Government Unit  
Preparer: Elizabeth Begay Digitally signed by Elizabeth Begay  
Date: 2021.12.29 16:25:05 -07'00'  
signature of Preparer/CONTACT PERSON

Approved by: Elizabeth Begay Digitally signed by Elizabeth Begay  
Date: 2021.12.29 16:25:51 -07'00'  
signature of NN Government Unit's Dept./Program/Office Director or Manager

Approved to submit  
for Review: \_\_\_\_\_  
signature of Branch Chief or Division Director

Print Name, Title,  
Branch or Division: Paulson Chaco, Chief of Staff  
print name and indicate title or position  
Executive Branch  
indicate Branch or Division

# NAVAJO NATION

928

12/29/2021

Navajo Nation Council Special Session

07:16:15 PM

Amd# to Amd#	Legislation 0263-21: An Action	PASSED
MOT Tso, D	Relating to Emergency and NNC;	
SEC Begay, P	Allocating \$207,000,000 of the	
	Navajo Nation Fiscal Recovery...	

Yeas : 18

Nays : 2

Excused : 3

Not Voting : 0

## Yea : 18

Begay, E	Halona, P	Tso	Walker, T
Begay, P	James, V	Tso, C	Wauneka, E
Brown	Nez, R	Tso, D	Yazzie
Crotty	Slater, C	Tso, E	Yellowhair
Daniels	Stewart, W		

## Nay : 2

Henio, J	Smith
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## Excused : 3

Freeland, M	Begay, K	Damon
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## Not Voting : 0

Presiding Speaker: Charles-Newton