



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

November 20, 2020

Mr. Dante Desiderio  
Executive Director  
Native American Finance Officers Association  
1101 30th Street, NW, Suite 500  
Washington, DC 20007

Dear Mr. Desiderio:

I write in reply to your letter dated October 21, 2020 requesting clarification of Treasury's recently published Frequently Asked Question (FAQ) No. B.13. Specifically, you asked for clarification as to whether tribally owned entities would be considered beneficiaries and therefore would not be subject to audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, Subpart F under the Coronavirus Relief Fund (the Fund) established under Title V of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Treasury consulted with the Office of Management and Budget (OMB) on FAQ No. B.13, which is based on the Uniform Guidance (2 C.F.R. Part 200). The Uniform Guidance at 2 C.F.R. § 200.501(h) specifically provides that for-profit subrecipients are not subject to single or program-specific audit. Based on the definition of non-federal entities at 2 C.F.R. § 200.69, only a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient is subject to audit under the Single Audit Act and 2 C.F.R. Part 200, Subpart F.<sup>1</sup> Thus, the determination as to whether a tribally owned entity would be subject to audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, Subpart F, would depend on the structure of the tribally owned entity and the capacity in which it receives payments from the Fund.

A tribally owned commercial enterprise, including an enterprise that has not been separately incorporated by the tribe, that receives assistance from the tribe using payments from the Fund for its direct benefit to defray the costs of re-opening or to cover operational expenses would be a beneficiary and would not be subject to audit under the Single Audit Act and 2 C.F.R. Part 200, Subpart F.<sup>2</sup>

A tribally owned entity that is structured as a non-profit entity or that has not been separately incorporated and is considered an arm of the tribe and has expenditures from the Fund and other federal sources in the amount of \$750,000 or more to carry out programs on behalf of the tribal government would be a subrecipient and would be subject to a single or program-specific audit pursuant to 2 C.F.R. §§ 200.501(a) and (f). Such a tribally owned entity may elect to have a

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<sup>1</sup> See 2 C.F.R. § 200.501(a).

<sup>2</sup> See 2 C.F.R. § 200.501(h).

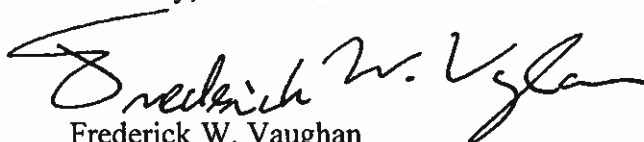
program-specific audit if the entity only received funds from one federal program (i.e., only received payments from the Fund) for its fiscal year per 2 C.F.R. § 200.501(c). A tribe or tribally owned entity is not required to obtain prior approval or consent from Treasury prior to conducting a program-specific audit, if it meets the requirements in 2 C.F.R. § 200.501(c) to do so. If the tribally owned entity does not meet the requirements to elect a program-specific audit, the entity will be required to conduct a single audit per 2 C.F.R. § 200.501(b).

Tribes and tribal organizations subject to single audit that have a desire to keep certain financial information included in their audit reporting package from public disclosure may exercise the option to not have their single audit reporting packages made publicly available on the Federal Audit Clearinghouse (FAC) per 2 C.F.R. § 200.512(b)(2). In order to exercise this option, the senior level representative of the tribe or tribal organization must exclude the authorization for the FAC publication of the reporting package from his or her signed statement that is required to be submitted with the reporting package to the FAC.<sup>3</sup>

In addition, tribal governments are required to monitor and report on their subrecipients' use of payments from the Fund pursuant to 2 C.F.R. §§ 200.330 through 332 to ensure that their subrecipients comply with the requirements set forth in section 601(d) of the Social Security Act, Treasury's Guidance, and FAQs. Tribal governments should also ensure that their subrecipients and certain of their beneficiaries provide the necessary reporting and retain the necessary records regarding their use of payments from the Fund to facilitate the tribal governments' compliance with Treasury's Office of Inspector General (OIG) reporting and record retention requirements.

If you have any further questions, please feel free to direct them to Treasury's Office of Legislative Affairs.

Sincerely,

A handwritten signature in black ink, appearing to read "Frederick W. Vaughan".

Frederick W. Vaughan  
Principal Deputy Assistant Secretary  
Office of Legislative Affairs

cc: The Honorable Russell T. Vought

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<sup>3</sup> See 2 C.F.R. §§ 200.512(b)(1) and (2).