

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL OF THE OGLALA SIOUX TRIBE ESTABLISHING GUIDELINES AND PROCEDURES FOR DISTRICT SPENDING OF A PORTION OF THE TRIBE'S CARES ACT CORONAVIRUS RELIEF FUND MONIES AND AMENDING ORDINANCE NO. 21-10.

WHEREAS, the Oglala Sioux Tribe adopted its Constitution and By-Laws by referendum vote on December 14, 1935, in accordance with Section 16 of the Indian Reorganization Act of 1934, codified as amended at 25 U.S.C. § 5123, and under Article III of the Constitution, the Oglala Sioux Tribal Council is the governing body of the Oglala Sioux Tribe, and

WHEREAS, pursuant to the Constitution and By-Laws of the Oglala Sioux Tribe, the Oglala Sioux Tribal Council exercises legislative powers to enact and promulgate resolutions and ordinances, and

WHEREAS, Article IV, Sections 1(f), 1(k), 1(m), 1(w) empower the Tribal Council to manage the economic affairs of the Tribe, protect and preserve the property of the Tribe, adopt laws governing the conduct of persons on the Pine Ridge Indian Reservation, and adopt laws protecting and promoting the health and general welfare of the Oglala Sioux Tribe and its membership, and

WHEREAS, the Tribe received a payment of funds from the Coronavirus Relief Fund ("CRF") under the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, Pub. L. 116-136 (Mar. 27, 2020), to enable the Tribe to prevent, prepare for, mitigate, and respond to the COVID-19 public health emergency, and

WHEREAS, the CRF is administered by the Treasury Department, and the Treasury Department has issued "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (hereafter "Treasury Guidance") and "Coronavirus Frequently Asked Questions" (hereafter "Treasury FAQs"), and

WHEREAS, the Tribe has expended funds from its CRF payment to prevent, prepare for, mitigate, and respond to the COVID-19 public health emergency, consistent with the Treasury Guidance and Treasury FAQs, and

WHEREAS, the Tribe also allocated to the nine (9) Tribal Districts on the Pine Ridge Indian Reservation a portion of the Tribe's CRF payment to enable the Tribal Districts to prevent, prepare for, mitigate, and respond to the COVID-19 public health emergency, consistent with the Treasury Guidance and Treasury FAQs, and

WHEREAS, on February 4, 2021, the Tribal Council enacted Ordinance No. 21-10 to indefinitely suspend spending by the Tribal Districts of the Tribe's CRF monies indefinitely with an exception made for necessary emergency expenditures, which shall only be allowed after all of the Tribal Council Members who represent the Tribal District for which the necessary emergency expenditure is to be made agree unanimously that such expenditure should be made, and such expenditures shall be subject to review and approval by the Executive Committee, if less than \$250,000, or by the Tribal Council, if greater than or equal to \$250,000, and

WHEREAS, the Finance Committee recommends and the Tribal Council agrees after considering the matter that Ordinance No. 21-10 should be amended by changing its first "THEREFORE BE IT ORDAINED clause" to accord with the expenditure review thresholds that are in this ordinance and to amend the Tribal Council Member voting requirements for necessary emergency expenditures as set forth in Ordinance No. 21-10, and

WHEREAS, in accordance with Ordinance No. 21-10, the Finance Committee of the Tribal Council has developed a policy, set forth in this Ordinance, for future spending by the Tribal Districts of the Tribe's CRF monies to facilitate the Tribe's continued management of these monies in line with the CARES Act and Treasury Guidance and FAQs, and

WHEREAS, by motion and vote on February 22, 2021, the Finance Committee recommended adoption of this Ordinance and forwarded the same to the Tribal Council for its review and approval, and

WHEREAS, having considered the matter, the Tribal Council concurs in the recommendation of the Finance Committee and enacts this Ordinance to regulate future spending by the Tribal Districts of the Tribe's CRF monies; now

THEREFORE BE IT ORDAINED that the Tribal Council hereby adopts an amendment to Ordinance No. 21-10 by changing its first "THEREFORE BE IT ORDAINED clause" to read as follows:

THEREFORE BE IT ORDAINED, that the Oglala Sioux Tribal Council hereby suspends spending by the Tribal Districts of the Tribe's CRF monies indefinitely with an exception made for necessary emergency expenditures, which shall only be allowed after all Tribal Council Members who represent the Tribal District for which the necessary emergency expenditure is to be made agree that such expenditure should be made, provided that only two out of three Tribal Council Members for the Wakpamni District must agree, and such expenditures shall be subject to review and approval by: (1) the Tribal Council Representatives for the District, and then (2) the Tribal Treasurer, in the case of expenditures up to \$125,000; (3) the Executive Committee of the Tribe in the case of expenditures over \$125,000 but less than \$250,000; or (4) the Tribal Council in the case of expenditures equal to or greater than \$250,000, and

BE IT FURTHER ORDAINED, that the Oglala Sioux Tribal Council hereby adopts the following Guidelines and Procedures for future spending by the Tribal District Governments of the portion of the Tribe's CRF payments allocated to the Tribal Districts:

**OGLALA SIOUX TRIBE
TRIBAL DISTRICT GOVERNMENT
CORONAVIRUS RELIEF FUND SPENDING
GUIDELINES AND PROCEDURES**

Section 1. Overview

These guidelines shall govern Tribal District Government spending of monies received from the Oglala Sioux Tribe from the Coronavirus Relief Fund under the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, Pub. L. 116-136 (Mar. 27, 2020).

Tribal District Governments may use Coronavirus Relief Fund monies to cover only those costs of the Tribal District Government that: (1) are necessary expenditures due to the public health emergency with respect to the Coronavirus Disease (COVID-19); (2) were not accounted for in the budget most recently approved for the Tribal District Government as of March 27, 2020; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 31, 2021. See 42 U.S.C. § 801(d).

Tribal District Government spending *may not* duplicate Tribal Government spending or other sources of funding.

If a Tribal District Government has any questions about what expenditures are permissible or impermissible, it should contact the Oglala Sioux Tribe Treasurer.

The Tribe reserves the right to require Tribal District Governments to repay any misspent funds or expenditures lacking the proper documentation.

Section 2. Eligible Expenditures

Eligible Tribal District Government expenditures include, but are not limited to, payment for:

(a) Day Labor Payroll Expenses

- Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
- Public health and safety employees may be presumed to be substantially dedicated to mitigating or responding to the COVID-19 public health emergency, and their entire payroll and benefit cost may be paid with the Coronavirus Relief Fund.
- Additionally, eligible day labor payroll and benefit costs may be provided from Coronavirus Relief Fund monies for persons whose duties include:
 - Communication and enforcement of public health orders related to COVID-19;
 - Disinfection of public areas and other facilities, elderly complexes or homes in response to the COVID-19 public health emergency;
 - Distribution of medical and protective supplies, sanitizing products and personal protective equipment; and
 - Distribution of food delivery to senior citizens and other vulnerable populations and personal protective equipment to quarantined individuals.

- Tribal District Governments are required to provide supporting documentation to justify that all hours claimed for compensation are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

(b) Food Distribution Expenses

- Distribution of food to individuals and families with a documented need for assistance: (1) due to economic hardship or loss of employment or income due to the COVID-19 public health emergency; and/or (2) to facilitate compliance with COVID-19-related public health measures.
- Food distribution expenses for persons facing COVID-19-related economic hardship:
 - Food distribution may be provided to individuals and families facing COVID-19-related economic hardship to allow them to meet their essential nutritional needs during the COVID-19 public health emergency.
 - Applications for assistance will be required in order to demonstrate need based on COVID-19-related economic hardship such as loss of employment or loss of income due to the public health emergency.
- Food distribution expenses to facilitate compliance with COVID-19-related public health measures:
 - Providing food delivery for Tribal District members or families who are considered to be in quarantine for positive testing or exposure. Prior to receiving food deliveries, the eligible Tribal District members or families must have an official letter from a Tribal authorized official placing them in quarantine.
 - Providing food delivery for elders over 55 years of age or persons with a letter from a Tribal authorized official stating that they have one or more conditions that place them at high risk of COVID-19 complications.

- o Applications for assistance will be required in order to demonstrate need to facilitate compliance with COVID-19-related public health measures.
- At no time will prepayment for food costs be allowed.
- Tribal District Governments are required to provide the original receipts with the Accounts Payable Voucher prior to payment being issued to the vendor for members or families receiving food to facilitate their compliance with COVID-19-related public health measures or based on COVID-19-related economic hardship.

(c) Utility Assistance Expenses

- Utility assistance for individuals and families with a documented need for assistance: (1) due to economic hardship or loss of employment or income due to the COVID-19 public health emergency; and/or (2) to facilitate compliance with COVID-19-related public health measures.
- Utility assistance expenses for persons facing COVID-19-related economic hardship:
 - o Utility assistance may be provided to individuals and families facing COVID-19-related economic hardship to allow them to meet their essential utility needs during the COVID-19 public health emergency.
 - o Applications for assistance will be required in order to demonstrate need based on COVID-19-related economic hardship such as loss of employment or loss of income due to the public health emergency.
- Utility assistance expenses to facilitate compliance with COVID-19-related public health measures:
 - o Providing utility assistance for Tribal District members or families who are considered to be in quarantine for positive testing or exposure. Prior to receiving utility assistance, the eligible district members or families must have an official letter from a Tribal authorized official placing them in quarantine.

- o Providing utility assistance for elders over 55 years of age or persons with a letter from a Tribal authorized official stating that they have one or more conditions that place them at high risk of COVID-19 complications.
- o Applications for assistance will be required in order to demonstrate need to facilitate compliance with COVID-19-related public health measures.
- At no time will prepayment to utility vendors be allowed.
- Tribal District Governments are required to provide the original billing with the Accounts Payable Voucher prior to payment being issued to the vendor for members or families receiving utility assistance while considered to be in quarantine.

(d) Personal Protective Equipment (PPE) and Sanitizing Products

Eligible Personal Protective Equipment (PPE) and sanitizing costs shall include expenditures for:

- Expenses for PPE and sanitizing costs for the Tribal District:
 - o Expenses for purchase and distribution of medical and protective supplies, for Tribal District offices and employees, as needed.
 - o Expenses for disinfection of public areas and other facilities, elderly complexes or homes in response to the COVID-19 public health emergency.
- PPE and sanitizing expenses for persons facing COVID-19-related economic hardship:
 - o If authorized by the Tribe, grants will be provided to individuals facing economic hardship to allow them to receive Personal Protective Equipment (PPE).
 - o An application for individual assistance will be required in order to demonstrate need based on COVID-19-related economic hardship such as loss of employment or loss of income due to the public health emergency.

- PPE and sanitizing expenses to facilitate compliance with COVID-19-related public health measures:
 - Tribal District members or families who are considered to be in quarantine for positive testing or exposure. Prior to receiving PPE and sanitizing expenses, the eligible Tribal District member or families must have an official letter from a Tribal authorized official placing them in quarantine.
 - PPE assistance will only be issued from the OST Emergency Management Office provided the proper official documentation is submitted from an Tribal authorized official.
- Tribal District Governments are strictly prohibited from purchasing gift cards or issuing prepayment to vendors for PPE or sanitizing products.

(e) Housing Assistance

Eligible housing assistance expenses include expenditures for:

- Care for homeless persons in order to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
- Rental assistance to prevent eviction of renters who are having difficulty meeting their housing payments. An application for rental assistance with a documentation of need is required. Because housing is necessary to prevent the spread of COVID-19, the need is *not* required to be based on a COVID-19-related reason such as loss of employment due to the public health emergency.
- Essential home repairs to remedy uninhabitable housing conditions so that Tribal District Members can comply with COVID-19 public health precautions. An application for home repairs with a documentation of need is required. Because housing is necessary to prevent the spread of COVID-19, the need is *not* required to be based on a COVID-19-related reason such as loss of employment due to the public health emergency.

- Emergency quarantine housing for Tribal District members or families who are considered to be in quarantine for positive testing or exposure. Prior to receiving essential home repairs or quarantine housing, the eligible Tribal District members or families must have an official letter from a Tribal authorized official placing them in quarantine. Quarantine housing will only be provided for the CDC-recommended length of quarantine.

(f) Real Property and Equipment

No purchases of property or equipment (such as vehicles) shall be made without the Tribal District Government first making a written determination that:

- The expenditure is necessary due to the COVID-19 public health emergency, including the basis for that finding;
- The District is not able to meet the need in a cost-effective manner by leasing property or equipment, including stating the price it would cost to lease or such property or equipment; and
- The District is not able to meet the need in a cost-effective manner by improving property or equipment already owned, including stating the cost of such improvements.

If property or equipment is acquired using Coronavirus Relief Fund monies and then sold prior to December 31, 2021, all proceeds of the sale must be spent in accordance with the guidelines in this ordinance.

Tribal Districts must provide their written determination explained above and all related documentation justifying this determination to the COVID-19 Office.

(g) Other Eligible Expenditures

Other eligible expenditures include those expenditures listed as eligible in the U.S. Department of the Treasury's "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," and "Coronavirus Frequently Asked Questions."

Section 3. Ineligible Expenditures

Tribal District Governments may not spend Coronavirus Relief Fund monies on the following:

- Tribal District Government revenue replacement.
- Costs that the Tribal District Government budgeted for as of March 27, 2020.
- Damages covered by insurance.
- Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
- Expenses that have been or will be reimbursed by any other source, including by Tribal CARES Act relief.
- Reimbursement to donors for donated items or services.
- Workforce bonuses other than hazard pay or overtime.
- Severance pay.
- Economic assistance that is not based on an individualized determination of need due to a COVID-19-related cause such as loss of employment due to the public health emergency.
- Purchases of property or equipment without the required written determination set forth in Section 2(f).
- Small business grant programs, unless specifically authorized by the Tribe.
- Distance learning expenditures, unless specifically authorized by the Tribe.
- Any other expenditures listed as ineligible in the U.S. Department of the Treasury's "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," and "Coronavirus Frequently Asked Questions."

Section 4. Advance Approval of Written Proposals for Tribal District Government Programs

Before a Tribal District Government may expend monies received from the Oglala Sioux Tribe from the Coronavirus Relief Fund in any of the areas set forth in Section 2, it must establish a program for each such category of spending, e.g., Tribal District Food Assistance Program, and it must submit a detailed written proposal to the Finance Committee of the Tribal Council for its review and approval.

The proposal shall include a narrative description of the program, the amount of funding dedicated to the program, a timeline for implementation and completion of the program, and the reason or reasons why the program is necessary due to the COVID-19 public health emergency.

In the case of programs involving the provision of assistance to individuals or families, the proposal shall include a statement of eligibility criteria and a written application form the same as or substantially similar to the attached sample forms, to make individual assessments of eligibility and need.

The Finance Committee shall review and approve written proposals based on the criteria in this Ordinance, the CARES Act, and in the U.S. Department of the Treasury's "Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments," and "Coronavirus Frequently Asked Questions."

Section 5. Approval of Tribal District Government Expenditure Requests.

The Oglala Sioux Tribe is responsible for assuring expenditures and reporting of the Coronavirus Relief Funds monies received from the U.S. Treasury are in compliance with requirements of the CARES Act and the U.S. Treasury Guidance and Frequently Asked Questions.

To accommodate the Tribe's expenditure and reporting requirements, the Tribe has developed and implemented these internal policies to ensure the Tribe and the Tribal District Governments have a uniform procedure pertaining to submitting documents for payment and records retention.

In the case of expenditures by a Tribal District Government for assistance to individuals and families, applications for such assistance will be issued by and submitted to designated employees of the Tribal District Service Center. Applications will be reviewed by the designated employees to ensure compliance with internal Tribal District Service Center Coronavirus Relief Fund Guidelines. The designated employees will submit applications to the COVID-19 Office for review and approval.

In the case of all other expenditures, the Tribal District Government will submit expenditure approval requests to the COVID-19 Office together with a written justification of the requests.

The COVID-19 Office will ensure all expenditures submitted adhere to Tribal Ordinances, CARES Act requirements, and the U.S. Treasury Guidance and Frequently Asked Questions prior to preparing the Accounts Payable Voucher for review by: (1) the Tribal Treasurer, in the case of expenditures up to \$125,000; (2) the Executive Committee of the Tribe in the case of expenditures over \$125,000 but less than \$250,000; or (3) the Tribal Council in the case of expenditures equal to or greater than \$250,000.

No expenditure request shall be approved unless it is accompanied by all required justification documents and unless the Tribal District Government has submitted all documents requested by the Tribe, pursuant to Resolution No. 21-36 (Feb. 4, 2021), for all prior Coronavirus Relief Fund expenditures by the Tribal District.

The Accounts Payable Department will process approved Accounts Payable Vouchers.

Tribal District Government disbursement checks will only be released by the Office Manager to the COVID-19 Office's designated official who will issue them to the District Service Center designated employee.


Section 6. Definition of "Tribal District Government"

As used in this Ordinance, the term "Tribal District Government" refer to the duly elected governing body of the Tribal District, provided that, to accord with Ordinance 21-10, if a Tribal District has not held an election for its governing body, the Tribal Council members who represent the Tribal District shall function as the "Tribal District Government" until such time as elections can be held and district officers can be sworn into office, provided further all the decisions and actions of the Tribal Council members acting in this capacity shall be made by unanimous vote of all of the Tribal Council members who represent the Tribal District except that only two out of the three Tribal Council Members for the Wakpamni District must agree.

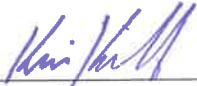
BE IT FURTHER ORDAINED, that this Ordinance shall take effect immediately and shall supersede all prior inconsistent laws of the Oglala Sioux Tribe.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, as undersigned Secretary of the Oglala Sioux Tribal Council, of the Oglala Sioux Tribe, hereby certify that this Ordinance was enacted by a vote of: 17 For; 0 Against; 1 Abstain; and 2 Not Voting; during a REGULAR SESSION held on the 24th day of FEBRUARY, 2021.


STACY L. TWO LANCE
Secretary
Oglala Sioux Tribe

A-T-T-E-S-T:



KEVIN KILLER
President
Oglala Sioux Tribe



