

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0038-22_

SPONSOR: Daniel E. Tso

TITLE: An Action Relating to Health, Education and Human Services, Budget and Finance, and Naabik'íyáti' Committees; Approving and Accepting the Navajo Nation Division of Behavioral and Mental Health Services Award from the Federal Emergency Management Agency in the Amount of \$944,900.00; Approving a Waiver of Indirect Costs

Date posted: February 17, 2022 at 8:03 PM

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0038-22

DATE: February 16, 2022

TITLE OF RESOLUTION: AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES; APPROVING AND ACCEPTING THE NAVAJO NATION DIVISION OF BEHAVIORAL AND MENTAL HEALTH SERVICES AWARD FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY IN THE AMOUNT OF \$944,900.00; APPROVING A WAIVER OF INDIRECT COSTS

PURPOSE: This resolution, if approved, will allow the Navajo Nation Division of Behavioral and Mental Health Services to receive an award in the amount of \$944,900.00 from the Federal Emergency Management Agency, and approving a waiver of indirect costs.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 02-22-22
Eligible for Action: 02-23-22

Health Education & Human Services Committee
Thence
Budget & Finance Committee
Thence
Naabik'iyáti' Committee

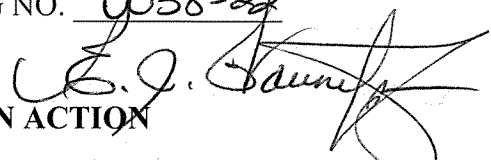
1 PROPOSED STANDING COMMITTEE RESOLUTION
2 24th NAVAJO NATION COUNCIL -- Fourth Year, 2022

3 INTRODUCED BY:

4 _____
5
6 (Sponsor)



7
8 TRACKING NO. 0038-22



9
10 AN ACTION

11 RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, BUDGET
12 AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES; APPROVING AND
13 ACCEPTING THE NAVAJO NATION DIVISION OF BEHAVIORAL AND
14 MENTAL HEALTH SERVICES AWARD FROM THE FEDERAL EMERGENCY
15 MANAGEMENT AGENCY IN THE AMOUNT OF \$944,900.00; APPROVING A
16 WAIVER OF INDIRECT COSTS

17
18 BE IT ENACTED:

19
20 SECTION ONE. AUTHORITY

- 21 A. The Health, Education and Human Services Committee is a standing committee
22 of the Navajo Nation Council with legislative oversight for the Division of
23 Health. 2 N.N.C. §§ 400(A), 401(C)(1).
- 24 B. The Budget and Finance Committee is a standing committee of the Navajo Nation
25 Council empowered to authorize, review, approve and accept agreements,
26 including contracts and grants, between the Navajo Nation and any federal, state
27 or regional authority upon the recommendation of the standing committee which
28 has oversight of the division, department or program which has applied for the
29 agreement, or upon recommendation of the Chapter. 2 N.N.C. §§ 300(A),
30 301(B)(15).

1 C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation
2 Council empowered [t]o authorize, review, approve and accept any and all
3 contracts, grants and associated budgets with the United States, its departments
4 and agencies for the implementation of the Indian Self-Determination and
5 Education Assistance Act, as amended upon the recommendation of the standing
6 committee which has oversight of the division, department or program applying
7 for the contract and/or grant. 2 N.N.C. §§ 700 (A), 701(A)(12).

8 D. The Naabik'íyáti' Committee is also empowered [t]o review and approve the
9 negotiation and setting of the Navajo Nation's indirect cost or administrative cost
10 rate agreements with the cognizant federal agent. When in the best interest of the
11 Nation, the committee may waive the indirect cost or administrative cost rate
12 when:

- 13 a. The division, department or program requesting the waiver demonstrates a
14 statutory and/or regulatory requirement that limits the indirect cost or
15 administrative cost rate available for a particular grant or contract, or. . . .
16 2 N.N.C. § 701(A)(10)(a).

17
18 **SECTION TWO. FINDINGS**

19 A. The Naabik'íyáti' Committee approved and accepted the Indirect Cost
20 Negotiation agreement with the U.S. Department of Interior for the Navajo Nation
21 at a rate of 16.57% for the period of 10/01/2020 to 09/30/2021 and 15.46% for the
22 period of 10/01/2021 to 09/30/2022 pursuant to Resolution No. NABIN-51-21.

23 B. On August 30, 2021 the U.S. Department of Homeland Security, Federal
24 Emergency Management Agency (FEMA Region 9), approved the Crisis
25 Counseling Assistance and Training Program (CCP) grant application submitted
26 by the Navajo Nation Division of Behavioral and Mental Health Services in the
27 amount of \$944,900.00. FEMA's approval letter indicates that indirect costs are
28 disallowed in the grant and shall not be included in the funding award. FEMA's
29 approval letter is enclosed as **Exhibit A**.

- 1 C. The Crisis Counseling Assistance and Training Program is a federally funded
2 supplemental program that provides financial assistance to state, local, territorial,
3 or tribal (SLTT) government agencies through a grant or cooperative agreement.
4 The CCP award enables SLTT government agencies to provide crisis counseling
5 services or contract with local mental health service providers familiar with the
6 affected communities to provide services. More information and details are
7 included in **Exhibit B**.
- 8 D. Initially, on April 26, 2021, the Navajo Nation Division of Behavioral and Mental
9 Health Services applied for the CCP grant and included \$43,095.00 as an indirect
10 costs line-item. However, FEMA's *Chapter 5: Crisis Counseling Assistance and*
11 *Training Program* provides that "Indirect Costs—**Unallowable:** *FEMA does not*
12 *authorize the use of funds for indirect costs. Indirect costs, including management*
13 *costs, are defined as costs not directly chargeable to a specific project. Please*
14 *note that even if an indirect cost rate is established, it is subject to statutory and*
15 *administrative limitations. A CCP award recipient or provider is not entitled to*
16 *an established rate for services provided under the CCP award. The Program's*
17 *statutes, regulations, and policy govern management cost rates through*
18 *regulations. At this time, FEMA does not have regulations that govern the*
19 *eligibility of indirect costs for the CCP."* **Exhibit B-1**.
- 20 E. Because indirect costs are disallowed under FEMA's CCP grant, the Navajo
21 Nation Division of Behavioral and Mental Health Services amended its
22 application to remove Indirect Costs as a line item. Navajo Nation revised budget
23 forms are attached as **Exhibit C** and reflect an updated award amount of
24 \$944,900.00.
- 25 F. The Navajo Nation Division of Behavioral and Mental Health Services submitted
26 its revised CCP grant application, attached as **Exhibit D**, and now requests the
27 Naabik'íyáti' Committee to approve and accept the CCP award, and waive the
28 usual request for indirect costs.
- 29 G. The CCP grant application was reviewed by all necessary Navajo Nation offices
30 and departments. It was determined that the CCP grant requires approval from the

1 appropriate legislative committee to accept the award, and to waive the indirect
2 costs request. **Exhibit E.**

3 H. Generally, a Navajo Nation program requesting a waiver of the approved IDC rate
4 must commit its appropriated Navajo Nation general funds to offset the loss of
5 indirect costs. 2 N.N.C. § 701(A)(10)(b). However, the Navajo Nation Division of
6 Behavioral and Mental Health Services indicated in its memorandum attached as
7 **Exhibit E** that DBMHS is a 100% federally-funded program, therefore it has no
8 General Funds to commit to offset the loss for indirect costs.

9 I. The Naabik'íyáti' Committee of the Navajo Nation Council finds it is in the best
10 interest of the Navajo Nation to approve and accept the CCP award from FEMA,
11 and waive indirect costs because indirect costs are disallowed for the grant.

12 13 **SECTION THREE. APPROVING WAIVER OF INDIRECT COSTS**

14 The Navajo Nation hereby approves Navajo Nation Division of Behavioral and Mental
15 Health Services' receipt of the Crisis Counseling Program Services Grant in the
16 amount of \$944,900.00, and waives indirect costs because FEMA disallows the
17 inclusion of indirect costs in its grant application.