



## The Navajo Nation Office of the Controller

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### **Controller's Office clarifies Special Duty Pay, who was eligible**

**WINDOW ROCK, Ariz.** — Recently, there has been inquiries and confusion about Special Duty Pay and the Navajo Nation Office of the Controller feels it is necessary to provide clarification.

Special Duty Pay was authorized by Navajo Nation President Jonathan Nez in Executive Order No. 001-02. It is paid to eligible Navajo Nation employees deemed essential that were required to work to continue functions of the Navajo Nation government during its shutdown due to the COVID-19 pandemic. Special Duty Pay is not the same as hazard pay for frontline workers.

This means both administrative and frontline employees would be eligible to receive Special Duty Pay if they were deemed essential per the executive order or were later deemed essential by their respective division director. It is also worth noting, Special Duty Pay was mostly paid to executive branch employees, some legislative branch employees and no judicial branch employees.

Pearline Kirk, Navajo Nation Controller, explained several memorandums were issued to clarify Special Duty Pay.

“On April 8, 2020, the Navajo Nation Department of Personnel Management (DPM) issued guidance to division directors on procedures of Special Duty Pay and the Navajo Nation Office of the Controller issued subsequent memorandums on April 13, 2020, and September 3, 2020,” said Kirk. “As outlined in the executive order and further explained in the memorandums, Special Duty Pay is eligible only to individuals that follow the Navajo Nation’s Personnel Policy Manual. This includes all Navajo Nation government employees and certain employees of non-LGA Certified Navajo Nation Chapters.”

Kirk explained this was a major point of confusion among divisions, enterprises and both LGA and non-LGA Certified Chapters.

“Navajo Nation enterprises and LGA Certified Chapters are not eligible for Special Duty Pay under the Navajo Nation Personnel Policy Manual,” Kirk said. “This does not preclude these enterprises or LGA Certified Chapters from implementing their own Payroll Support Program. However, given these entities do not follow the Navajo Nation’s Personnel Policy Manual and are not employees of the Navajo Nation, they would not be eligible to participate in the Navajo Nation’s Special Duty Pay Program. Further, this also prohibits them from being reimbursed by the \$21 million of funding appropriated in CJN-46-20.”

“As a point of clarification, in order for divisions and employees of the Navajo Nation to be eligible for reimbursement by CARES Act funding for Special Duty Pay, they must have been performing a

job duty that was considered to be substantially dedicated to preparing, responding or mitigating COVID-19," Kirk added. "This included a presumption that certain divisions would be assumed to be substantially dedicated to the purpose, including public health, public safety, health care, human services and similar employees."

The time devoted to these efforts to address COVID-19 and related work activity was required to be documented and asserted by the employee, and approved by their supervisor or division director prior to being sent to the Controller's Office.

Kirk explained several divisions within the Navajo Nation are funded through general or unrestricted funds and other federal or state funding sources. Therefore, those divisions would be eligible to use those funds to pay for the Special Duty Pay as opposed to using the CARES Act funding.

"In these situations, the divisions would have to follow the applicable rules and requirements governing the use of such funds which may be more or less restrictive than the CARES Act funds," said Kirk. "It is incumbent upon the individual divisions to submit the required documentation to the Office of the Controller for processing in order for their respective employees to be paid. The Office of the Controller cannot create or modify source documentation based on the Navajo Nation and federal requirements that outline segregation of duties and internal controls."

Kirk explained it was unfortunate the Office of the Controller had to process an unsurmountable number of documents in a very short period of time.

"The first payroll that contained Special Duty Pay was in May 2020. However, there was a significant reduction of time-line when NABIO-49-20 was passed. The initial deadline for submission of documentation to the Office of the Controller was October 26, 2020. Several divisions did not submit their documentation until late October 2020," said Kirk. "When the deadline for expenditure was moved to November 20, 2020, it left only one pay period, previously three pay periods, to process thousands of requests that were submitted at or after the deadline."

Aside from the shortened timeframe, the Office of the Controller had to also work through discrepancies and corrections of submitted documents from divisions.

"Our office worked with divisions to correct many of the requests due to inadequate documentation, double dipping and request that were deemed exorbitant and would be considered excessive compensation under federal guidelines," Kirk said. "The other issue we are facing is that we are now dealing with overlapping fiscal periods, grant periods and calendar years for taxability purposes."

Despite the challenges, there were many success stories of divisions that were able to submit the required documentation to ensure their employees received Special Duty Pay that was submitted timely.

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