



TCU Webinar: Navigating Allowability
Hosted by the American Indian College Fund



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- The purpose of this engagement is limited to providing TCUs with applicable information and advice to assist in the decision making process concerning the investment of Education Stabilization Funding (ESF) and Higher Education Emergency Relief Funding (HEERF).
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Thanks and we look forward to working with you!

Session Agenda

- Re-Introductions
 - FSA & FSA Team
 - Rules for Engagement – Setting the Expectation
 - FSA Support Services Overview
- Identify Strategies, Approaches and Best Practices Used
- Assess TCU Needs and Wants
 - Identify desired strategies that TCUs would like to implement with ESF and/or HEERF but concerned or unsure about allowability.
- Discuss Next Steps

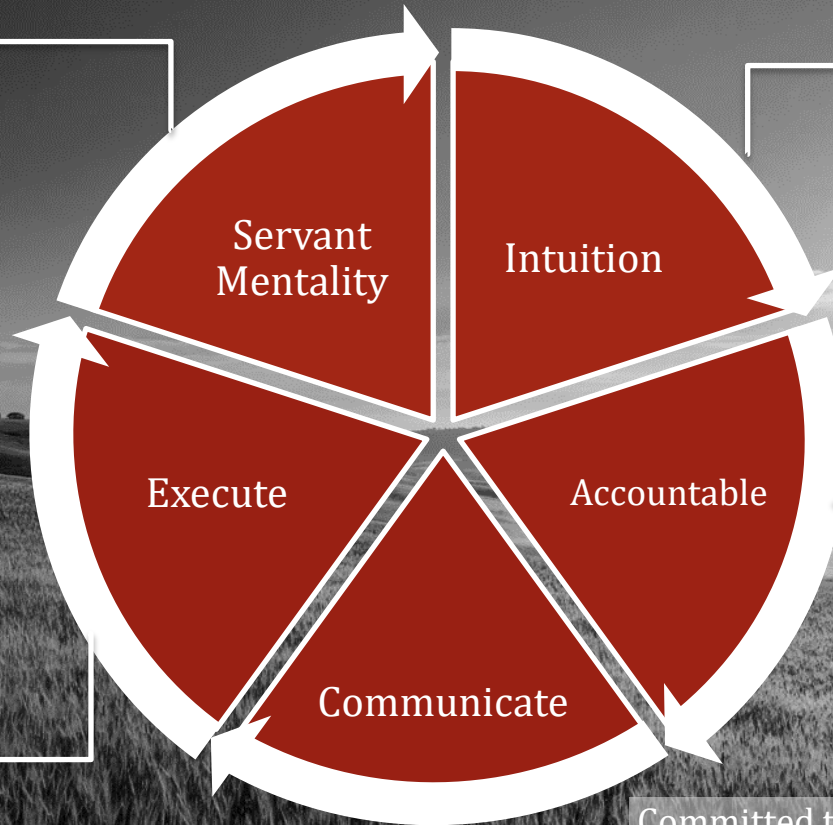
About FSA

- An American, Indian-Owned financial advisory firm formed in 2004 to provide advisory services tailored to the needs of tribes.
- The FSA Family:
 - FS Advisors, Inc.
 - *Tribal Member Benefits, Member Health Plans & Consulting*
 - FSA Risk & Benefits, LLC
 - *Risk Management & Employee Benefits*
 - FSA TPA, LLC
 - *Third Party Administrator for Tribal Member Benefits*
 - FSA Investment Group, LLC, a Registered Investment Advisor
 - *Investment Management*
 - *Business Development and Financial Advisory Services*
 - *COVID Advisory Services for Tribes and TCUs*

FSA Investment Group – Core Values

Humbly listening to and serving our clients with an intense desire to exceed expectations in the facilitation of projects.

Experience-based knowledge and insight in anticipating and determining the best course of action for our clients.



Utilizing developed processes to coordinate people and resources for the timely completion of client deliverables.

Behaving ethically, acting with honesty and integrity, and being responsible for commitments made and resulting outcomes.

Committed to consistent and transparent sharing of information, insight and advice while actively listening to the needs and concerns of our clients.

Welcome and Introductions



Mike Myhre

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(850) 607-4844

Michael Myhre joined FSA in September 2020 as a Relationship Manager. He holds nearly 30 years of business and economic development experience, dedicating his career to advocating and securing success for entrepreneurs and small businesses. Prior to joining FSA, Mike served as the CEO for the Florida Small Business Development Center Network; the state's small business development agency. In this role, Mike provided strategic direction and leadership of the organizations 45 offices and nearly 250 employees for over 10-years.

Prior to his tenure with the Florida SBDC, Mike held the position of Executive Director for the Office of Entrepreneurship and Small Business Development for the State of Minnesota Department of Employment and Economic Development. In this position, Myhre served as administrations liaison and leader state's leading office of entrepreneurial and small business policy and support services, including direction of the Minnesota SBDC Network.

Mike has served as the Board Chairman of America's SBDCs; the association representing the nation's largest small business development organization with nearly 1,000 offices and 5,000 employees. He has also served on the Board of Directors of CareerSource Florida, Florida Economic Development Council, Florida Chamber of Commerce, among others.

Mike is a graduate of the University of Minnesota, Carlson School of Business and Management, and earned a certificate for passing the CPA exam. Mike lives in Pensacola Beach with his wife and has three adult children (Chelsea, Melissa and Dakota) and shih tzu (Chewy).

Welcome and Introductions



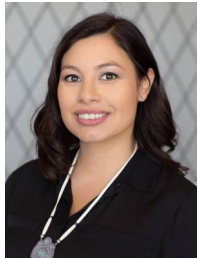
**Gloria-Ann
Billings**

gabillings@fsa-ig.com

(907) 310-8368

Gloria Ann joined FSA Investment Group in February 2021 as a Financial Analyst. Prior to joining FSA, she started her career with the Florida SBDC as a Financial Grants Specialist. During this time at Florida SBDC, she graduated from University of West Florida in 2020 with a double major in Bachelors of Finance and Bachelors of Accounting. Gloria Ann is currently pursuing a Masters of Accounting at the University of West Florida and studying for the CPA exam. Gloria-Ann lives in Gulf Breeze, Florida with her husband Nick and enjoys spending her free time with family and friends, trying new recipes, and crocheting.

FSA Tribal Government COVID Team



**Jennifer
Parisien**



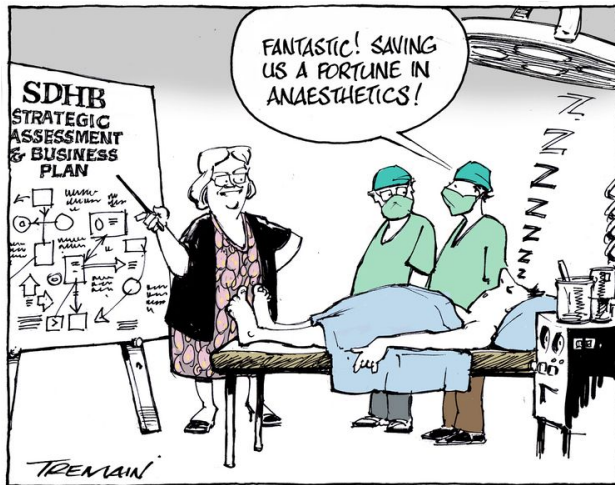
**Sabrina
Renteria**



**Justin
Lepscier**

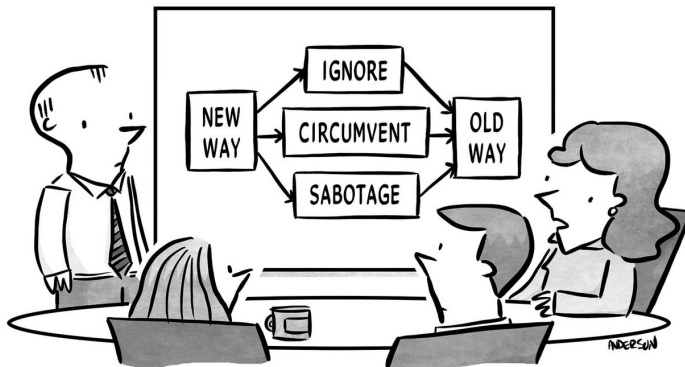
Rules of Engagement

Active Engagement



Innovative Thinking

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"So business as usual."

Equal Participation



"I will of course yield to whomever agrees with me."

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Stay Focused

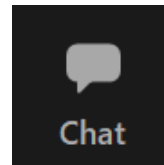


"We called this meeting to discuss critical issues, so let's spend our time discussing something completely unrelated."

Engagement for Introverts

	Introverts near people
	Introverts alone
	Introverts online
	Introverts in their imaginations

- Use and enter your comment or question in the Chat window field.



Chat Button
(bottom of screen)

To: Everyone ▾
Type message here...

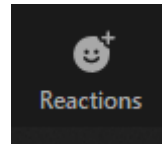


With the “To” set to Everyone,
enter your comment or
question
(bottom of screen)

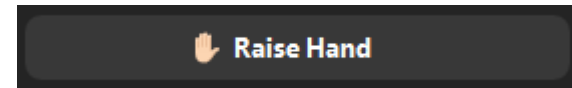
Engagement for Extroverts



- Use the Raise Hand feature to be recognized.



Reactions Button
(bottom of screen)



Click "Raise Hand"
Button

Wait to be Recognized

FSA TCU Services

Sponsored by THE College Fund

To assist TCUs, the College Fund has obtained the professional expertise of FSA* to:

- I. Provide a repository of resources, including but not limited to guidance from applicable federal granting agencies, and forms and templates that will assist TCUs spending plans and meeting reporting and documentation requirements for COVID Relief Funding – [TCU COVID Resources](#)
- II. Conduct four (4) synchronous training programs that support TCU learning and management of COVID Relief Funding, and
- III. Provide one-on-one direct consulting on matters related to COVID Relief Funding.
 - Contact Mike Myhre (mmyhre@fsa-ig.com) and Gloria-Ann Bills (gbillings@fsa-ig.com) to schedule your appointment.

* Contract expires December 31, 2021



Tribal Colleges and Universities
Navigating Allowability



Approach

What does the law say?

**What does the regulations / guidance
(FAQs) say?**

**Is the investment (expenditure)
allowable, reasonable and justifiable?**

Allowable Topics Researched

1. Can TCUs use COVID funding (ESF or HEERF) for construction of new facilities? Remodeling of existing facilities?
2. Can TCUs use funds to purchase vehicles?
3. Can TCUs discharge an entire debt owed by a student?
4. Can TCUs subaward COVID funding to third-parties e.g., Tribes?

New Construction



New Construction

1. What does the law say?

CARES, PUBLIC LAW 116-136—MAR. 27, 2020

SEC. 18004 (c) USES OF FUNDS.—Except as otherwise specified in subsection (a), an institution of higher education receiving funds under this section may use the funds received to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus, so long as such costs do not include ... capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship.

New Construction

2. What does the regulations / guidance (FAQs) say?

HEERF III FAQ - American Rescue Plan Act of 2021, Published May 11, 2021 – Questions 22 & 23

#22. Question: What uses of funds are unallowable for the HEERF grant programs (HEERF I, II, and III)?

Answer: HEERF grant funds must not be used for:

- construction or purchase of real property (See Question 23, below).

New Construction

2. What does the regulations / guidance (FAQs) say?

HEERF III FAQ - American Rescue Plan Act of 2021, Published May 11, 2021 – Questions 22 & 23

#23. Question: Can grantees use HEERF grant funds to engage in construction or purchase real property?

Answer: No.

- ... grantees are prohibited from using HEERF funding for the acquisition of real property or construction under (34 CFR § 75.533.) ... but does not extend to activities that meet the definition of “minor remodeling” under 34 CFR § 77.1.

New Construction

2. What does the regulations / guidance (FAQs) say?

34 CFR § 75.533

Education Subtitle A - Office of the Secretary, Department of Education PART 75 - DIRECT GRANT PROGRAMS Subpart E – What Conditions Must Be Met by a Grantee? Allowable Costs § 75.533 Acquisition of real property; construction.

- No grantee may use its grant for acquisition of real property or for construction unless specifically permitted by the authorizing statute or implementing regulations for the program.

New Construction

Key Question – Does the law (CARES Act, PUBLIC LAW 116-136) specifically permit use of funds for construction per 34 CFR § 75.533?

1. What does the law say?

SEC. 18004 (c) USES OF FUNDS.—Except as otherwise specified in subsection (a), *an institution of higher education receiving funds under this section may use the funds received to cover **any costs** associated with significant changes to the delivery of instruction due to the coronavirus, so long as such costs do not include ... capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship.*

New Construction

3. Is the investment (expenditure) allowable, reasonable and justifiable?

If it is assessed that construction is permitted:

- ✓ Allowable – Not directly or indirectly for facilities related to athletics, sectarian instruction, or religious worship.
- ✓ Reasonable - Cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. (2 CFR § 200.404)
- ✓ Justifiable – Does the institution have a defined prudent business need that aligns with intended appropriation?

New Construction

RECOMMENDATION

It is strongly recommended that you seek counsel opinion if it is the intent to use COVID funding for the purpose of new construction.

Further, it is recommended that TCUs collectively seek the opinion of appropriators (Congress) with respect to their intent in the uses of funds and allowability for new construction to address the spread of COVID.

Minor Remodeling



Minor Remodeling – Determined Allowable

Disallowance for new construction does not extend to activities that meet the definition of “minor remodeling” per 34 CFR § 77.1

HEERF III FAQ - American Rescue Plan Act of 2021, Published May 11, 2021 – Questions 24

#24. Question: What are some examples of permissible “minor remodeling” that HEERF grant funds may support under the definition in 34 CFR § 77.1?

Minor Remodeling – Determined Allowable

2. What does the regulations / guidance (FAQs) say?

Examples of permissible minor remodeling may include, but are not limited to:

- The installation or renovation of an HVAC system, to help with air filtration to prevent the spread of COVID-19.
- The purchase or lease of temporary trailer classroom units to increase social distancing.
- The purchase or costs of the installation of “room dividers” within a previously completed building to increase social distancing.
- Extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed building.

Vehicles



Vehicles

1. What does the law say?

CARES, PUBLIC LAW 116-136—MAR. 27, 2020

SEC. 18004 (c) USES OF FUNDS.—Except as otherwise specified in subsection (a), *an institution of higher education receiving funds under this section may use the funds received **to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus...***

Vehicles

2. What does the regulations / guidance (FAQs) say?

HEERF III FAQ - American Rescue Plan Act of 2021, Published May 11, 2021 - Absent

Vehicles are generally defined as “General Purpose Equipment”

#45. Question: Is prior approval required for HEERF grants for Equipment?

Answer: No. Department has provided prior approval.

Vehicles

3. Is the investment (expenditure) allowable, reasonable and justifiable?

If it is assessed that construction is permitted:

- ✓ Allowable – Yes.
- ✓ Reasonable - Cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. (2 CFR § 200.404)
- ✓ Justifiable – Have a prudent business need that aligns with intended appropriation.

Discharge Student Debt



Discharge Student Debt

1. What does the law say?

CARES, PUBLIC LAW 116–136—MAR. 27, 2020

SEC. 18004 (c) USES OF FUNDS.—Except as otherwise specified in subsection (a), *an institution of higher education receiving funds under this section may use the funds received to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus...*

Discharge Student Debt

2. What does the regulations / guidance (FAQs) say?

HEERF III FAQ - American Rescue Plan Act of 2021, Published May 11, 2021 – Questions 26 & 27

#26. Question: Can my institution use ARP or other HEERF institutional grant funds to discharge student debt or unpaid balances to their institutions?

Answer: Yes. Institutions may discharge student debt or unpaid balances by discharging the complete balance of the debt as lost revenue and reimbursing themselves through their HEERF institutional grants or by providing additional emergency financial grants to students (with their permission). **The Department strongly encourages institutions to discharge such debt.**

Discharge Student Debt

2. What does the regulations / guidance (FAQs) say?

Discharge the student's outstanding balance and count it as lost revenue:

- What the institution can do: Institutions can discharge the complete balance of the debt as lost revenue and reimburse themselves through their HEERF grants, including associated fees and penalties.
- What the institution cannot do: **The institution cannot condition, nor imply that it will condition, discharging these funds on the condition the student takes any specified actions (i.e., no conditioning a discharge of debt on continued reenrollment).** Additionally, institutions may only charge the debt as lost revenue and reimburse themselves through one of the HEERF programs (i.e., no double-dipping).

Discharge Student Debt

2. What does the regulations / guidance (FAQs) say?

#27. Question: What efforts to reengage students are allowable, and would not be classified as impermissible “marketing and recruitment”?

Answer: Reengagement: Institutions can discharge the complete balance of a student’s institutional debt as lost revenue and reimburse themselves through their HEERF institutional grants, including associated fees and penalties, so students can reenroll, continue their education, or obtain their official transcript to transfer and/or secure employment.

Moreover, no portion of HEERF funds may be used to directly fund staff or contractor salaries who are engaged in marketing and recruitment. – What about a “Reengagement and Retention Officer”

Discharge Student Debt

3. Is the investment (expenditure) allowable, reasonable and justifiable?

If it is assessed that construction is permitted:

- ✓ Allowable – Yes.
- ✓ Reasonable - Cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. (2 CFR § 200.404)
- ✓ Justifiable – Have a prudent business need that aligns with intended appropriation.

Subawards



Subawards

Yes, it is allowable for a subrecipient (TCU) to subaward to a third-party, e.g. Tribe, its COVID funding for the purpose of carrying out a portion of a Federal award.

This creates a “Federal assistance relationship” between the subrecipient, subaward entity and Federal agency.

The TCU – as the subrecipient – remains accountable and responsible that the funds were invested for the allowable purpose(s) which they were appropriated.

Further, the TCU must adhere to subrecipient management and monitoring per the Uniform Administrative Requirements (see 2 CRF §200.331 - .333), including but not limited to having a legal contract, e.g., subrecipient agreement, between the subrecipient and subaward entity.

Subawards

Finally, as the Feds will conduct comprehensive audits and reviews to ensure the funding was used for allowable purposes as specified in the Acts to prepare for, respond to, and recover from the Coronavirus pandemic, you will want to ensure strong internal controls and processes for monitoring your subaward agreements.

To assist our Tribal Government clients in this area, FSA has a “Subrecipient Agreement” and “Subrecipient Monitoring Report” templates that could be modified and customized for your (TCU) use.

These will be posted to the [TCU COVID Resource](#) website.

Thank you! Final Questions?



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