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GENERAL MEMORANDUM 16-059

FY 2017 Continuing Resolution through December 9 Enacted

Today President Obama has signed a Continuing Resolution (CR) which will provide FY 2017 funding for federal agencies from the beginning of the fiscal year (October 1, 2016) through December 9, 2016, thus averting a government shutdown. A summary of the CR as posted by the Senate Appropriations Committee may be found here: <http://bit.ly/2dmKiyi>

The Continuing Resolution is Division C of HR 5325, the bill which also provides full year FY 2017 funding for the Military Construction-Veterans Administration programs under Division A. The CR will, by and large, provide funding on a pro rata basis at the FY 2016 levels under the authority and conditions of the FY 2016 Appropriations. Our General Memorandum 16-058 (September 23, 2016) reported on the draft CR and the policy disputes which made its enactment a difficult task.

Funding Level/Limitations on the Distribution of Funds. As noted above, funding for most programs during the period of the CR will be at FY 2016 levels and conditions. There is a one half of one percent (0.496 percent to be precise) across-the-board reduction from FY 2016 funding levels. This reduction is made to account for some expiring spending rescissions and changes in mandatory programs. Without this half of a percent reduction, the spending cap would be exceeded. The across-the-board reduction does not apply to the Overseas Contingency Operations/Global War on Terrorism or to disaster relief.

The CR funds will not be distributed for programs that may have high initial rates of operation or for funds which are fully distributed at the beginning of the fiscal year. This is because of the possibility that Congress might eliminate or reduce funding for those particular programs in a final appropriations bill.

With regard to the distribution of funds during the covered period, the CR states:

This Act shall be implemented so that only the most limited funding action of that permitted in the Act shall be taken in order to provide for continuation of projects and activities.

However, agencies will be allowed to apportion funds in a manner that would avoid furloughing employees. These provisions are common in CRs and were also included in the FY 2016 CR.

Mandatory Funding Programs. Funding for entitlement and mandatory payments which were provided for in the FY 2016 Appropriations Act as well as activities under the Food and Nutrition Act will be continued at a rate that maintains current program levels.

Anomalies. Anomalies, provisions that differ from those in FY 2016, are relatively few and none are tribal-specific. Of significance is the inclusion of \$500 million for disaster relief for severely flooded areas, many of which are in Louisiana. The funds will be distributed through the Department of Housing and Urban Development's Community Development Block Grant.

Zika Funding. Division B of the Act is specific to activities related to the Zika virus. It provides \$1.1 billion for this purpose. Of this amount \$75 million will be available on a reimbursement basis for "health care conditions related to the Zika virus" to tribes, tribal organizations, states, and territories where the Centers for Disease Control and Prevention (CDC) has confirmed active cases, with the majority of the funding going to Puerto Rico. Other funds would go to the CDC, National Institutes of Health, Department of State, and the U.S. Agency for International Development.

Flint, Michigan Water Crisis. The Act contains no funding to address the problems in Flint, Michigan, caused by lead in the water pipes and which has poisoned 9,000 children. Parties finally reached agreement when Republicans promised that such funding will be provided in the Water Resources Development Act, different versions of which have now passed the House and Senate and will be conferenced in the post-election session.

What's Next. Beginning October 1, Congress will be in recess through the November elections. They are scheduled to return November 14 for a week, break for Thanksgiving, and then be in session through much of December. The primary work of the post-election session will be to enact FY 2017 appropriations bills, likely as an omnibus vehicle that contains all of the remaining appropriations bills or as a series of smaller "minibuses" (groups of appropriations bills) as Senate Majority Leader McConnell (R-KY) and House Speaker Ryan (R-WI) are now advocating. On the other hand, a conservative House Republican faction is endorsing neither option and is instead advocating for another CR extending through March or even the entire fiscal year; however, this last scenario is the least likely to occur. Because the Appropriations Committees have reported out FY 2017 appropriations bills and their Members generally favor detailed appropriations bills which reflect the Committee recommendations, we expect some iteration of either an omnibus or a series of minibuses as the most likely outcome.

Among the many things at stake are hoped-for increases in the Indian Health Service and Indian Affairs budgets which have been recommended by the House and/or Senate Appropriations Committees (for example: Indian Health Service Purchased/Referred Care; clinic leases; built-in costs; behavioral health and Bureau of Indian Education Tribal Grant Support Costs and school construction. In addition, there are significant Committee-recommended increases for Health and Human Services tribal behavioral health grants and efforts to address opioid abuse).

Because the CR funds programs on a pro rata basis at FY 2016 levels, we list for your convenience our General Memoranda (GM) on selected federal agencies' final FY 2016 appropriations:

Indian Health Service	GM 16-005 of January 12, 2016
Indian Affairs (BIA/BIE)	GM 16-008 of January 22, 2016
Labor-HHS-Education	GM 16-010 of January 25, 2016

We expect the Office of Management and Budget to issue guidance to federal agencies in carrying out the Continuing Resolution. Please let us know if we may provide additional information regarding the FY 2017 Continuing Resolution or other appropriations matters.

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