

**Coronavirus Relief Fund**  
**Allocations to Tribal Governments**  
**June 12, 2020**

The CARES Act reserves \$8 billion from the Coronavirus Relief Fund (the Fund) for payments to Tribal governments and provides that the allocation of payments to Tribal governments is to be determined by the Secretary of the Treasury, in consultation with the Secretary of the Interior and Indian Tribes.<sup>1</sup>

On May 5, 2020, the Department of the Treasury announced the Secretary of the Treasury's determination to allocate payments to Tribal governments based on population, employment, and expenditure data, and Treasury began making payments of population-based amounts on that date. In order to ensure to the greatest extent feasible that employment and expenditure-based payments would be allocated using data that is as consistent across Tribal governments as possible, Treasury requested additional information from Tribal governments as to their employment and expenditures, as discussed below. Treasury stated at the time of the first distribution that it intended to determine the specific weight given to employment and expenditure data after receiving such additional submissions. As discussed below, this determination has been made, and Treasury is making a second distribution of payments to Tribal governments today.<sup>2</sup>

***Employment and expenditure data***

Treasury requested that, for each calendar quarter of 2019, Tribal governments submit the number of their employees and the number of employees of any entity of which the Tribal government owns at least 51% of the ownership interests. To ensure consistency, Tribes were required to use the employee numbers submitted to the IRS on Form 941.

Treasury also requested that Tribal governments provide the total amount of government expenditures, other than capital outlays and debt service costs, for the 12 months of the 2019 fiscal year and break out the amount of federal financial assistance represented in the total government expenditure figure. Tribal governments were required to provide documentation supporting these figures.

Treasury has determined to distribute 30 percent of the \$8 billion reserved for Tribal governments based on the employment data of Tribes and tribally-owned entities and 10 percent of the \$8 billion reserved for Tribal governments based on tribal total government expenditures for the 12 months of the 2019 fiscal year (subject, in each case, to the amount of the reserve described further below). The greater weight placed on employment data responds to comments received during the tribal consultations that the allocation formula should account for the economic impact that a Tribe's business enterprises have in the community where the Tribe is located. Tribes made clear the importance of being able to maintain their tribally-owned businesses, including by providing payroll support to compensate for stay-at-home orders, social distancing measures, and other costs brought about by COVID-19. The relatively smaller weight placed on tribal expenditure amounts is appropriate because payments have already been made on the basis of population, and both population and expenditure amounts are expected to correlate to a similar extent with similar categories of COVID-19 related expenses of Tribal governments.

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<sup>1</sup> See section 601(c)(7) of the Social Security Act, as added by § 5001(a) of the CARES Act.

<sup>2</sup> As previously stated, Treasury, after consultation with the Department of the Interior, has concluded that Alaska Native regional and village corporations as defined in or established pursuant to the Alaska Native Claims Settlement Act are eligible to receive payments from the Fund. Treasury has accepted payment requests from such corporations and asked them to submit supplemental information. They are also included in the computations below, but payments are not being made to the Alaska Native corporations at this time due to pending litigation.

### ***Reserved funds***

At this time, Treasury has determined to reserve \$679 million from amounts that would otherwise be paid to Tribal governments, which represents an estimate of the difference in total payment amounts to Tribal governments if Treasury had made population-based payments based on tribal enrollment data provided by the Bureau of Indian Affairs, rather than the Census-based Indian Housing Block Grant data used for the first distribution as announced on May 5, 2020. These reserved funds would be available to resolve any potentially adverse decision in litigation on this issue with respect to payments from the Fund to Tribal governments. In particular, given that the Judgment Fund is unavailable to compensate plaintiffs seeking additional CARES Act payments, this reserve is intended to enable Treasury, if necessary, to address claims for additional payment presented in litigation. Although Treasury is not required to maintain this reserve, Treasury has concluded that it is a prudent course at this stage as a policy matter.

### ***Employment-based component of allocation formula***

The allocation based on employment data will result from Treasury taking the following steps:

Step 1. By Tribe, sum reported tribal employment and tribal entity employment for each quarter of 2019.

Step 2. Calculate the non-zero annual average of the summed quarters one through four obtained in Step 1.

Step 3. Calculate the pro-rata<sup>3</sup> payment for each Tribal government, based on the annual employment averages obtained in step 2.

### ***Expenditure-based component of allocation formula***

The allocation based on tribal total government expenditures will result from Treasury calculating the pro-rata<sup>4</sup> payment for each Tribal government, based on 2019 tribal total government expenditures.<sup>5</sup>

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<sup>3</sup> More specifically, this step sums the non-zero annual employment averages obtained in step 2 for each Tribe to obtain total annual average employment for all Tribes combined. Each Tribe's step 2 employment average is then divided by that total average employment amount to obtain the share of total employment for each Tribe. This tribal share is then multiplied by the amount being allocated, 30% of \$8 billion, or \$2.4 billion.

<sup>4</sup> More specifically, this step sums total government expenditures for each Tribe to obtain total government expenditures for all Tribes combined. Each Tribe's total expenditures are then divided by those combined total expenditures to obtain the share of total expenditures for each Tribe. This tribal share is then multiplied by the amount being allocated, or 10% of \$8 billion, or \$800 million.

<sup>5</sup> Treasury did not use the information collected on federal financial assistance in the allocation formula. Treasury determined that, because of wide differences in the proportion of federal financial assistance to total assistance among different Tribes, total expenditures was the better indicator of the full costs of Tribal governments.