



Forest County Potawatomi Community

P.O. Box 340 • Crandon, Wisconsin 54520

April 8, 2020

The Honorable Steven T. Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

The Honorable Tara Sweeney
Assistant Secretary of Indian Affairs
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Forest County Potawatomi Community Proposed Formula to Allocate \$8 Billion Tribal Coronavirus Relief Fund Providing Each Tribe with an Equal % of Its Total Expenditures

Dear Secretary Mnuchin and Assistant Secretary Sweeney:

The Forest County Potawatomi Community of Wisconsin (“Tribe”) is a sovereign, federally recognized Indian Tribe organized under a Constitution adopted June 5, 1982, and approved by the Secretary of Interior on July 14, 1982, pursuant to the provisions of the Indian Reorganization Act of 1934, as amended. We are not a large land-based tribe. We have a 15,000-acre Reservation in remote Northern Wisconsin and trust land in the Milwaukee area, which is the traditional territory of the Forest County Potawatomi people.

We do not have a large enrollment population relative to some other tribes. We have a membership of more than 1,700 people and we provide services to a much larger population in both remote northern Wisconsin and the Milwaukee area. Our programs include natural resources, environmental protection, education, health services, cultural resources, and emergency management programs. We are self-insured for health care and provide health insurance for over 7,500 employees and tribal members and our work force is approximately 4000. We are not normally heavily reliant on federal funding. Federal funding for our budget, from all sources, is only 2% of our total budget, with most of the remaining budget coming from our tribally-owned businesses.

The pandemic has caused a crisis for my Tribe that threatens the future of the Tribal government. Thus, we appreciate that Congress and the Administration provided at least \$8 billion in economic stabilization funding for Tribes. The Forest County Potawatomi has worked hard over the last thirty years to embrace the policy of Self-

Determination, and without assistance from this fund, we fear that thirty years of work will be wiped out in a matter of months.

A. The CARES Act Mandates an Expenditure Based Methodology

We think it is important as the Agencies determine the methodology to allocate this Fund that you must look to the statute for guidance. Specifically, the statute states that these funds are to be paid to tribal government based on:

increased expenditures of each such Tribal government (or a tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019 by the Tribal government (or tribally-owned entity) and determined in such manner as the Secretary determines appropriate to ensure that all amounts available under subsection (a)(2)(B) for fiscal year 2020 are distributed to Tribal governments.

CARES Act, P.L. 116-136, Section 601(c)7. Thus, the Agencies in developing a methodology to distribute these funds must rely on tribal (or tribal entities) expenditures in 2019.

B. Tribes' Total Expenditures are Uniformly Reported in Audited Financial Statements attached to Form SF-SAC at the Federal Audit Clearinghouse

We believe the best data point available to the federal government to indicate a Tribe's total tribal expenditures is in the Tribe's Audited Financial Statements. Specifically, "Total Expenditures" for a Tribe are reported on the Statement of Revenues, Expenditures, and Changes in Fund Balances, Governmental Funds from the Tribe's Audited Financial Statement submitted as an attachment to Form SF-SAC to the Federal Audit Clearinghouse. The very few tribes that do not ordinarily file with the Clearinghouse could be allowed a short window to upload a comparable audited financial statement to the Clearinghouse. The single number does not require further calculation or interpretation and best captures a tribe's total expenditures for 2019. The number is prepared by independent auditors based on widely understood audit guidance from the Office of Management and Budget and is available for internal federal government use from existing federal government records. We recognize this may require pulling a number from each tribe's filing, but again we believe it is the best indicator of what a tribe's 2019 expenditures were and is much simpler than other proposals we have seen.

C. Formula-Provides Each Tribe With an Equal % of its Total Expenditures -- \$8 Billion x Individual Tribe's Total Expenditures / Sum of all Tribes' Total Expenditures

Once the total of Tribal Expenditures for all Tribes is known, we believe the \$8 billion should be distributed based on the ratio of each Tribe's Total Expenditures to the total of all Tribes' Total Expenditures. See attachment for examples of this formula. We recognize that this methodology will demonstrate that the need across Indian country is far greater than \$8 billion, so we ask Treasury to allocate more to this Fund, so that this economic crisis facing Indian country does not do lasting and permanent damage.

Senator Hoeven, Chairman of the Senate Committee on Indian Affairs, stated that the intent of this fund is to provide "emergency relief to tribal governments and offset costs incurred by Indian tribes." The impact to tribes is vastly different than what states are facing. While states will certainly lose some of their governmental revenues because their tax revenues are down, many tribes have lost virtually all their governmental revenues. Our enterprises, which the federal government encouraged us to establish to secure Tribal self-determination, are closed and revenue for our government has gone to zero. A methodology that is not based on this impact will cause lasting damage to tribes like ours, who have for the last thirty years fought to achieve self-determination. Moreover, this methodology also captures tribal expenditures for those tribes that have large user populations, large land bases, as well as a large number of tribal employees (indicators we know that have been put forward by other tribes.) All of these indicators are reflected in Total Expenditures as reported in a Tribe's audited financial statements.

D. Allowable Use of These Funds

The second determination that Treasury must make is what is an allowable use of these funds. We join with the National Congress of American Indians and the Native American Finance Officers Association in urging the Agencies to interpret the statute as expansively as possible to achieve Congress's goal to provide a measure of economic stabilization to Tribal governments. Thus, these Funds must be able to fill the now large and growing gap in Tribal budgets because our governmental revenues are nonexistent for at least one quarter. These costs must include payroll costs, program operating costs, health insurance and unemployment insurance costs, any new applicable leave mandates, and debt costs.

Again, the \$8 billion will not be enough to fill the large gap, but we are hopeful that it will be enough to ensure that Tribal governments continue to operate and meet the needs of our people.

We thank you for your work on behalf of Indian country in these unprecedented times.

A handwritten signature in blue ink that reads "Ned Daniels, Jr." with a stylized flourish at the end.

Ned Daniels, Jr.

Chairman

cc: The Honorable David Bernhardt, Secretary of the Interior
Daniel Kowalski, Counselor to the Secretary of the Treasury

Attachment
 Forest County Potawatomi Community
 Suggested Formula to Allocate
 \$8 Billion Tribal Corona Virus Relief Fund
 April 8, 2020

A x (B/C) = Each Tribe gets equal % of its Total Expenditures

See the assumptions and table of examples below:

Formula
A x (B/C) = Each Tribe gets equal % of their Total Expenditures.
$\$8 \text{ Billion} \times (\text{Individual Tribal TE} / \text{Sum of all Tribal Expenditures})$
Assumptions
A = Total amount of money to be allocated. In this case \$8 Billion
B = Individual tribe's "Total Expenditures" as reported on the Statement of Revenues, Expenditures, and Changes in Fund Balances, Governmental Funds from the Tribe's Audited Financial Statement submitted as an attachment to Form SF-SAC to the Federal Audit Clearinghouse
C = Total of all Tribes' TEs

Table of Examples

Hypothetical Tribes	Tribe 1	Tribe 2	Tribe 3	All Tribes
B = Example Tribe's Total Expenditures	\$25 M	\$100 M	\$300 M	C = \$81.316 Billion (C is the estimated sum of all Tribal Expenditures based on the average tribal expenditure amount using these three hypothetical tribes which is then multiplied by 574 tribes, \$425 M divided by 3 is \$141,666,666 \$141,666,666 x 574 = \$ 81.316 Billion)
Allocation	\$2,459,540	\$9,838,163	\$29,514,486	A=\$8 Billion (Equals \$8 Billion when all allocations are added)
% of TE	9.83%	9.83%	9.83%	Every tribe gets equal % of its TE