



USET

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Transmitted Electronically
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September 4, 2023

Pamela Williams
Assistant Administrator
Grant Programs Directorate
Federal Emergency Management Agency
Department of Homeland Security
301 7th St. SW
Washington, DC 20407

Dear Assistant Administrator Williams,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Request for Information (RFI) on implementation of the Community Disaster Resilience Zones Act of 2022 ([P.L. 117-255](#)). This Act requires FEMA to develop an annual risk assessment methodology to losses of property, life, and agriculture from natural hazards, and includes assessments on social vulnerability, and community resilience. USET SPF appreciates FEMA's efforts to consult with Tribal Nations to implement the Community Disaster Resilience Zones Act. However, we have concerns regarding the use of Census tracts to designate Tribal Lands for Community Disaster Resilience Zones. Census tracts do not conform with Tribal Land jurisdictional boundaries and can often provide misleading information of a Tribal Nation's demographics and jurisdictional land base. For these reasons, we strongly recommend that FEMA empower Tribal Nations to self-designate Community Disaster Resilience Zones by carving out Census tracts that best reflect our jurisdictional boundaries.

USET Sovereignty Protection Fund (USET SPF) is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

⁽¹⁾ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe–Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Census Tract Data Does Not Conform to Our Jurisdictional Boundaries

Many Tribal Nations, including several in the USET SPF region, have small land bases or are landless. This has created complications when applying for federal funds since several federal programs often rely on population density metrics in Census tracts to determine eligibility to receive federal support. This has often led to the exclusion of Tribal Nations to access vital federal programs and services since Census tracts can include a nearby urban or metropolitan center that inflates the population density or economic demographics within our jurisdictional boundaries. These issues are often compounded since our Tribal Lands and communities frequently do not reflect the positive economic circumstances of our neighboring communities. USET SPF is concerned that FEMA's reliance on Census tract data will further exclude Tribal Lands from being appropriately designated as a Community Disaster Resilience Zone. Tribal Nations and our governments are the best positioned to determine how to prepare and respond to disasters and other emergencies within our communities and FEMA must ensure that we receive the appropriate resources and assistance needed when responding to these events. Additionally, we recommend that FEMA coordinate with other federal agencies, such as the Centers for Disease Control and Prevention (CDC) since it is implementing new regional centers for public health preparedness and response. Coordination with the CDC on its effort to establish these regional centers could provide vital insight to FEMA when considering the establishment of Community Disaster Resilience Zones.

Empower Tribal Nations to Designate Community Disaster Resilience Zones

Empowering our Tribal Nations to self-designate Community Disaster Resilience Zones by carving out Census tracts that best reflect our jurisdictional boundaries will ensure that preventative measures, local recovery efforts, and disaster response efforts appropriately address the priorities of our communities. We understand that P.L. 117-255 requires FEMA to designate certain Census tracts as Community Disaster Resilience Zones. However, we strongly recommend that FEMA empower Tribal Nations to self-designate these areas since our jurisdictional boundaries can overlap multiple Census tracts. We are concerned that FEMA may inappropriately recognize Community Disaster Zones using Census tracts that only partially include our jurisdictional boundaries. This action will inevitably lead to issues where our Tribal Nations are not receiving the appropriate federal support to implement preventative measures and respond to natural disasters affecting our Tribal Lands.

In the instance that Tribal Nations are not able to self-designate Community Disaster Resilience Zones, we strongly recommend that FEMA direct state and local governments receiving Community Disaster Resilience Zone funding for Census tracts that include Tribal Lands work directly with Tribal Nations to ensure appropriate federal resources are allocated to Tribal Nations for preventative and natural disaster response efforts. It is critical that state and local governments coordinate with Tribal Nations when receiving federal funds to address natural disasters affecting our communities. Additionally, any state or local government coordination with Tribal Nations must include federal oversight and accountability in the distribution of Community Disaster Resilience Zone funds in accordance with trust and treaty obligations. Since this is the more likely of the two, this is an especially important point and one that is consistent with our overall advocacy about greater oversight and accountability of funds going through states/local governments. Further, we strongly recommend that Tribal Nations receive higher consideration for projects to implement the Community Disaster Resilience Zones Act, especially those that do not have emergency management departments. Tribal Nations have been largely excluded from FEMA disaster funds that state governments receive.

Conclusion

An essential foundation of federal trust and treaty obligations to Tribal Nations is the duty to ensure that we receive the appropriate resources and assistance when responding to and recovering from a disaster or

emergency event. For these reasons, FEMA must ensure that Tribal Nations can designate Community Disaster Resilience Zones that will be effective in increasing mitigation or preventative measures to address the increased frequency and costs of natural disasters. Tribal Nations and our lands are consistently at risk of natural disasters and this risk is growing exponentially due to climate change. We must receive the appropriate federal assistance to address these events. While we understand that FEMA is required by law to rely on Census tract data for designating Community Disaster Resilience Zones, FEMA must empower Tribal Nations to self-designate the areas that best reflect our jurisdictional boundaries. We look forward to continued dialogue on this important issue and anticipate FEMA uphold its trust and treaty obligations by recognizing Census tracts do not conform to our jurisdictional boundaries. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 615-838-5906.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Francis', with a long horizontal stroke extending to the right.

Chief Kirk Francis
President

A handwritten signature in black ink, appearing to read 'Kitcki A. Carroll', with a stylized, cursive script.

Kitcki A. Carroll
Executive Director