

# *San Manuel Band of Mission Indians*

April 7, 2020

The Honorable Steven Mnuchin  
Secretary of the Treasury  
1500 Pennsylvania Ave, NW  
Washington D.C., 20220

The Honorable David Bernhardt  
Secretary of the Interior  
Department of the Interior  
1849 C St. NW  
Washington D.C., 20240

Tara Sweeney  
Assistant Secretary Indian Affairs  
Department of the Interior  
1849 C St. NW  
Washington D.C., 20240

Dear Secretary Mnuchin, Secretary Bernhardt, and Assistant Secretary Sweeney,

We, the San Manuel Band of Mission Indians, a federally recognized Indian tribe (the "Tribe" or "San Manuel"), submit these comments in response to Assistant Secretary Sweeney's March 31<sup>st</sup> letter seeking input on a methodology to allocate the \$8 billion fund for tribal governments within the Coronavirus Relief Fund, as established by Title V of the Coronavirus Aid, Relief, and Economic Security (CARES Act). The Secretary of the Treasury is required to consult with the Secretary of the Interior and tribal governments as to the method for allocating this funding pursuant to Section 5001 of the CARES Act.

As further mandated by Section 5001 of the CARES Act, the Secretary of the Treasury is required to allocate funds to each 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 [] for fiscal year 2020 are distributed to Tribal governments."

As illustrated by the plain language Congress chose to include in the CARES Act, the funds are intended to alleviate the "increased expenditures" of tribes due to the coronavirus disease 2019 pandemic ("COVID-19"). As an employer of more than 5,000 individuals, the economic impact of our operations far exceeds our tribal citizen population, but the COVID-19 pandemic has severely damaged that impact as we have been forced to close our casino, hotel, and government operations centers, except for essential employees. Although our revenues have completely ceased since the closure of our operations, to date the Tribe has kept all employees on the payroll. We are reluctant to simply lay-off thousands of workers given the devastating impact that would have on our employees, their families, and the regional economy for years to come.

The Tribe has already incurred millions of dollars in increased expenditures for the month of March by keeping our 5,000 workers employed with no revenue coming in, and implementing emergency measures designed to prevent further spread of the virus within the tribal community. Our costs in April continue to climb. Experts agree that April and May will likely be the peak period for all states with respect to the amount of resources needed and deaths incurred as a result of COVID-19. California is predicted to be in the top five states most harmed, and we are preparing for a heavy impact on our tribal community and employees.

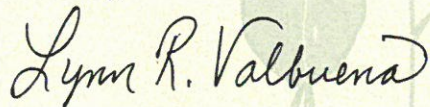
It is our belief that Congress' intent in establishing the Coronavirus Relief Fund was to assist tribes like San Manuel whose budgets are not primarily dependent upon existing federal funding programs. The Tribe relies almost entirely on our economic enterprises to fund our governmental programs, direct services, and operations for our citizens and employees. As the Tribe became more self-sufficient over the past twenty years, we asked for less federal government funding for our programs and services in order to allow those federal funds to go to tribes with fewer viable economic opportunities. As a result, San Manuel will likely not benefit from the emergency appropriations in Division B of the CARES Act.

Distribution of the \$8 billion tribal relief fund must take into account the factors expressly set forth in the law and the reality of the economic harm caused by the pandemic. The legislative history and the plain language of the CARES Act supports this approach for allocation based on economic impact and costs. We believe that tribal member population and land mass are not determinative of increased expenditures. Unlike state and local governments, which derive revenue from taxation of millions of individuals within their jurisdictions, our tribal government revenues are supported primarily by our economic enterprises. The Tribe therefore endorses the methodology set forth in the attached letter from the Tribal Alliance of Sovereign Indian Nations (TASIN).

It is critical that these relief funds be primarily targeted to those tribes that are most impacted by the COVID-19 pandemic and towards the costs incurred during the peak months of the pandemic, which appear to be March through May. We appreciate you considering these comments and hope to have an opportunity to dialogue with you about them.

Hakup A'ai - Thank you,

Sincerely,



Lynn R. Valbuena  
Chairwoman

cc: Daniel Kowalski, Counselor to the Secretary of the Treasury  
Mark Cruz, Deputy Assistant Secretary for Policy and Economic Development, Interior  
Department



# TRIBAL ALLIANCE OF SOVEREIGN INDIAN NATIONS

*An intergovernmental association of tribal governments throughout Southern California*

April 6, 2020

The Honorable Steven Mnuchin  
Secretary of Treasury  
1500 Pennsylvania Ave. NW  
Washington, D.C. 20220

The Honorable David Bernhardt  
Secretary of the Interior  
1849 C St. NW  
Washington, D.C. 20240

TRIBAL GOVERNMENTS:

AGUA CALIENTE BAND OF  
CAHUILLA INDIANS

AUGUSTINE BAND OF  
CAHUILLA INDIANS

CAHUILLA BAND OF  
INDIANS

CHEMEHUEVI INDIAN  
TRIBE

MORONGO BAND OF  
MISSION INDIANS

PECHANGA BAND OF  
LUISEÑO INDIANS

SAN MANUEL BAND OF  
MISSION INDIANS

SANTA ROSA BAND OF  
CAHUILLA INDIANS

SANTA YNEZ BAND OF  
CHUMASH INDIANS

SOBOBA BAND OF  
LUISEÑO INDIANS

TORRES MARTINEZ  
DESERT CAHUILLA INDIANS

TWENTY-NINE PALMS BAND OF  
MISSION INDIANS

Dear Secretaries Mnuchin and Bernhardt:

On behalf of the Tribal Alliance of Sovereign Indian Nations (TASIN), an intergovernmental association of federally recognized tribal governments throughout Southern California, we write to provide you input on developing a methodology or formula to allocate the \$8 billion set aside for Tribal governments and tribally owned business entities from the Coronavirus Relief Fund in Section 5001 of the recently enacted Coronavirus Aid, Relief, and Economic Security (CARES) Act.

As you may be aware, California accounts for nearly 30 percent of all tribal Government gaming in the United States. Our 109 federally recognized tribal governments employ more than 63,000 people, and contribute at least \$7.8 billion to the State's economy each year.

Based on the initial consultation on April 2, 2020, it is our understanding that funding for Tribes under Section 5001 will be allocated based on a formula. It is imperative that any distribution formula takes into account the clear intent of the CARES Act:

to help keep employees connected to their employers. As such, TASIN respectfully requests the methodology or formula for distribution of these funds factor in wage or employment data as expressed by the legislative history, since employees are far and away the largest expenditure any tribal enterprise makes. This employment data can be self-reported and/or verified by referencing the W-3 or Form 941 of tribal governments and their enterprises. Alternatively, Interior and Treasury could reference data provided by a Unified Audit. By basing the funding formula on wage and employment data, your Departments will ensure that the formula captures the plain reading of the statute and congressional intent.

Following this logic, the Tribal Alliance of Sovereign Indian Nations endorses the following funding distribution formula:

**STEP 1:** Provide a \$1,000,000 **minimum distribution** to each Tribe to ensure that even the smallest Tribes have funding to address their economic needs during the pandemic.

**STEP 2:** Distribute \$1,500,000,000 to each Tribe *pro rata* based on each Tribe’s enrolled tribal member **population** to ensure that larger Tribes have additional funding to address their economic needs.

**STEP 3:** Distribute the remainder of the \$8,000,000,000 fund to each Tribe *pro rata* based on **economic impact, measured by total wages paid** by the Tribe and all of its wholly owned enterprises in 2019. If requested to do so, Tribes may be required to self-certify.

This formula directly advances the economic stabilization purpose of the CARES Act by relying primarily on an objective indicator of tribal economic activity that is a current and accurate measure of the impact COVID-19 is having on each Tribe’s economy. Moreover, the proposed formula addresses all Tribes’ government stabilization needs, regardless of whether a Tribe has commercial enterprises, as it also accounts for wages paid to tribal government employees.

On the contrary, a formula based exclusively or primarily on population would fail to satisfy your responsibilities under the law. Simply put, population is not a proxy for aggregate changes in government expenditures related to the COVID-19 pandemic. For instance, while the population of each tribal nation will remain relatively unchanged between 2019 and 2020, government revenues and expenditures will be staggeringly different.

Finally, we would like to offer our view that the Department of Treasury and the Inspector General should take a broad view of “increased expenditures,” under the grant fund. As explained in a colloquy on the date of enactment of the law, and echoed by many tribal leaders during the first consultation, these eligible uses of the fund should include any expense a tribal government or enterprise had previously budgeted-for, but due to the pandemic is now in excess of the revenue the tribe is currently bringing in.

Thank you for your consideration of our comments. We deeply appreciate your leadership during this extraordinarily difficult time. Please do not hesitate to contact me, or have your staff contact TASIN’s Executive Director, Jacob Mejia, at [Jmejia@Pechanga-pdc.com](mailto:Jmejia@Pechanga-pdc.com).

Sincerely,



LYNN VALBUENA  
Chairwoman



CATALINA CHACON  
Vice Chairwoman



STEVEN ESTRADA  
Secretary



ROSEMARY MORILLO  
Treasurer