

California TRIBAL GOVERNMENTS

April 9, 2020

The Honorable Steven Mnuchin
Secretary of Treasury
1500 Pennsylvania Ave. NW
Washington, D.C. 20220
tribal.consult@treasury.gov

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

Dear Secretaries Mnuchin and Bernhardt:

On behalf of our respective tribal governments throughout 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, we respectfully request 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, we endorse 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.

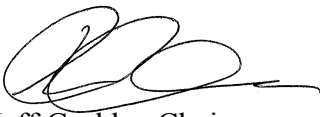
This formula directly advances the economic stabilization purpose of the CARES Act by relying primarily on an objective indicator of tribal economic activity that is a current and accurate measure of the impact COVID-19 is having on each Tribe's economy. Moreover, the proposed formula addresses all Tribes' 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.

Sincerely,



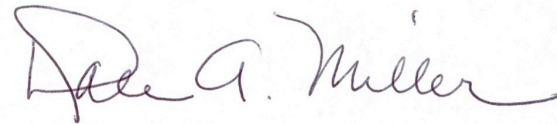
Jeff Grubbe, Chairman
Agua Caliente Band of Cahuilla Indians



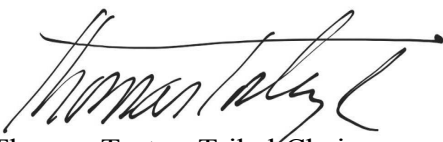
Edwin "Thorpe" Romero, Chairman
Barona Band of Mission Indians



John A. Christman, Chairman
Viejas Band of Kumeyaay Indians




Dale Miller, Chairman
Elk Valley Rancheria





Thomas Tortes, Tribal Chairman
Torres Martinez Desert Cahuilla





Robert Martin, Tribal Chairman
Morongo Band of Mission Indians

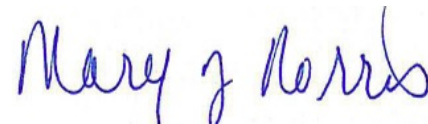

Mark Macarro, Tribal Chairman
Pechanga Band of Luiseño Indians



Melanie Rafanan, Chairwoman
Sherwood Valley Band of Pomo Indians



Tishmall Turner, Vice Chairwoman
Rincon Band of Luiseño Indians

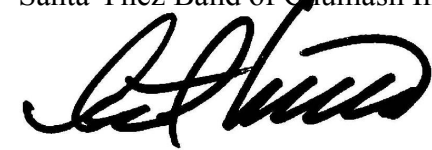

Cody Martinez, Chairman
Sycuan Band of the Kumeyaay Nation



Lynn Valbuena, Chairwoman
San Manuel Band of Mission Indians



Mary J. Norris, Chairwoman
Cahto Tribe

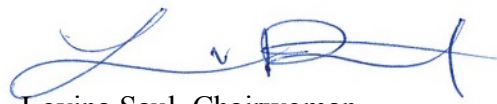

Kenneth Kahn, Tribal Chairman
Santa Ynez Band of Chumash Indians


Daniel Salgado, Chairman
Cahuilla Band of Indians



Isaiah Vivanco, Tribal Chairman
Soboba Band of Luiseño Indians


Anthony Roberts, Chairman
Yocha Dehe Wintun Nation


Regina Cuellar, Chairwoman
Shingle Springs Band of Miwok Indians


Lovina Saul, Chairwoman
Santa Rosa Band of Cahuilla Indians


Brenda D. Lavell, Chairperson
Table Mountain Rancheria


Erica M. Pinto, Chairwoman
Jamul Indian Village

Letter also signed by:

AMANDA VANCE, Tribal Chairperson
Augustine Band of Cahuilla Indians