

RE: USET SPF Comments on Distribution of CARES Act Title V Tribal Set Aside FOLLOW UP: Treasury Guidance April 22, 2020

Dear USET SPF Board of Directors and DC Tribal Reps,

This evening, Treasury issued its [guidance](#) [linked] on allowable expenditures for Tribal, state, local, and territorial governments accessing resources under Title V of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. As you know, Title V establishes the Coronavirus Relief Fund, aimed at stabilizing units of government across the United States, under which there is a \$8 billion set aside for Tribal governments.

The guidance provides a “non-exclusive” list of allowable expenses and largely restricts use of these funds to costs incurred that are directly related to COVID-19 response and mitigation including, but not limited to, those in the following categories:

1. Medical expenses
2. Public health expenses
3. Payroll expenses for employees whose services are substantially dedicated to mitigating or responding to COVID-19
4. Actions to facilitate public health measures
5. Expenses associated with the provision of economic support in connection with COVID-19
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund’s eligibility criteria

While the guidance also provides a nonexclusive list of ineligible expenditures, including payroll or benefits for employees whose service is not substantially related to COVID-19, it does not provide any clarity regarding the recoupment process for any ineligible use of funds. At present, the guidance does not contain any information on where to direct questions. Treasury has posted an extremely brief [FAQ document](#) [linked] that currently lacks any Tribal-specific material.

USET SPF will continue to seek additional clarity on the guidance, as well as press for certainty in the recoupment process, and will provide this information to our membership as it is received. Please note that Treasury has not yet offered any further detail regarding a methodology for distribution of the \$8 billion set aside. By law, Treasury has until April 27th to distribute the funds. In the meantime, Treasury’s website housing information on the Coronavirus Relief Fund can be accessed [here](#).

Thank you,
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Because there is Strength in Unity

USET/USET SPF staff are currently teleworking until May 1, 2020. We will continue to assess the COVID-19 situation and its impact on our operations. We ask for your patience should you experience any challenges reaching any one

of our staff. Additionally, please be aware that the USET/USET SPF organization has created a COVID-19 Resource & Information page which is being updated on a frequent basis. <https://www.usetinc.org/wp-content/uploads/2020/03/Coronavirus-Disease-LB.pdf>



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Sent: Wednesday, April 8, 2020 8:48 PM

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Subject: USET SPF Comments on Distribution of CARES Act Title V Tribal Set Aside

Dear Secretaries Mnuchin and Bernhardt,

On behalf of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), I provide the attached comments to the U.S. Department of Treasury (Treasury) and the U.S. Department of the Interior (Interior) regarding the implementation of Title V of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Coronavirus Relief Fund was established to provide relief to all units of government across the United States, including Tribal governments, as they seek to respond to the current public health crisis. In administering and distributing the \$8 billion set aside for Tribal governments, we urge you to ensure there is both equity and flexibility as the funds are dispersed. Because we are making the reasonable assumption that all Tribal Nations will face financial impacts as a result of the COVID-19 pandemic, this process must be inclusive of all Tribal Nations and reflect the great diversity found across Indian Country.

If distributed fairly, the funding available under Title V of the CARES Act will be a critical source of relief for all federally-recognized Tribal Nations. Like other units of government, Tribal Nations are responsible for the provision of governmental services to our citizens (and oftentimes, the surrounding community), including public safety and justice, emergency management, health, housing, education, and social services. Unlike other units of government, Tribal Nations lack access to many resources that the U.S. family of government enjoys, including certain funds, supplies, and infrastructure, capital and tax revenue, many direct federal programs, housing, and others, despite federal trust and treaty obligations. Decades of neglect, underfunding, and inaction on behalf of the federal government have left Indian Country severely under-resourced and at extreme risk during this COVID-19 crisis. Our existing systems of service delivery and infrastructure are likely to experience greater stress than those of other units of government, as we seek to maintain essential services and deliver upon our commitments, as well as dedicate resources to the unique circumstances of COVID-19 response.

In providing a set aside for Tribal Nations, the law recognizes that Tribal government revenue has been significantly diminished and that there will be unanticipated expenses that Tribal Nations will experience while working to manage the impacts of this crisis. In addition, by clearly including Tribally-owned entities, the CARES Act acknowledges the role that economic entities play in supporting governmental purposes. It is critical, then, that the funding distribution methodology and allowable expenses reflect this

reality, and not rely on an oversimplified process that does not reflect the intent of the law. With this in mind, USET SPF provides the attached recommendations in order to ensure relief reaches all Tribal Nations and is flexible enough to ensure Tribal governments are able to determine its best use.

USET SPF urges the equitable and expeditious disbursement of the Tribal set aside in keeping with Tribal sovereignty, the diversity of Indian Country, and Congressional intent. These funds will do more than provide critical resources and certainty to Tribal governments during this unprecedented crisis; they will also be a vital part of ensuring a comprehensive, all-of-government response to COVID-19. An incomplete response will be detrimental to Indian Country and the nation as a whole. We encourage you to keep this in mind, as you craft distribution guidance in the coming days. Should you have any questions or require further information, please contact me using the information below.

Sincerely,
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