



USET

SOVEREIGNTY PROTECTION FUND

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Transmitted Electronically

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Shalanda Young
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Acting Director Young,

We write on behalf of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) to request assistance from the Office of Management and Budget (OMB) in ensuring the influx of critical COVID-19 relief does not negatively impact the future Indirect Cost (IDC) rates of Tribal Nations. While the COVID-19 response and relief funds are one-time monies, the inability to recover IDC on a significant portion of these monies while still being required to include these funds as part of future IDC rate calculations will have a detrimental and destabilizing impact to IDC rates, unless the COVID-19 funds that deny or limit IDC recovery can be excluded from the calculations. In accordance with trust obligations, we are seeking proactive guidance from OMB that confirms this as an option for Tribal Nations to avoid unintended disruptions and unnecessary challenges in the administration of federally funded programs.

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.

Address Growing Concerns Over COVID-19 Funding Impacts to IDC Rates

There is growing legitimate concern within Indian Country regarding how the large influx of funding intended to assist Tribal Nations as we address the COVID-19 crisis will impact Indirect Cost Rate (IDC) calculations in the coming years. Currently, according to 2 CFR Part 200 Subsection 200.405(b) Allocable Costs, "All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs." Given that there are a number of COVID-19 relief funding streams to which IDC

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), 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), 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).

Because there is Strength in Unity

rates cannot be applied, or are severely restricted, there is a strong possibility of extreme fluctuations in Tribal Nations' otherwise stable IDC rates over the next several years. Ultimately, if not remedied, this would have an unintended, but disastrous, impact on grant activity over the next few years for Tribal Nations. While various federal agencies may have awareness of this issue, we are interested in working with OMB on a solution that applies across the whole of the federal government—perhaps guidance stating that Tribal Nations have the option to exclude any COVID-19 funding that denies or limits IDC recovery from IDC negotiation calculations.

Conclusion

Guidance from OMB permitting the exclusion of COVID-19 relief funding from IDC rates will provide certainty and clarity to both Tribal and federal officials as upcoming negotiations are conducted, as well as stability to the Tribal administration of federal grants and contracts as the nation recovers from this once-in-a-generation pandemic. The unique and unanticipated circumstances in which Tribal Nations find ourselves following the public health crisis should warrant change and flexibility in the near-term to ensure we have the opportunity to fully resume regular governmental operations. USET SPF looks forward to working with OMB on this and other initiatives that support Tribal sovereignty, self-governance, and the delivery of trust and treaty obligations. Should you have any questions or require additional information, please do not hesitate to contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at (615) 838-5906 or by e-mail at lmalerba@usetinc.org.

Sincerely,



Chief Kirk Francis
President



Kitcki A. Carroll
Executive Director