

The INTER-TRIBAL COUNCIL of the FIVE CIVILIZED TRIBES

April 6, 2020



Chuck Hoskin Jr.
Principal Chief

The Honorable Steven T. Mnuchin
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Re: Implementation of Title V of the Coronavirus Aid, Relief, and Economic Security Act



Bill Anoatubby
Governor

Dear Secretary Mnuchin:

On behalf of the Inter-Tribal Council of the Five Civilized Tribes, an organization comprised of the Cherokee, Chickasaw, Choctaw, Muscogee (Creek), and Seminole Nations and representing more than 790,000 tribal citizens throughout the United States, we respectfully submit these comments in regards to Title V of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, which creates the Coronavirus Relief Fund, and reserves \$8 billion to support tribal governments and tribally owned entities as we respond to the negative impacts of the COVID-19 pandemic.



Gary Batton
Chief

Our tribal governments and tribally owned businesses are the economic engines within our communities in Oklahoma. Collectively, our tribes have an economic impact of over \$9 billion within Oklahoma. We directly employ 42,198 people and support an additional 25,000 jobs in rural areas with high unemployment and limited opportunities.



David Hill
Principal Chief

Our Five Tribes have analyzed necessary expenditures, month by month for the ten-month period beginning with March and ending in December, 2020, and estimate that our combined additional expenditures which were not accounted for in our previously adopted budgets will be in excess of \$1.5 billion.



Greg P. Chilcoat
Chief

The table below provides a breakdown by tribe of our citizens, employees and economic impact:

Tribe	Enrolled Citizens	Total Employees	Economic Impact
Cherokee	385,474	12,057	\$2.2 billion
Chickasaw	71,472	13,541	\$3.7 billion
Choctaw	227,556	10,934	\$2.4 billion
Muscogee (Creek)	89,674	5,213	\$866 million
Seminole	18,578	453	\$60 million
Total	792,754	42,198	\$9.2 billion

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As you contemplate how to allocate this funding among Tribes, we would urge you to consider the following requests.

- **Treasury, should it opt to allocate funding by formula, should embrace a population and employee-based allocation formula.** Our organization includes four of the largest tribes in the country and accounts for approximately one-third of the country's Native American population. All of our social service and health programs are stretched thin by this pandemic and our citizens' needs grow daily. Tribes with large populations are going to be particularly hard hit by this pandemic, and any formula created for allocations must take this into account.

We are also some of the largest employers in our region, accounting for over 67,000 direct and indirect jobs. Treasury should also include number of tribal and business employees as part of any funding formula.

- **Treasury should not publish a list of qualifying expenses.** Any such guidance around expenditures must carry language that includes a clear disclaimer that says this guidance is not comprehensive, nor does it limit potential uses. We recognize that the law states that these funds will be used for increased expenditures due to the public health emergency and it is crucial that tribes be allowed flexibility in determining these expenditures. Tribes have historically put federal dollars to the most efficient and effective use for our people. Each of our sovereign governments is unique and will have different needs during this time.

The best way to ensure economic stabilization within Indian Country is to allow tribes flexibility when determining the utilization of this funding, and so we want to reiterate our strong support for the letter submitted to Treasury by the National Congress of American Indians on March 29, 2020. We agree with NCAI when it writes that expenditures should include, **but not be limited to:**

- Expenditures that otherwise would have been funded but for the loss of revenue.
- Expenditures associated with the diminished capacity or closure of governments or its entities.
- Payments, including payroll and related expenses, for employees while governments or entities are at diminished capacity or closed.
- Cost of financing incurred due to increased expenditures.
- The difference in revenues transferred to tribal government accounts in 2020 relative to the same period in 2019.

This flexibility is supported by Congressional intent as outlined in the floor colloquy between key members of the U.S. House Committees on Ways & Means, Natural Resources, and Appropriations in advance of House passage of the CARES Act on March 28, 2020, and in a letter sent by Senators Martha

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McSally and Steve Daines on March 20, 2020 urging specific relief for tribal nations. We also want to point to the bipartisan letters sent to Treasury by Oklahoma's congressional delegation on March 27, 2020 and California's congressional delegation on April 1, 2020, which express urgency in distribution and reaffirms Congress' commitment to Indian Country.

- **Treasury should not establish any minimum or maximum allocation.** This would be irresponsible and fall outside a plain reading of the statute, and fail to recognize the unique needs of each tribal nation.
- **Treasury should not view this fund as a grant program, as Congress did not mandate a universal allocation.** 601(b)(2) sets forth "the Secretary shall pay each ... Tribal government," but subsequently speaks to "the amount determined ... under subsection (c)." The amounts determined through 601(c)(7) are to be based on increased expenditures incurred by a Tribal government or tribally-owned entity. Congress intended an allocation to be based on actual data, and thus did not envision universal payments without justification or documentation.

Due to limited tribal taxation jurisdiction, our tribally-owned business entities provide critically needed governmental revenue to fund the services we provide for our citizens. At the onset of the COVID-19 crisis, our tribal governments took early and decisive action to close gaming and hospitality facilities and limit our other business and government entities to only essential personnel. We took this action knowing the devastating consequences it would have on our economies and our ability to provide critical services for our citizens. Despite the enormous strain on our budgets, we have continued to pay our workforce—including benefits—and have maintained vital services to our people. However, our government coffers will not be able to sustain these massive cash outflows without offsetting inflows much longer. The planned distribution of emergency funds will not just stabilize our tribal economies, but our entire region.

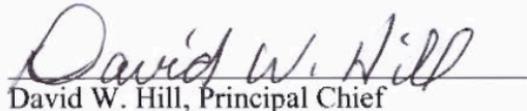
We hold sovereignty in high regard and we take our government-to-government responsibilities very seriously. We appreciate you doing the same through meaningful consultation, urgency and transparency.

On behalf of the more than 790,000 citizens of the Cherokee, Chickasaw, Choctaw, Muscogee (Creek), and Seminole Nations, we thank you for your attention to the thoughts contained in this letter and applaud your diligent efforts around the allocations and distribution of this vital fund.

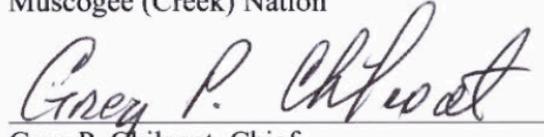
Sincerely,

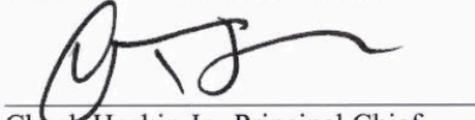
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Bill Anoatubby, Governor
The Chickasaw Nation


David W. Hill, Principal Chief
Muscogee (Creek) Nation


Gary Batton, Chief
Choctaw Nation of Oklahoma


Greg P. Chilcoat, Chief
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Cherokee Nation