



April 10, 2020

The Honorable Steve Mnuchin
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Allocation of COVID-19 Response Funds to American Indian Nations

Dear Secretary Mnuchin:

We write to respectfully comment on the impact of the current COVID-19 crisis on American Indian tribal economies, tribes' responses to the crisis, and on implications for the allocation of federal COVID-19 response funds to federally recognized tribes under the CARES Act and related current and forthcoming federal actions.

Under federal policies of self-determination, American Indian tribes are tasked with the same responsibilities for meeting the needs of their citizens as state and local governments. Tribes, however, operate under unique and highly constrained economic and fiscal constraints that must be taken into account as federal COVID-19 response dollars are allocated by your Department. We will shortly release a longer and more detailed study of these issues. Here, we provide key points from our research findings, condensed in the hopes of contributing useful information within the appropriately tight timeframe in which the federal government and the US Department of the Treasury are working to meet the pressing challenges brought on by COVID-19.

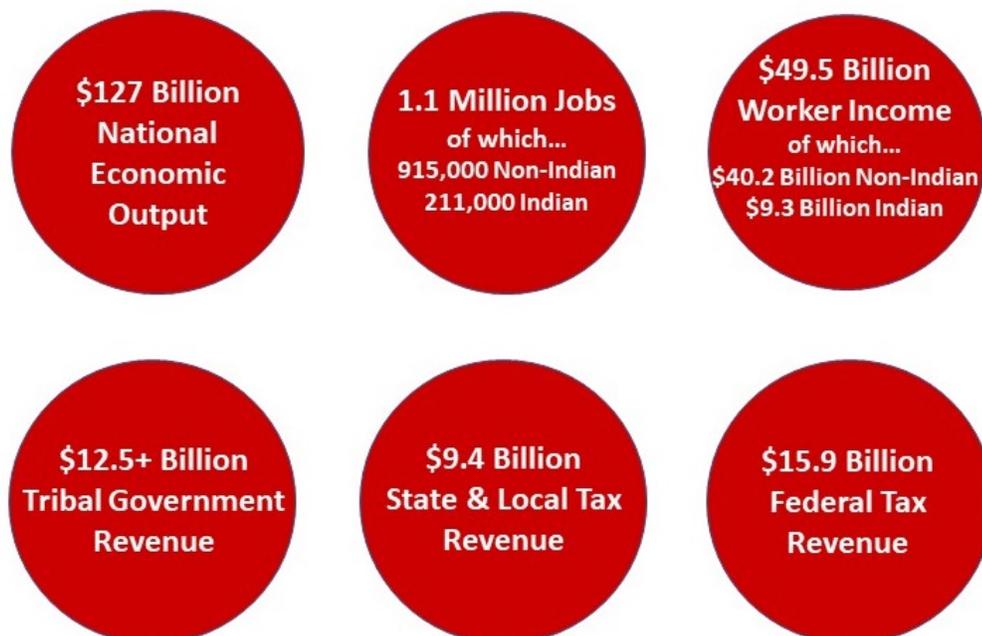
Summary:

- The COVID-19 crisis poses an immediate threat to three decades of improvement in economic conditions across Indian Country.
 - Federal policies of tribal self-determination through self-government have gradually, if unevenly, allowed economic development to take hold in Indian Country.
 - Nevertheless, the poverty gap for American Indians is large and hard to close. American Indian/Alaska Native household incomes remain barely half that of the typical household in the US.
- Tribes now routinely undertake and self-fund the full array of basic governmental services – from law enforcement and public safety to social services and educational support – that we expect any state or local government to provide.
 - Tribes lack the traditional tax bases enjoyed by state and local governments. Tribal enterprise revenues – both gaming and non-gaming – are tribes' effective tax bases.
 - Prior to the total shutdown of their casinos, tribes' gaming enterprises alone were channeling more than \$12.5 billion per year into tribal government programs and

- services (see Figure 1 below). *No* tribal casinos are operating at this time. The same applies to many non-gaming enterprises and many tribal government programs.
- The COVID-19 crisis is devastating tribes' abilities to fund their provision of basic governmental services and forcing tribes to make painful decisions to lay off employees, drop workers' insurance coverage, deplete assets, and/or take on more debt.
 - The COVID-19 crisis poses an immediate threat to the states and regions in which tribal economies are embedded. Tribes' enterprises and governments, and their employees, support huge amounts of direct and indirect (spillover) economic activity and tax revenues in their regional economies, and in the US as a whole. (See Figure 1.)
 - As tribal enterprise and government operations are choked off, the states and regions in which tribes are embedded face the loss of more than \$127 billion in annual spending on goods and services, more than 1,100,000 jobs, and more than \$49.5 billion in wages and benefits for workers.
 - The *largest* share of lost jobs and lost income would be borne by non-Indians. Our estimates indicate that approximately 70% of the impact – 915,000 jobs, with wages and benefits totaling \$40.2 billion – would be suffered by non-Indian workers. These 915,000 jobs are a larger total than the entire civilian labor forces that were employed in 13 of the 50 states immediately prior to the onset of the COVID-19 crisis.
 - The spending and jobs supported by tribal economies have been generating more than \$9.4 billion in tax revenues for state and local governments. The companion figure for the federal government is estimated to be almost \$16 billion.

Figure 1

What's at Stake as the COVID-19 Crisis Devastates Tribal Governments and Economies?



Economic Conditions: Federal policies of tribal self-determination, ushered in over the 1970s and 1980s, were adopted in order for the federal government to carry out its trust obligation to tribes and to address widespread and long-standing problems of poverty and dependency across the nation’s American Indian reservations. Our research at the Harvard Project on American Indian Economic Development over the last 30+ years repeatedly finds that, taken as a whole, federal policies of tribal self-determination through tribal self-government – unlike previous approaches – are working.

The US Census snapshot of the first two decades of widely practiced tribal self-government (provided by comparing reservation economic conditions in 2010 to those prevailing in 1990) reveals that after decades of stagnation, reservation incomes and employment opportunities were growing rapidly. Over that period, US Census data show that per capita incomes of Indians on reservations grew five times faster than the income of the average American.

At least until the current crisis came crashing down on tribes and their enterprises, the rapid improvement in reservation economic conditions continued. It did so as tribe after tribe built and managed not only tribally-owned gaming enterprises, but also as they expanded operations into many non-gaming activities in the tourism, manufacturing, and services sectors. But this progress needs to be kept in perspective. The noted economic development that has taken place in Indian Country has been closing the gap between living conditions for Native Americans and the general public, but the starting point of that gap was huge, and poverty remains widespread. The latest available Census data indicate that, at just over \$57,600, the income of the median American household is still 45% higher than the that of the median Native household in the US (at approximately \$39,700).

The key lesson is that, when it comes to tribal economies overall, the glass is only about half full, but at least it has been filling. Indeed, as we detail below, the building up of tribal economies over the last several decades has integrated those economies into their surrounding regions and made tribes key supporters of not only their own citizens’ jobs and livelihoods, but of the jobs and livelihoods of hundreds of thousands of non-Native citizens as well. Now, however, the COVID-19 crisis threatens to completely reverse the progress that tribes have made. Whether this can be avoided will turn critically on the form and magnitude of the federal government’s emergency response and measures such as the allocation of CARES Act assistance.

Tribal Governmental Services: Just as it has across the national economy, the COVID-19 crisis has had devastating impacts on tribal enterprises. We are not aware of single tribal casino that is not closed. Tribal tourism, manufacturing, and service operations, too, have been closed or are on severely limited schedules due to tribes’ adoption of stay-at-home and related social distancing measures and regulations. While these impacts are being felt nationwide, they are particularly hard hitting in Indian Country. This is because of overwhelming dependence of tribal *government* operations and services on tribes’ *enterprise* earnings.¹

¹ Dupris Consulting Group, “The Nationwide Impacts of Indian Gaming,” Economic Impact of Tribal Gaming: A State-by-State Analysis,” National Indian Gaming Association, 2019.

Owing to such factors as the federal trust status of much of reservation land and non-Indian state and local governments' taxation of tribal activities, American Indian tribes have lacked traditional tax bases of any meaningful magnitude. The result is that, in their efforts to lift their citizens out of decades of poverty, replenish dilapidated infrastructure, improve housing, expand health care, and the like, tribe after tribe has had to rely on enterprise earnings as a substitute for a tax base. Overall for 2019, it is estimated that tribal gaming enterprises alone directly transferred more than \$12.5 billion toward support of tribal governmental programs.²

The case of the Hualapai Tribe on the south rim of the Grand Canyon is representative. Over the last 15 years, this very rural tribe, with what might appear to be poor economic prospects, has bootstrapped itself upward with wise development of its very successful Grand Canyon West tourism enterprise (centered around its well-known "Skywalk" platform, allowing more than 1 million visitors a year to stand out over the edge of the Grand Canyon). Grand Canyon West's annual remittance back to the Tribe funds the overwhelming majority of tribal government operations, enabling the Tribe to sustain services critically needed by both its own citizens and the more than 1,000 non-Hualapais who work for the Tribe and its enterprises.

Today, the typical tribe fields the full array of governmental services and functions that we expect any state or local government to provide for its citizens. Virtually all expansion and improvement above the barely modest, at best³, levels of service supported by federal dollars has been financed out of the earnings of tribally-owned economic enterprises. These services and functions include not only police and public safety, courts, water and sewer, fire protection, schools, sanitation and trash collection, and road maintenance, but also less visible – but no less central to the functioning of a civil society – activities such as building codes and inspections, zoning and land use planning, air and water quality regulation, and wildlife management.

To highlight just one illustrative case, consider the Citizen Potawatomi Nation of Oklahoma. This Tribe provides a comprehensive array of educational, social, elderly, veteran, child protection, public safety, water and sewer infrastructure, healthcare, environmental protection, cultural, employment, housing, recreational, and regulatory programs and services. In fact, these are provided not only to Citizen Potawatomi citizens, but to many in surrounding communities as well. Our research indicates that this capacity to function as a fully-fledged and responsible government would be unattainable without the more than \$200 million in annual revenues generated by the Nation's gaming, hotel and resort, commercial banking, food retail, and other enterprises.

The poverty of Alaska Native communities has been particularly difficult to overcome, and the communities are heavily dependent on the economic fortunes of the Alaska Native Corporations (ANCs) and Village Corporations. On average, 80 percent or more of regional corporations' and village corporations' net earnings has been being channeled directly into the communities by way of direct dividends, scholarships, and donations to local Native and non-Native service organizations. Many of these enterprises, however, operate in commodity sectors that are being particularly depressed by the COVID-19 crisis. Moreover, two-thirds of Alaska Native

² *Ibid.*

³ See United States Civil Rights Commission, *Broken Promises: Continuing Federal Funding Shortfall for Native Americans*, December 20, 2018.

communities, however, have no earnings of their own and are dependent on revenue sharing from ANCs and Village Corporations.⁴ Alaska Native Villages are especially vulnerable to the crisis.

In short, the shrinking of tribal enterprises and Alaska Native corporations in the face of the COVID-19 crisis is not only shrinking incomes and ramping up unemployment for workers at those enterprises, it is also threatening the provision of basic governmental services and the incomes and jobs of tribal government employees. The burden on tribes to counteract these consequences is categorically different and more severe than for typical state and municipal governments. Those non-tribal governments may suffer tax revenue reductions as the economy contracts, but they retain a tax base and at least whatever associated revenues that tax base generates. On the other hand, when a tribe's casino closes its doors or a tribe's manufacturing or retail facilities shut down, the tribe's effective "tax" revenues – i.e., enterprise revenues – evaporate completely.

Tribes across the country are doing everything they can to hold onto employees, continue to provide services, pay employee health insurance, and meet debt obligations. As revenues have collapsed, many tribes are being forced to make immediate decisions that threaten their long-term futures. On the one hand, they can cut services and employees and those employees' insurance and pension contributions. On the other hand, they can go deeper into debt and/or dip into the value of assets that, if they exist, have been built up through a long and arduous process of economic development. Going deeper into debt, selling hard assets or depleting financial assets in order to try to sustain basic governmental services, employment and insurance today only sets the stage for drawing out tough times in the future.

Finally, taking the knife to tribal budgets not only leaves tribal governments struggling to meet their citizens' needs; it also can directly worsen the COVID-19 crisis. Particularly among relatively poor tribes, finding the funds necessary to *increase* public health resources devoted to combating COVID-19, staffing up to enforce stay-at-home ordinances, and even monitoring the rush of CDC and similar information coming at them can be effectively impossible when their enterprises are driven under. As one example, the Navajo Nation is in the throes of these problems already.

Regional and National Impacts: The economic growth we have witnessed in Indian Country in this era of tribal self-determination through self-governance has demonstrably spilled over and benefited the non-Indian communities and regions in which tribes are embedded. This relationship is clearly evident in at least four dimensions of impact: employment, spending, taxation, and service provision.

With regard to employment, the tribal gaming industry alone directly supports at least 315,000 full-time-equivalent jobs and more than \$9 billion in wages in 2019.⁵ When those workers and their employers spend their incomes, they support an additional 470,000 jobs and \$25 billion in worker income. These employment impacts are evident across the United States, from Alaska to Florida and from California to Connecticut. In Arizona, for example, it is estimated that tribal

⁴ Personal communication, Jennifer Weddle (Greenberg Traurig, LLP), April 6, 2020.

⁵ Dupris Consulting Group, *op. cit.*

gaming supports more than 51,000 jobs and \$1.9 billion in worker income. For California, the figures are 176,000 jobs and more than \$8.6 billion in wages.⁶

These impacts are magnified when we take into account overall – gaming enterprises, non-gaming enterprises, and government – tribal operations. In Oklahoma, for example, it is estimated that as of 2017 the state’s 38 tribes supported more 96,000 jobs and \$4.6 billion in wages. If the tribes were an industry they would rank as Oklahoma’s 11th largest.⁷ Similarly, for the State of Washington it is estimated that the 29 federally recognized tribes support 56,000 jobs through their broad array of business and public sector activities.⁸

When tribal enterprise and government operations spill over into their surrounding communities, the vast majority of affected workers are non-Native. In fact, it is the norm that even the direct employees of tribes are frequently not citizens of the employing tribe or tribal enterprise. In the case of Hualapai mentioned above, more than 60% of tribal government and enterprise employees are non-Hualapai, and the Tribe overall is the second largest employer in rural and poor Mojave County, Arizona.⁹

A more comprehensive measure comes from Washington State, where 70% of all direct employees of tribal governments and tribal enterprises are non-Native.¹⁰ Extrapolated to the US as a whole, all tribal government and enterprise activity likely supports on the order of 1.1 million American jobs. As of immediately before the COVID-19 crisis hit in early 2020, this exceeded the entire employed civilian labor forces of 15 of the 50 US states at. Of the 1.1 million jobs supported by tribes’ direct and spillover economic activity, approximately 915,000 were being held by non-Indians when the current crisis hit.¹¹ These job figures correspond to more than \$40 billion in annual wages and benefits for non-Indian workers and \$9.3 billion for Indian workers. The figure of 915,000 jobs is larger than the pre-crisis employed civilian labor forces of 13 of the 50 states. (See Figure 1 above.)

To operate their enterprises and governments, tribes spend very large sums locally and across the United States. Households on reservations also spend off-reservation for food, clothing, durable goods, and other basic household supplies, as do non-tribal workers supported by tribal operations. Multiple tribal- and state-level studies emphasize the very positive regional spillover effects of tribal government and enterprise spending.

⁶ *Ibid.*

⁷ Dean, Kyle D., Center for Native American and Urban Studies, “The Economic Impact of Tribal Nations in Oklahoma, Fiscal Year 2017,” Meinders School of Business, Oklahoma City University, July 2019.

⁸ Taylor, Jonathan, “Economic and Community Benefits of Tribes in Washington,” Taylor Policy Group, 2019, p. 2.

⁹ US Census Bureau, *My Tribal Area* (Hualapai), https://www.census.gov/tribal/?sec_ak_reference=18.167bfea5.1586268477.f5b3f0f, accessed April 8, 2020; Kalt, Joseph P., *Economic Impact of the Hualapai Water Rights Settlement and Proposed Diamond Creek Pipeline*, Harvard Project on American Indian Economic Development, July 2017.

¹⁰ Taylor, *op cit.*, p. 10.

¹¹ American Indians living in Washington State constitute 4.3% of all American Indians and Alaska Natives identifying as affiliated with at least one American Indian tribe (see <https://www.cdc.gov/tribal/tribes-organizations-health/tribes/state-population.html>).

- In 2017, the Oklahoma tribes directly accounted for \$7.7 billion of the value of the state’s production of goods and services, and almost \$13 billion when spillover “multiplier” effects are accounted for. The tribes spent heavily on primary, secondary, and higher education, investing \$198 in human capital development.¹²
- In 2016, the Fort Belknap Indian Community, home of the Gros Ventre and Assiniboine Tribes in Montana, 72 cents of every dollar that entered the reservation economy was spent *off* the reservation. In total, this spending meant that the community contributed \$158 million to the surrounding and broader economy.¹³ The Tribes’ Island Mountain Development Group specializes in e-commerce, employs more than 200 people, and alone supports more than \$33 million in business sales in Blaine County, Montana.¹⁴
- In 2017, Washington tribes purchased more than \$3 billion in goods and services, more than 94% of which was purchased from the off-reservation economy.¹⁵

Nationally, it is estimated that tribal gaming has been generating total (direct and spillover) spending on the nation’s output of goods and services of more than \$89 billion per year.¹⁶ Utilizing information from state-level studies of the magnitude of tribal gaming sector spending relative to tribal non-gaming and governmental spending to capture aggregate tribal economic impact, this translates nationally into support for \$127 billion dollars of the country’s national output of goods and services.¹⁷

While much of the employment, income, and business spending of tribes is in the often rural and poor economies and regions immediately surrounding reservations, a substantial portion of these contributions flows even farther afield. Spending by very large tribal enterprises and by tribal government operations such as health care and natural resource management is systematically integrated into the national economy. As a result, diminished tribal spending in the wake of the COVID-19 crisis is adversely affecting the economies of not only local regions and the 34 states that are the home to federally recognized tribes, but the economies of all states.

Not surprisingly, the very large economic and governmental activity of tribes generates significant tax revenues for local, state and federal governments. Just as with *state* gaming enterprises (i.e., the many state-owned lotteries do not pay federal or state income taxes), so tribal gaming (and other tribally-owned) enterprises do not directly pay such taxes. Nevertheless, tribal government and tribal enterprise employees pay state and federal earnings taxes where applicable; tribal governments, enterprises, and employees pay sales taxes on their purchases where

¹² Dean, *op. cit.*, p. 4.

¹³ Michael Shuman, “Tribal Renewal through Self-Reliance: A New Economic Development Strategy for the Fort Belknap Reservation,” Local Economy Programs for Neighborhood Associates Corporation, March 2020, p. 19.

¹⁴ “The Economic Contribution of the Island Mountain Development Group,” Bureau of Business and Economic Research, University of Montana, Missoula, Montana. October 2019; personal communication, Jennifer Weddle (Greenberg Traurig, LLP), April 9, 2020.

¹⁵ Taylor, *op. cit.*, p. 2.

¹⁶ Dupris Consulting Group, *op. cit.*

¹⁷ Utilizing information from Kean, *op. cit.*, Taylor, *op. cit.*, Dupris Consulting Group, *op. cit.*, and Kalt, *op. cit.*

applicable; and many tribal governments have arrangements with state and local governments to pay exclusivity fees or to make payments in lieu of taxes.

In 2019, for example, tribal gaming facilities in the US generated \$17.7 billion in taxes and other payments to federal, state, and local governments.¹⁸ Extrapolated as above to cover aggregate gaming, non-gaming and governmental activity, this indicates that state and local governments in the US are now facing the loss of more than \$9.4 billion in annual revenue as a result of the impact of the COVID-19 crisis on the country's 574 tribes. The companion figure for federal tax revenues is just under \$15.9 billion.

In addition to their activities generating tax revenues, tribes also take pressure off of federal and state programs. As just one example, in 2017, Oklahoma tribes saved the state government \$88 million in Medicaid payments by requiring no matching money for state residents treated at tribal health care facilities, and the Oklahoma tribes have contributed \$1.3 billion to the state's Education Fund since 2006.¹⁹

Then, too, tribes' improving governance capacity and economic wherewithal is being extended to the provision of services to non-tribal US citizens. As when the Coeur d'Alene Tribe in Idaho collaborates with the local town of Plummer to fund and operate the Marimn Health and Wellness Center, serving 6,000 Native and non-Native community members with primary care, wellness, pharmacy, optometry, and dental services. Or when the Kayak public transit system, substantially funded by the Confederated Tribes of the Umatilla Indian Reservation, operates the only rural regional transportation system serving southeastern Washington and northeastern Oregon, providing approximately 100,000 rides per year so that rural residents can reach employment, shopping, and health-care venues.

Across the nation, the ability of tribes to sustain these kinds and magnitudes of economic activity, payments, tax generation, and social services to the benefit of the broader American public is now being severely undermined by the impact of the COVID-19 crisis.

The Federal Policy Response: The need for federal COVID-19 response funds in Indian Country is as urgent as it is overwhelming. Speed is important, but it is no less important that forthcoming funds be allocated to tribes in ways that reflect the federal-tribal government-to-government relationship and the economic realities of Indian Country. Five factors and forces stand out:

1. Overall, while federal policies of tribal self-determination and self-governance have generated marked improvements in tribal economic conditions, it remains the case that Native American poverty is widespread. American Indian/Alaska Native household incomes are barely half that of the typical household in the US.
2. Self-determination through self-governance works. Tribes have shown that they can turn self-governance into economic development when they make the critical resource allocation and governing decisions. Tying tight federal strings around COVID-19 federal response funds will be counterproductive.

¹⁸ Dupris Consulting Group, *op. cit.*

¹⁹ Dean, *op. cit.*, p.4.

3. Tribal enterprise earnings, both gaming and non-gaming, are the lifeblood of tribal governments' abilities to meet the employment, income, social service, education, and health needs of their citizens. Tribal enterprises' revenues are tribes' effective tax bases.
4. Tribal enterprise earnings and, with them, the provision by tribes of employment and of the most basic functions we expect any state or municipal government to provide are in severe crisis due to COVID-19.
5. The demonstrably huge contributions of economic activity, jobs, tax revenues, payments in lieu of taxes, and services that tribes make to their local regions and even the whole US are similarly in peril.

As your Department moves forward with the allocation of CARES Act and any other COVID-19 response support for tribes, we urge you to be guided by these considerations.

Sincerely,



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