

Coronavirus State and Local Fiscal Recovery Funds

Allocations to Tribal Governments

May 10, 2021

The American Rescue Plan Act (the Act) established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, which provide a combined \$350 billion in assistance to State, territory, Tribal, and local governments to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery. This document describes Treasury's methodology for allocating the funds to Tribal governments.

The ARPA appropriates \$20 billion to Tribal governments and provides that \$1 billion shall be allocated equally among each of the eligible Tribal governments and the remaining \$19 billion shall be allocated in a manner determined by the Secretary of the Treasury.

Consultation process

In accordance with Treasury's Tribal consultation policy, Treasury hosted five Coronavirus State and Local Fiscal Recovery Funds Tribal consultations in late March and early April of 2021 to garner input from Tribal leaders on allocation methodologies, use of funds, and administrative functions such as reporting and compliance. Over 1,200 participants attended the consultations and 85 Tribal leaders provided input. Treasury received over 150 written comments. Treasury appreciates the participation of all who helped to inform this process.

Allocation determination

ARPA provides that, of the \$20 billion of reserved funds in the Coronavirus State and Local Fiscal Recovery Funds for Tribal governments, "\$1,000,000,000 shall be allocated by the Secretary [of the Treasury] equally among each of the Tribal governments."¹ Treasury will equally divide the \$1 billion among all eligible Tribal governments.

ARPA further provides that, of the \$20 billion of reserved funds in the Coronavirus State and Local Fiscal Recovery Funds for Tribal governments, "\$19,000,000,000 shall be allocated by the Secretary [of the Treasury] to the Tribal governments in a manner determined by the Secretary."² Treasury was guided by several key principles in determining how to allocate these funds given the limitations on available, consistent economic data across Tribes:

- The methodology should be informed by the Tribal consultations and should reflect Tribal sovereignty.

¹ See section 602(a)(2) of the Social Security Act, as added by section 9901 of ARPA.

² See *id.*

- The methodology should be based on data that allows Treasury to calculate Tribal allocations in a timely manner.
- The methodology should be fair and equitable.

Consistent with these key principles, Treasury has determined that it is reasonable and appropriate to allocate payments using a formula that is based on enrollment and employment data.

- Tribal leaders recurrently recommended using enrollment and Tribal employment in the allocation formula.
- As discussed below, the enrollment and employment data are generally available.
- Use of Tribal enrollment and employment information is fair and equitable because these metrics are expected to correlate generally with a Tribe's need for funding. Enrollment is expected to correlate generally with the amount of resources Tribes need to address the public health impacts from the pandemic. As the Tribal governments suggested during consultations, Tribal enrollment provides a useful measure for this purpose because it reflects the scope of Tribal government services and assistance provided both within Tribal lands and to enrolled members living elsewhere.
- Treasury expects that Tribal employment data from 2019, prior to the pandemic, correlates with the costs related to the effects of the pandemic, such as the provision of economic support to those experiencing unemployment or business interruptions experienced by Tribal governments and their majority-owned entities. The use of Tribal employment is particularly important due to the disproportionate impact Tribal entities have experienced to date and the critical role they play in generating revenues to fund Tribal government essential services and providing job opportunities in their communities.

Treasury considered alternative metrics for the formula, including land size, COVID-19 incidence rates, and Tribal expenditures. However, land size and COVID-19 incidence rates presented significant drawbacks: the varying distribution of land holdings by tribe raised concerns about the fair and equitable distribution of funds, and the lack of consistent data on COVID-19 incidence rates by Tribal governments precluded its use in a formula. Treasury also determined that collecting Tribal expenditure data from Tribes would not provide an advantage as compared to the enrollment and employment information. While Treasury acknowledges that no formula perfectly captures the particular needs of Tribes, Treasury concluded that a formula based on enrollment and employment would effectively satisfy the guiding principles in light of the prevailing circumstances.

Treasury also considered but decided not to use the HUD-Indian Housing Block Grant (IHBG) formula area population for the Coronavirus State and Local Fiscal Recovery Funds allocation. Although IHBG formula area population counts may typically be helpful in estimating a Tribal government's increased expenditures, which was the statutory standard applicable to Treasury's

determination of the Coronavirus Relief Fund (CRF) allocation, there are particular circumstances in which IHBG formula area population may not reflect a Tribe's need for funding. Some Tribes do not have formula areas at all, and the formula area population does not reflect the needs Tribes may have for funding to assist members who live away from Tribal lands. One of the advantages of the HUD IHBG data is that it accounts for double-counting between the populations of Alaska Native villages and the shareholders of Alaska Native Corporations (ANCs), but this advantage does not apply here because ANCs are not eligible for this program.

Treasury has determined that 65% of the \$19 billion in funds (\$12.35 billion) be allocated based on enrollment ("Enrollment Allocation") and that 35% of the \$19 billion in funds (\$6.65 billion) will be allocated based on employment ("Employment Allocation").

As Treasury does not have enrollment or employment data for eligible subcomponents of Tribes, the Enrollment Allocation and Employment Allocation shall be made to those Tribal governments for which it has such information. The purpose of the allocations to Tribal governments is to support services provided to their populations including services provided to subcomponents of a Tribe. Treasury expects that Tribal governments will distribute funds to subcomponents of the Tribe if those subcomponents have recognized governing bodies.

Treasury is adopting a different allocation with respect to the Coronavirus State and Local Fiscal Recovery Funds from the one Treasury adopted with respect to the CRF established by the CARES Act. The CARES Act provided a different statutory standard, requiring that the allocation be adopted "based on increased expenditures of each . . . Tribal government (or a Tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019." Rather than focusing on developing the best proxy for increased expenditures, Treasury has decided with respect to the Coronavirus State and Local Fiscal Recovery Funds to focus on the principles outlined above. Treasury considered but determined, for the reasons discussed above, not to refer to HUD IHBG and expenditure data for purposes of the Coronavirus State and Local Fiscal Recovery Funds allocation.

Tribal enrollment data

For Tribal enrollment data, Treasury will use self-certified enrollment numbers provided by Tribes. In April 2021, the Bureau of Indian Affairs collected enrollment numbers from Tribal governments and communicated to Tribes that this information may be shared with other federal agencies. The Bureau of Indian Affairs has shared this data with Treasury. For the small subset of Tribes that did not provide self-certified enrollment data, Treasury will use enrollment data submitted last year under the CRF.³

Tribal employment data

Treasury considers Tribal employment data from 2019 to be relevant for assessing the impact of the pandemic on Tribal economies and surrounding communities. When distributing funds from

³ Five eligible Tribal governments did not submit enrollment data last year or this year. For these Tribal governments, Treasury will use enrollment data from HUD's IHBG program.

the CRF in 2020, Treasury requested that, for each calendar quarter of 2019, Tribal governments submit the number of their employees and the number of employees of any entity of which the Tribal government owns at least 51% of the ownership interests. To ensure consistency, Tribes were required to use the employment numbers submitted to the IRS on Form 941.

Treasury will use the Tribal employment information submitted to Treasury for the CRF in distributing funds based on employment. Tribes will be required to confirm their 2019 employment numbers do not need to be amended. In the event 2019 employment numbers need to be amended, Tribes will have the opportunity to do so prior to the second payment. Tribes that did not submit employment information to Treasury in 2020 will be able to do so.

Enrollment Allocation formula

The Enrollment Allocation will result from Treasury calculating the pro-rata payment for each Tribal government, based on self-certified enrollment numbers.⁴

Employment Allocation formula

The Employment Allocation will result from Treasury calculating pro-rata payments for each Tribal government based on the Tribe's share of total employment (Tribal government plus Tribal entities) across Tribal governments. In particular, Treasury will take the following steps:

Step 1. By Tribe, sum reported Tribal employment and Tribal entity employment for each quarter of 2019.

Step 2. Calculate the non-zero annual average of the summed quarters one through four obtained in Step 1.

Step 3. Calculate the pro-rata⁵ payment for each Tribal government, based on the annual employment averages obtained in Step 2.

Payment Schedule

Treasury will make two payments to eligible Tribal governments. The initial payment will include an equal allocation for each Tribal government from the \$1 billion and the Tribal government's pro rata share of the 65% of \$19 billion based on tribal enrollment. The second payment will include the Tribal government's pro rata share of the remaining 35% of the \$19 billion based on Tribal employment. Treasury expects the second payment to be made soon after

⁴ More specifically, this step sums Tribal enrollment to obtain total Tribal enrollment for all Tribes combined. Each Tribe's enrollment is then divided by total Tribal enrollment to obtain the share of enrollment for each Tribe. The tribal share is then multiplied by the amount being allocated, 65% of \$19 billion, or \$12.35 billion.

⁵ More specifically, this step sums the non-zero annual employment averages obtained in Step 2 for each Tribe that confirmed or amended their 2019 employment numbers to obtain total annual average employment for all Tribes combined. Each Tribe's Step 2 employment average is then divided by that total average employment amount to obtain the share of total employment for each Tribe. This tribal share is then multiplied by the amount being allocated, 35% of \$19 billion, or \$6.65 billion.

Tribal governments confirm their 2019 employment numbers previously submitted to Treasury in 2020.

To receive the first payment, Tribal governments must submit their information online through the [Treasury Submission Portal](#). After a Tribal government's submission is received, it will take approximately 4-5 business days to review and process. The point of contact that a Tribal government designates in its online submission will receive status updates. Once the information and documentation submitted is determined to be complete and accurate, this point of contact will receive information regarding the timing and amount of the first payment. The deadline to complete the first submission is **May 24, 2021 at 11:59 PM PST**.

Treasury will make a second payment to Tribal governments in respect of the Employment Allocation after Tribal governments confirm their 2019 employment counts. In mid-May, Tribal governments will receive a notification requesting that they log into the Treasury Submission Portal to confirm or amend their 2019 employment numbers previously submitted to Treasury in May 2020 in connection with the CARES Act Coronavirus Relief Fund.

The deadline for confirming or amending a Tribal government's 2019 employment numbers is June 7, 2021 at 11:59 PM PST. If a Tribal government does not confirm or amend employment numbers by that deadline, the Tribal government will not be eligible to receive a share of the employment allocation.

Following the June 7, 2021 deadline, Treasury will calculate each Tribal government's pro rata share of the Employment Allocation for those Tribal governments that confirmed or submitted amended employment numbers. In mid-June, Treasury will communicate to Tribal governments the amount of their portion of the Employment Allocation and the anticipated date for the second payment.