



## MEMORANDUM

March 24, 2020

To: Tribal Housing Clients  
From: Hobbs, Straus, Dean & Walker, LLP  
Re: *COVID-19 Economic Response Update*

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This memo is to provide you with an update on the ongoing negotiations to pass an economic stimulus bill to address the COVID-19 crisis. Discussions over the "Phase 3" COVID-19 relief bill are ongoing. As you have likely seen, the Senate held two procedural votes on Monday to begin debate on the relief package. Both votes failed. In response, the House released its version of Phase 3 relief that was substantially different from the Senate's draft, but contained some similar items.

As of now, House and Senate leadership have signaled that they are coming to an agreement on what will go in the package, and that they will release language sometime today (March 24). The language of that package has not been released, but latest reports from the Hill indicate the House will be working off the Senate's draft bill to include some of its priorities.

What follows is a description of items in discussion in Congress as they relate to Tribes for the Phase 3 legislation, as they have appeared in various drafts, though we are unsure of the definite status of these items. We will update you with concrete information as we receive it.

### *Indian Housing Funding*

The joint advocacy effort by NCAI and NAIHC has been seeking to include \$600 million for Indian housing in the COVID-19 stimulus legislation (\$450 million to be distributed via the IHBG formula allocation and \$150 million through ICDBG). While the bills under consideration do contain some funding for Indian housing, the amounts are significantly lower. The House bill released on Monday evening contained \$350 million in funding for Indian housing. \$250 million of that amount would be distributed to tribes and Tribally Designated Housing Entities under the IHBG formula. The additional \$100 million would be allocated by HUD through the competitive ICDBG program, with a focus on applications for emergency funding to address COVID-19. These amounts are slightly higher than in the Senate bill (\$200 million via NAHASDA formula; \$100 million via ICDBG).

### ***Tribal and Tribal Business Stabilization Fund***

The House bill contained provisions for temporary relief to governments for lost revenue due to COVID-19. This \$200 billion program included a \$10 billion tribal set-aside. The Senate's bill contained a \$20 billion program, but only a \$100 million set aside for Tribes. We are hearing that the idea of a stabilization fund remains in negotiation, but that the level of funding and any set-asides are unclear.

### ***Increased Direct Funding to Tribal Programs***

The House bill contained several increases to tribal programs, including an additional \$435 million for Tribal Priority Allocation funds under the Bureau of Indian Affairs (BIA), an extra \$69 million for Bureau of Indian Education (BIE) and BIE-funded schools (including \$20 million for tribal colleges and universities), \$1.032 billion for the Indian Health Service (with a guaranteed \$450 million distributed to tribal and urban Indian health organizations through tribal shares), and \$350 million for tribal housing (including \$250 million for housing block grants and \$100 million in Indian Community Development Block Grant funds for COVID-19 response). The Senate version does not contain any of these funds.

### ***Unemployment and Paid Sick Leave Reimbursements***

The effort to ensure that Tribes are held harmless for increased unemployment claims due to COVID-19-related layoffs or shutdowns continues, though it does not appear that either the House or Senate drafts contained language proposed by tribal advocates that would ensure that the federal government would pay 100% of the unemployment claims, especially for Tribes that participate in state unemployment programs via the "reimbursement" method.

There has also been no language in the latest drafts that would ensure the federal government would reimburse tribal employers for the leave paid out under the new Public Health Emergency Leave or the Emergency Paid Sick Leave provisions in the "Phase 2" legislation enacted last week. This does not foreclose the possibility that tribes and tribal employers would be reimbursed for this leave if they offer it, but it does not provide certainty either.

The Senate language contains a provision that would enable a "tribal business concern" that employees fewer than 500 workers to be eligible for paycheck protection loans from the Small Business Administration.

***Access to Federal Reserve Programs***

The Senate bill contains a \$500 billion program that provides relief to passenger and cargo air carriers, and it creates a \$425 billion program at the Federal Reserve System ("Fed") that would enable the Fed to purchase debt and increase liquidity among lenders. Contrary to media reports, there is currently no language in the bill that would require any of that money to go to tribes, states, or local governments. The Fed has indicated that it would create a program, the "Term Asset-Backed Securities Loan Facility" (TALF), to support the flow of credit to consumers and businesses. The TALF would enable the issuance of asset-backed securities (ABS) backed by student loans, auto loans, credit card loans, loans guaranteed by the Small Business Administration (SBA), and certain other assets. Note, this is not direct funding, but a program to incentivize access to credit. Efforts continue on the Hill to ensure that Tribes receive direct relief.

***Conclusion***

We will update you with more information as soon as we have more specific information.

If you have any questions regarding this memorandum, please contact Ed Clay Goodman at [egoodman@hobbsstrauss.com](mailto:egoodman@hobbsstrauss.com) or by phone at (503) 242-1745.