

## **The Tribal Coronavirus Relief Fund And Alaska Native Corporations**

“In FY 2017, Alaska Native regional corporations had a combined revenue of \$9.1 billion. Revenues from the Alaska Native regional corporations benefit the overall Alaska economy, providing jobs and wages that circulate throughout the state. Alaska Native regional corporations employed more than 15,000 people in the state of Alaska last year with a combined statewide payroll of more than \$950 million.” <https://www.akrdc.org/alaska-native-corporations>

“With more than 12.5 million acres of land in Alaska allocated to the corporation under ANCSA, Doyon is the largest private landholder in Alaska and one of the largest in North America.” <https://www.doyon.com/our-corporation/>

“ASRC is a private, for-profit corporation that is owned by and represents the business interests of its approximately 13,000 Iñupiat shareholders.....since inception, ASRC has distributed more than \$1 billion in dividends directly to them.” <https://www.asrc.com/about/>

The United States has had a government to government relationship Indian tribal governments since colonial times, entering into treaties with the tribes from the earliest days of the nation. This relationship has evolved over time, and the United States now has a trust obligation to the tribal governments with which it has a government to government relationship.

The United States documents the 574 Indian tribes and Native entities in the United States with whom it has a government to government relationship in the annually published list of “*Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs*”. This list was last published by the Bureau of Indian Affairs in the Federal Register on January 31, 2020. [85 FR 5462, January 30, 2020](#). Entities not included in this list are neither “tribal governments,” nor do they have a governmental relationship with the United States.

The Alaska Native Claims Settlement Act (ANCSA) was passed on December 18, 1971, to settle longstanding aboriginal land claims in that state. The settlement was developed through the negotiation between several parties, most notably Alaska Natives, the Federal Government and the State of Alaska.

ANCSA created, as part of the settlement, thirteen regional, for-profit corporations owned by shareholders. These shareholders are *individual* Native Alaskans.

Separate from the thirteen for-profit ANCSA corporations, Alaska Native Village governments retained their status as tribal entities, and were recognized as tribes having a government to government relationship with the United States in October of 1993, when they were included in the list of Federally-recognized tribes. They have appeared on the list ever since, including the list published in January of this year.

It is those Alaska Native Village governments that have a government to government relationship with the United States and are entitled to receive aid from the Coronavirus Relief Fund (a fund designed to stabilize governmental entities) and not ANCSA corporations. ANCSA corporations were created by statute as for-profit business entities - not governments.

Accordingly, the most reasonable way to deal with the problem presented by the CARES Act cross reference to the definition of tribe included in the Indian Self-Determination and Education Assistance Act (an act designed to provide contracting opportunities to tribes and tribal entities), is to issue distribution guidance that clarifies that only tribal governments will receive this funding.

This can be accomplished in a simple manner to ensure the Coronavirus Relief Fund will flow to the intended recipients, tribal governments.

1. Issue guidance that prioritizes funding for tribes who are listed on the “*Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs*” published in the Federal Register on January 30, 2020, or entities that are wholly-owned by tribal governments that appear on that list. Additionally, require all fund transfers to be made into a tribal government-owned account.

Moving forward, any future legislation whose purpose is to assist Indian tribes should utilize definitions whose purpose is to identify Indian Tribal governments for federal services.

Two potential definitions include:

**42 U.S.C. §5122(6) - Robert T. Stafford Disaster Relief and Emergency Assistance Act.** (6) Indian tribal government.—The term "Indian tribal government" means the governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a et seq.)

**25 USC §479a(2) – Federally Recognized Indian Tribe List Act.** (2) The term “Indian tribe” means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.