



# COWLITZ INDIAN TRIBE

April 21, 2020

The Honorable Steven T. Mnuchin  
Secretary of the Treasury  
U.S. Department of the Treasury  
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Washington, DC 20220  
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The Honorable David L. Bernhardt  
Secretary of the Interior  
U.S. Department of the Interior  
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Washington, DC 20240  
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**Re: Implementation of the Coronavirus Relief Fund for Tribal Governments**

Dear Secretary Mnuchin and Secretary Bernhardt:

I write on behalf of the Cowlitz Indian Tribe to urge the Department to allocate funding authorized pursuant to the CARES Act's Coronavirus Relief Fund (CRF) *only* to the Tribal Governments of federally-recognized Indian tribes, as intended by Congress and stated in the Act. No funding under the CRF should be allocated to Alaska Native regional corporations or village corporations (ANCs), as they are neither Indian tribes nor Tribal Governments. In addition, the Department cannot include the count of ANC shareholders or ANC-held fee lands in its CRF allocation formula.

Section 601(a)(2)(B) of the CRF sets aside \$8 billion in funding to "Tribal Governments". Section 601(g) states that the term "Indian Tribe" shall have "the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act [ISDEAA] (25 U.S.C. 5304(e))." ISDEAA defines the term "Indian tribe" as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act ..., which is *recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.*" Congress directs the Secretary of the Interior annually to publish a list of "all Indian tribes" that are recognized as "*eligible for the special programs and services provided by the United States to Indian because of their status as Indians.*" 25 U.S.C. § 5131. ANCs are not on the list. *See* 85 Fed. Reg. 5,462 (Jan. 30, 2020).

ANCs are not "recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." As such, they are not Indian tribes within the meaning of the ISDEAA or the CARES Act.

The CRF also defines the term 'Tribal government' to mean "the recognized governing body of an Indian Tribe." Alaska Native Corporations are not the recognized governing bodies of federally-recognized Indian tribes. Alaska Native villages, not ANCs, are the recognized governing bodies of their Alaska Native communities.

Despite these facts, on April 13, 2020, the Bureau of Indian Affairs issued certification forms that included a list of criteria that will be considered in the Treasury Department's final allocation. The BIA form incorrectly permits ANCs to file directly for CRF funding, and it further permits the count of ANC shareholders and ANC-held fee lands selected pursuant to the Alaska Native Claims Settlement Act (ANCSA). None of these criteria are permitted under the text of the CRF.


As the Supreme Court explained in *Alaska v. Native Village of Venetie Tribal Government*, ANCs are "state-chartered and state regulated private business corporations," with shareholders that include non-Indians. There are more than 230 separate ANCs, including 12 regional corporations and approximately 225 village corporations. The 12 regional corporations alone have over 138,000 shareholders. ANCs are multinational corporations, own scores of corporate subsidiaries, and are managed by their corporate boards of directors—not by Tribal governments. Further, the United States holds no legal treaty or trust obligation over ANC-held lands selected under ANCSA, which are wholly subject to the laws and regulations of the State of Alaska.

While state and local government treasuries are suffering significant setbacks due to decreased tax collections, tribal government revenues have been shut off completely. These closures are inflicting catastrophic damage to economies throughout Indian country. The very resources that had been used to fund the tribal government programs and services have evaporated overnight.

The Coronavirus Relief Fund represents a lifeline for our Tribal Government's ability to combat the pandemic and limit the damage to our economy. Diluting the distribution of the CRF to include ANCs, their non-Native shareholders, and ANCSA fee lands will limit our Tribal Government's ability to respond to the coronavirus, and constitutes a direct violation of the Federal Government's treaty and trust obligations to Indian tribes. As a result, we respectfully urge the Treasury Department to only allocate / distribute funding authorized under the Coronavirus Relief Fund to those Indian tribes that are the "recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians", and "the recognized governing body of an Indian Tribe." ANCs do not meet either definition, and their shareholders and lands cannot be considered as part of the Department's allocation formula.

Thank you for your consideration of this urgent request.

Sincerely,



Bill Iyall (Apr 21, 2020)

William Iyall, Chairman






# Coronavirus Relief Fund for Tribal Governments

Final Audit Report

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