



CALISTA CORPORATION
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April 23, 2020

VIA EMAIL (tribal.consult@treasury.gov)

Hon. Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Re: *Unauthorized Treasury Tribal Advisory Committee Member Letter on TTAC CARES Act Relief Funding Recommendations*

Dear Secretary Mnuchin:

The Calista Corporation, an Alaska Native regional corporation established under the Alaska Native Claims Settlement Act of 1971, submits the following comments in response to the letter sent yesterday by the Treasury Tribal Advisory Committee (TTAC) appointees commenting upon and making recommendations regarding the Tribal Relief Fund (TRF) provisions in the CARES Act.

First of all, Calista is puzzled that TTAC members are commenting upon the CARES Act, which is legislation that does not concern taxation. The TTAC is an official federal advisory committee established under the Tribal General Welfare Exclusion Act of 2014, Pub. L. 113-168 to “advise the Secretary on matters relating to the taxation of Indians.” The TTAC is convened by a Designated Federal Officer (Krishna Vallabhaneni) and Chairperson (Lacey Horn). Its proceedings are convened in accordance with federal legal requirements under the Federal Advisory Committee Act.

The letter sent by the TTAC members vigorously advocates for development of a formula for distributing CARES Act Coronavirus Relief Fund monies in a manner that excludes Alaska Native Corporations. Even more troubling, the letter includes an excerpt, taken out of context, from a letter that Calista’s President and CEO, Andrew Guy, sent to you on February 12, 2020. Mr. Guy’s February 12, 2020, letter addressed the Department of Treasury’s statutory obligation to consult with Alaska Native Corporations, as well as with Tribes. The TTAC members have misrepresented Mr. Guy’s letter in an attempt to support their argument that ANCs should be excluded from the Tribal Relief Fund. Calista urges you to disregard the TTAC’s attempted misrepresentation.

It is indisputable that the definition of Indian Tribe Congress included in the CARES Act includes ANCs. The TTAC members (and others) have raised concerns that the inclusion of ANCs in the CARES Act will result in “double dipping” by Alaska Native peoples in the Tribal Relief Fund or in “double counting” of Alaska Natives in the formula for distribution of the TRF funding.

But Congress' use of the ISDEAA definition of Indian Tribe does not mean that every ANC will automatically be eligible to receive a portion of the \$8B Tribal Relief Fund in the CARES Act. For 39 years, the ISDEAA has been administered in Alaska in accordance with an order of precedence that Tribes, village corporations and regional ANCs have relied upon to assure that the needs of Alaska Natives are met:

“For the purposes of contracting under Pub. L. 93-638, the Alaska Area will recognize as the village governing body the following entities in order of precedence:

- If there is an Indian Reorganization Act (IRA) Council, and it provides governmental functions for the village, it will be recognized.
- If there is no IRA Council, or it does not provide governmental functions, then the traditional village council will be recognized.
- If there is no IRA Council and no traditional village council, then the village profit corporation will be recognized.
- If there is no IRA Council, no traditional village council, and no village profit corporation, then the regional profit corporation will be recognized for that particular village.

See, 46 Federal register 95, 27179.

This scheme was put in place for exactly this situation – to ensure that every Alaska Native and every Alaska Native community be included in any program or funding designated for Tribes. Following the 1981 “Order of Priority” will also preclude any “double dipping” or “double counting” of Alaska Natives or Alaska Native Tribal communities. Calista, along with many other ANCs, submitted their data to the Department of Treasury, under the belief that the Department of Treasury would follow the 1981 Order of Priority in implementing the TRF provisions of the CARES Act to ensure that no Alaska Tribal community is left out or excluded from receiving the critical relief these communities need.

In short, we urge you to incorporate the 1981 Order of Priority into the Treasury’s guidelines and decision-making regarding the TRF. Doing so will moot the issues in the *Chehalis vs. Mnuchin* court case. More importantly, it will ensure that no Alaska Tribal community is left out of the TRF, especially the small Alaska Tribes that were unable to submit data to the Treasury portal by the deadline due to lack of internet and other reasons.

Sincerely,

CALISTA CORPORATION



Andrew Guy
President & CEO