



April 30, 2020

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
H-232 Capitol Building  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
H-204 Capitol Building  
Washington, D.C. 20515

Dear Speaker Pelosi and Minority Leader McCarthy:

On behalf of the undersigned American Indian and Alaska Native organizations, which collectively serve all federally-recognized American Indian and Alaska Native tribal nations, we thank you for your bipartisan leadership to provide critical resources to tribal nations and communities who are responding to the novel coronavirus (COVID-19) pandemic.

Tribal nations are on the frontlines of this pandemic and struggling to protect the health, safety, and welfare of their communities as the number of COVID-19 cases continue to rise in Indian Country. This letter is one of three letters addressing tribal priorities within the following areas: economic development and employment; tribal governance and housing/community development; and health and human services.

The CARES Act provided much needed emergency relief to tribal governments. To ensure this assistance reaches its intended recipients without barriers and to address increasing needs, this letter includes our requests, as well as amendments and technical fixes to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, to address the economic and employment needs of tribal governments and their service communities.

**I. Increase Appropriations to the Coronavirus Relief Fund (CRF) Tribal Set Aside by at Least \$20 Billion or 10 percent of the Additional CRF Appropriations**

The CRF, established through Section 5001 of the CARES Act, provides a total of \$150 billion in federal fiscal support for tribal, state, and local governments, with eligibility dependent upon the location, level of government, and use of potential funds. The origin of this fund was focused on addressing the economic devastation governments' face due to declining revenues which fund government services.

Tribal governments have experienced significant impacts from COVID-19 and are projected to lose over \$40 billion in critical government revenue as a result of the pandemic. Since tribal governments lack the traditional tax bases enjoyed by state and local governments, tribal enterprise revenues often supply most of the funding for government services. Normally, tribal governments and their enterprises support more than 1.1 million jobs and more than \$49.5 billion in annual wages and benefits for American workers. The pandemic has drastically reduced tribal

enterprise revenues, crippling tribal governments' ability to provide basic government services at a time when the demand for those very services are growing.

As a result, the economies and workforces in tribal and surrounding communities have been gravely impacted by COVID-19. To address this impact on tribal governments, which serve some of the most socio-economically disadvantaged populations in the United States, the CARES Act provided a minimum set-aside of \$8 billion for tribal governments. While Indian Country is grateful for this allocation, additional resources are necessary to meet the needs of tribal governments as they battle the ongoing spread of COVID-19 within tribal communities. Presently, tribal governments have lost over \$30 billion in government revenue as their enterprises have closed for public safety and health reasons.

As a result of the growing pandemic, we request an increase of at least \$20 billion to the tribal CRF appropriation or at least 10 percent of any additional appropriation to the CRF, and the following technical amendments to streamline distribution and oversight of the fund:

- Retroactively provide governments flexibility to address diminished and lost revenue and supplement eligible payroll and related costs as a result of COVID-19 response;
- Clarify Congress' intent that the CRF be disbursed only to sovereign tribal governments as identified in the Department of the Interior's list of *Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs*;<sup>1</sup>
- Require Treasury to disclose the formula used for distribution of Title V funds;
- Require Treasury to maintain as confidential all financial and other proprietary information submitted by tribal governments and provide the congressional committees of jurisdiction a report no later than January 31, 2020 on distribution of the Title V funds; and
- In the event of recoupment by the Inspector General, Title V funds shall be re-distributed to only eligible and intended recipients within a respective set aside.

## **II. Provide a Tribal Set Aside in Title IV of the CARES Act to Address the Economic Stabilization and Assistance Needs of Tribal Governments and Their Enterprises**

As noted above, Tribal governments nationwide have declared public health and safety emergencies and closed government-owned enterprises. The resulting depletion of revenues for tribal government treasuries is forcing reduction in the delivery of essential government services. Simultaneously, many tribal governments and their enterprises will face financial pressures and potential defaults due to the lack of government revenue, at least in the short term-six-month window (180 days).

To stabilize governments, including tribal governments and their enterprises, Congress enacted Section 4003 in Title IV of the CARES Act. This section authorizes the Secretary of the Treasury to make loans, loan guarantees, and other investments and subsidies to provide liquidity

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<sup>1</sup> See Dept. of Interior, *Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs*, 85 Fed. Reg. 5,462 (Jan. 30, 2020).

for losses that governments incur as a result of the COVID-19 pandemic. The Secretary of the Treasury will determine the terms and conditions of the loans and loan guarantees.

We applaud Congress for tribal inclusion within Title IV and recognizing that the stabilization of tribal economies is critical to tribal governments and their surrounding communities. We are concerned, however, that tribal governments and their enterprises may face barriers to accessing this program due to the unique characteristics of tribal debt because tribal governments and their enterprises largely hold private bank debt rather than public debt.

This debt is not collateralized like other private debt because tribal lands are held in trust by the federal government. As a result, programs that focus on traditional publicly traded government debt with market ratings and collateralization requirements are inaccessible to tribal governments. To prevent unintended barriers, we request that Section 4003(c)(3)(E)—Government Participants, be amended to create a tribal set aside that reserves at least \$25 billion for tribal debt purchasing and \$30 billion for loan guarantees, and to provide for Treasury consultation to create a program that addresses the debt and liquidity needs of tribal governments and their enterprises.

### **III. Ensure Emergency Assistance is Accessible to Tribal Employers; Provide Unemployment Support for Tribal Employers; and Increase Appropriations for Fishery Assistance to Ameliorate COVID-19 Impacts**

Tribal governments are often the largest employers in their localities. The COVID-19 pandemic has impacted tribal governments, businesses, economies, and communities. As the urgency, infection rate, and death toll of the pandemic intensify, tribal employers must make urgent decisions regarding their workforces, public health, and unemployment costs. To ensure tribal access to emergency employment and unemployment assistance and relief for economic losses in the treaty and trust protected fisheries industry, we request the following amendments in subsequent legislation:

- **Ensure Emergency Assistance is Accessible to Tribal Employers**

Many tribal employers provide sick and family medical leave under tribal law and are interested in participating in the temporary paid leave provisions contained in Public Law 116-127. A simple technical amendment would allow tribal employers to opt in to this federal program and accordingly be eligible for refundable tax credits to support the cost of participation. Such an amendment would ensure tribal governments have access to the emergency relief available to aid employers in responding to the pandemic and its effect on their workforces.

- **Address Unemployment Insurance Reimbursement Disparities**

Under the Federal Unemployment Tax Act (FUTA), most employers must pay State Unemployment Tax Act (SUTA) amounts based on a rate. Each state determines the rate percent up to 5.4 percent and the portion of the wage base to which it is applied.

FUTA also permits non-profits, states and their subdivisions, and tribal governments to “elect” to be a “reimbursing” rather than a rate paying employer, for purposes of determining how much money the employer must contribute to the state unemployment fund at the end of each quarter. Rather than a fixed amount determined by a rate, an eligible employer who makes an election to pay as a reimbursing owes no money unless and until a former employee receives a benefit payment from the state unemployment office for employment attributable to that employer. The state unemployment office then bills the employer who must reimburse the state, dollar-for-dollar, the full amount of the benefit paid out to the former employee during the previous quarter.

Many tribal employers elected the reimbursement option years ago when their tribal workforces were stable and growing. With the sudden, widespread COVID-19 related closure of tribal offices and enterprises and accompanying layoffs, these reimbursement-option employers face massive and unforeseen reimbursement invoices from state unemployment programs and lack funds to pay these bills due to declining revenues.

Section 2013 of the CARES Act provides federal relief money to each state unemployment office to cover 50 percent of the benefits paid to former employees of reimbursing employers during the national emergency period. However, the remaining 50 percent of such benefits (paid to former employees of reimbursing employers) will be billed by the state unemployment program to the reimbursing employer at the end of each quarter.

While Section 2013 is welcome, it provides only partial relief for tribal employers facing sharply rising unemployment costs that were unforeseeable when they elected to become reimbursement option employers.

As a result of these costs, an amendment is needed that would either: allow a reimbursement option tribal employer to reverse its prior election, effective immediately, as to all unemployment claims filed and paid during the period of the national emergency; or ensure that the federal government aids tribal employers, as it has aided private sector employers, by covering 100 percent of the unemployment claims paid to laid off tribal employees during the duration of the pandemic.

- **Provide Relief for Tribal Fisheries and Fishers**

Section 12005 of the CARES Act authorizes the Secretary of Commerce to provide \$300 million for payments to “fishery participants,” which includes tribal nations and tribal fishers to provide COVID-19 relief. Tribal fisheries are vital to tribal, local, and regional economies and are the primary source of income for many families. The pandemic is having grave impacts on tribal fisheries due to fisheries being cancelled or forced to close, and lack of an available market. Tribal fisheries contribute significantly to annual fisher income and provide a ceremonial and subsistence food source for use by the community throughout the year. To address this increasing harm, especially on spring and summer fisheries, an additional \$500 million appropriation is needed to Section 12005 of the CARES Act.

#### **IV. Make Technical Amendments to SBA Programs to Remove Barriers for Tribal Business Concerns**

Title I of the CARES Act provides for two loan programs that are newly available to Tribal Business Concerns (TBCs) to provide immediate loans to retain payroll and to maintain the solvency of businesses. Section 1102 of the CARES Act creates the Paycheck Protection Program (PPP), which provides cash-flow assistance through 100 percent federally guaranteed loans to employers who maintain their payroll during the pandemic. Section 1110 involves the SBA's Economic Injury Disaster Loans (EIDLs), which offers up to \$2 million in loans for small businesses to help overcome the temporary loss of revenue they are experiencing.

Even though TBCs were made eligible for both of these programs, technical issues in the statutory language and SBA's imposition of non-statutory restrictions are hampering TBCs' ability to access these loans. This relief is essential to TBCs who are vigorously attempting to retain their workforces and rebuild their battered businesses and local economies.

To address these issues, we request that the next COVID-19 legislation do the following:

1. Ensure that the definition of TBC is clear and does not subject TBCs to inapplicable HUBzone requirements;
2. Ensure, as intended, that any TBC is eligible for Section 7(a) loans;
3. Protect all applicants from non-statutory restrictions imposed by SBA and lenders; and
4. Include community development financial institutions (CDFI) (which include Native CDFIs) as eligible lenders.

Further, TBCs are encountering barriers at lending institutions that have imposed non-statutory requirements and preference for applicants with existing small business lending relationships, which were unavailable to TBCs until passage of the CARES Act.

TBCs are disproportionately affected by these restrictions because tribal communities already experience significant obstacles in accessing capital and credit. To address this issue, we request that Congress work with the Administration to ensure that PPP and EIDL loans are accessible to all eligible TBCs and develop legislative solutions to prevent the reoccurrence of this barrier.

#### **V. Provide not less than \$100 million in additional funding for Native Community Development Financial Institutions (NCDFIs) and waive restrictions on Small Business Administration and Treasury programs for Native American Contractors (NACs), Tribal Business Concerns, and NCDFIs to provide for emergency funds and waiver of program restrictions.**

The COVID-19 pandemic provides an unprecedented threat to the solvency of Native small businesses. While the CARES Act provided initial relief to small businesses, more assistance is needed especially for NCDFIs and NACs, which are critical to the growth and existence of Native small businesses and also provide critical support in federal contracting. During this period of national financial distress, emergency relief and a waiver of program restrictions are

needed to enable NACs and NCDFIs to avoid bankruptcy, support their communities and business partners, and aid the national recovery.

### **NCDFIs**

NCDFIs provide access to capital in low-income and underbanked Native communities and offer services that include: small business and consumer loans, mortgages, and check cashing. As of March 20, 2020, a survey of NCDFIs showed that 89 percent make loans to small businesses that will be impacted by the COVID-19 economic slowdown. The following are congressional actions that will help avoid severe economic disruptions to Native CDFIs, small businesses, and low-income consumers.

- **Allocate Not Less Than \$100 Million to the Native American CDFI Assistance (NACA) Program**

Congress must appropriate \$100 million to the Treasury's NACA Program for emergency funding in FY 2020 as part of a \$1 billion supplemental boost to the CDFI Fund. Emergency funding will provide technical and financial assistance to NCDFIs that must restructure loans to small businesses and consumers impacted by the COVID-19-related economic downturn. Investment in the NACA Program enables Congress to facilitate access to capital for low-income, high-poverty communities for small business support through an existing and successful mechanism.

- **Extend Matching Requirement Waiver for Native CDFIs Receiving NACA Awards**

For the past several years, Congress has waived the matching funds requirement for NCDFIs receiving NACA Program funding through the Treasury's CDFI Fund. This is a revenue-neutral option to allow additional capital to flow to underbanked communities. With tribal nations facing additional constraints from COVID-19 responses, any matching requirement will make it more difficult to get capital to NCDFIs.

### **NACs**

NACs create economic development in Indian Country through small businesses and government contracting and are vital participants in the delivery of federal services. The impacts of the COVID-19 pandemic have disproportionately impacted small businesses and waiver of federal restrictions on existing SBA programs and an increase in program technical assistance is needed to bolster these businesses to provide support in the national recovery.

- **Increase Access to the SBA Business and Other Technical Assistance**

Congress should increase access to the SBA's 7(j) program for Indian Country to provide coronavirus relief and other disaster-related assistance. We previously proposed increasing funds for Section 7(j) grants, with a \$4 million set aside for Indian Country, and amending Section 7(j)(2) to add a new paragraph "(F)" as follows: "(F) assistance in each of the above categories specifically tailored towards planning for, or recovering from, the event of a natural disaster, act of terrorism, other man-

made disaster, or significant business disruption.” Another approach would be to amend the CARES Act, Section 1103, Entrepreneurial Development, to include in the definitions of “resource partner” in Section 1103(a)(2) a new paragraph “(C) any recipient of a grant under section 7(j) to provide Native American Outreach assistance;” and add in Section 1103(b)(3) a new paragraph with appropriate references and funding amounts to effect the following: “(C) NATIVE AMERICAN OUTREACH.—The Administration shall award grants under Section 7(j) for Native American Outreach consistent with this section using funds made available to the Administration in Section 1107.” We request an increase in appropriations for the 7(j) program funding so that at least \$4 million is made available through these mechanisms to provide business and disaster-related assistance to NACs and TBCs.

- **Authorize SBA’s Office of Native American Affairs to Conduct COVID-19 and Other Outreach**

We have long urged the elevation and enhancement of SBA’s Office of Native American Affairs (ONAA) to strengthen its operations within the agency and among other federal departments and agencies. The ONAA should be formally authorized, like other high-level Office of Native American Affairs or Tribal Relations (e.g., at Interior, Commerce, Housing, Energy, Agriculture, Justice, Federal Communications Commission). The SBA budget includes funding for “Native American Outreach” but not for the ONAA that needs more support to aid the SBA’s formidable disaster assistance responses to the desperate needs of tribal governments, TBCs, and other native-owned small businesses. The ONAA should have authority to provide financial and other assistance directly, and in conjunction with SBA’s 7(j) program, as proposed above, so as to: 1) coordinate distribution of information and assistance on SBA 7(a) loans and other coronavirus-related relief; 2) deploy training, counseling and other educational outreach, workshops, supplier events, and otherwise access the SBA’s entrepreneurial assistance; 3) facilitate NACs’ participation in the SBA’s 8(a) Business Development, HUBZone and other contracting programs; 4) work with SBA, traditional lenders, Native-owned banks and Native CDFIs to improve access to urgently needed capital through SBA’s various loan, loan guarantee, disaster assistance, and other capital access programs; and 5) coordinate SBA’s tribal consultations.

- **Empower the Office of Native American Business Development at Commerce**

The CARES Act included \$10 million for the Minority Business Development Agency (MBDA) specifically for “minority business centers” only. None of this additional funding can be used to support the Office of Native American Business Development (ONABD), authorized in 2000 but not yet separately funded. Congress should appropriate at least \$2 million for the ONABD to enable it to fulfill its statutory duties to coordinate with agencies within Commerce and other federal departments to provide assistance, including financial and technical assistance to dispatch coronavirus relief to Indian Country, and collaborate on recovery efforts to reinvigorate business and economic development, and expand trade and tourism in Indian Country.

- **Ensure NACs and Participants in the SBA Small Disadvantaged Business Program Can Access COVID-19 Contracting Opportunities**

During this crisis, federal agencies will need to utilize programs and policies that provide them with maximum flexibility and expedited procurement processes. NACs and other small disadvantaged businesses must be able to access federal procurement opportunities.

- **The Provisions of the 2020 National Defense Authorization Act (NDAA), Raising the Cap on Sole Source Contracts, Should be Applied to All Federal Agencies**

The 2020 NDAA raised the cap on sole-source contracts awarded by civilian (non-DOD) federal government agencies so as to not require justification or approval of sole-source contracts not exceeding \$100 million. To enable NACs to access all federal procurement opportunities, we recommend bringing civilian contracts in line with the provisions of §823 of the 2020 NDAA.

- **Exempt the SBA from Category Management**

To support the recovery of NACs and small businesses through contracting, the SBA should be exempted from the requirements of category management, which presently is increasing barriers to needed federal procurement.

- **NACs Should be Included in Relief Provided to Federal Employees**

Any relief provided to federal employees, such as continued pay, related to the COVID-19 pandemic, including for any government shutdowns, should also apply to federal contractors. The impacts on NACs and small business are massive and must be offset in order to ensure survival of these vital businesses.

## **VI. Conclusion**

In summary, we strongly urge Congress to ensure the needs of tribal governments are included in any subsequent COVID-19 legislation.

Sincerely,



Kevin Allis  
CEO  
National Congress of American Indians



Jackson Brossy  
Executive Director  
Native CDFI Network



Chris James  
President and CEO  
National Center for American Indian Enterprise Development

**PROPOSED LEGISLATIVE LANGUAGE**

- **Increase Appropriations to the Coronavirus Relief Fund (CRF) Tribal Set Aside by At Least \$20 Billion or 10 percent of the Additional CRF Appropriations**

*Amend the CARES Act Section 5001 to read as follows:*

*SEC. 602. ENHANCED FUNDING FOR CORONAVIRUS RELIEF FOR STATES, TRIBAL GOVERNMENTS, AND MUNICIPAL AND COUNTY GOVERNMENTS.*

*“(a) APPROPRIATION.—*

*“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for making payments under this section to States, Tribal governments, and units of local government under this section, \$\_\_\_\_,000,000,000 for fiscal year 2020. Funds appropriated under this paragraph and paid in accordance with this section shall be in addition to the funds appropriated under subsection (a) of section 601 and paid to States, Tribal governments, and units of local government under that section.*

*“(2) RESERVATION OF FUNDS.—Of the amount appropriated under paragraph (1), the Secretary shall reserve—*

*“(B) at least \$20,000,000,000 of such amount or 10% of the total amount of the additional appropriated funds under subsection (a) for making payments to Tribal governments.*

*“(7) TRIBAL GOVERNMENTS.—From the amount set aside under subsection (a)(2)(B) for fiscal year 2020, the amount paid under this section for fiscal year 2020 to a Tribal government shall be the amount the Secretary shall determine, in consultation with the Secretary of the Interior and Indian Tribes, that is based on increased expenditures of each such Tribal government (or a tribally-owned entity of such Tribal government) relative to aggregate expenditures in fiscal year 2019 by the Tribal government (or tribally-owned entity) and determined in such manner as the Secretary determines appropriate to ensure that all amounts available under subsection (a)(2)(B) for fiscal year 2020 are distributed to Tribal governments; and the Secretary shall publish its formula for distribution of all funds under this subsection and in no event shall the formula be published later than five days from the date of this amendment’s enactment.*

*“(f) INSPECTOR GENERAL OVERSIGHT; RECOUPMENT.—*

*(1) OVERSIGHT AUTHORITY—The Inspector General of the Department of Treasury shall conduct monitoring and oversight of the receipt, disbursement, and use of funds made available under this section including oversight of Treasury’s internal controls for storage and confidentiality of government data submitted for the purposes of this Fund and the Secretary and the Inspector General shall provide the congressional committees of jurisdiction reports no later than January 31, 2020 on distribution of the Title V funds.*

*(2) RECOUPMENT—If the Inspector General of the Department of Treasury determines that a State, Tribal government, or unit of local government has failed to comply with*

*subsection (d), the amount equal to the amount of funds used in violation of such subsection shall be booked as a debt of such entity owed to the Federal Government. Amounts recovered under this subsection shall be deposited into the State, Tribal Government, and local unit of government set aside identified in subsection (a)(1) or (a)(2), as appropriate based on the original source of the funds, and made available to eligible recipients for redistribution through January 31, 2020.*

“(g) DEFINITIONS.—

*(1) INDIAN TRIBE.—The term ‘Indian Tribe’ means any individually identified and federally recognized Indian or Alaska Native tribe, band, nation, pueblo, village, community, affiliated tribal group, or component reservation on the list published pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131(a)).” ~~has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).~~*

*(4) TRIBAL GOVERNMENT.—The term ‘Tribal government’ means the recognized governing body of an Indian Tribe.*

*(b) TECHNICAL CORRECTION.—Effective as if included in the enactment of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136), section 601(d) of the Social Security Act, as added by section 5001(a) of the Coronavirus Aid, Relief, and Economic Security Act, is amended by striking “cover only the costs of the State, Tribal government, or unit of local government that” and inserting the following:*

- (1) cover those costs of the State, Tribal government, or unit of local government that—
  - a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19);*
  - b. were not accounted for in the budget most recently approved as of the date of enactment of this section for the State or government; and*
  - c. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.**
- (2) cover those expenditures related to payroll and employee benefits due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19); and*
- (3) cover those expenditures related to revenue shortfalls due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19).*

- **Provide a Tribal Set Aside in Title IV of the CARES Act to Address the Economic Stabilization and Assistance Needs of Tribal Governments and Their Enterprises**

*Amend the CARES Act Section 4002 to read as follows:*

*(9) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury, or the designee of the Secretary of the Treasury. (10) STATE.—The term ‘State’ means— (A) any of the several States; (B) the District of Columbia; (C) any of the territories and possessions of the United*

States; (D) any bi-State or multi-State entity; and (E) any Indian Tribe as defined in 25 U.S.C. 5130.

Amend the CARES Act Section 4003(c)(3)(E) as follows:

*(E) GOVERNMENT PARTICIPANTS.—The Secretary shall endeavor to seek the implementation of a program or facility in accordance with subsection (b)(4) that provides liquidity to the financial system that supports lending to States and municipalities.*

*(i) in accordance with subsection (b)(4), not less than \$25,000,000,000 shall be provided for debt purchasing and no less than \$30,000,000,000 for loan guarantees for Indian Tribes.*

- **Ensure Emergency Assistance is Accessible to Tribal Employers**

Amend Public Law 116-127, in Division E – Emergency Paid Sick Leave, in Section 5110 regarding definitions by doing the following:

- *At the end of Section 5110(1), add a paragraph (G) that says “an employee of an Indian tribe, as that term is defined in 26 USC 3306(u), where such Indian tribe exercises its inherent authority and voluntarily agrees to participate in this program.”*
- *At the end of Section 5110(2)(B)(i), add a paragraph (V) that says “an Indian tribe, as that term is defined in 26 USC 3306(u), that exercises its inherent authority and voluntarily agrees to participate in this program.”*

Amend Public Law 116-127, in Division C – Emergency Family and Medical Leave Expansion Act, by adding at the end a new section that reads:

*“APPLICATION TO INDIAN TRIBES. – “Any Indian tribe, as that term is defined in 26 USC 3306(u), that submits a certification to the Secretary of Labor that it has voluntarily complied with Division C, Section 7001, et seq. will be eligible for the benefits of Division C and Division G.”*

- **Address Unemployment Insurance Reimbursement Disparities**

Amend the CARES Act to add a new subsection (c) to Section 2103 to read as follows:

*(c) TRIBAL EMPLOYER ELECTION.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:*

*“Tribal Employer Option to Terminate Previous Election to Participate as a Reimbursing”*

*“(j) Notwithstanding any other provision of law, an Indian tribe (as defined in 26 U.S.C. 3306(u)) may file at any time a written notice with the Secretary terminating a prior election it made to make payments in lieu of contributions under 26 U.S.C. 3309(d) for any unit of its employees for any employment term during the applicable period, as described in subsection (i), and the amount of funds transferred to the account of a State under subsection (i) during the applicable period shall be equal to the full amount of compensation (as defined in section*

3306(h) of the Internal Revenue Code of 1986) attributable under the State law to such service that was paid by the State for weeks of unemployment beginning and ending during such period.”

- **Provide Relief for Tribal Fisheries and Fishers**

Amend Section 12005 of the CARES Act as follows:

**ASSISTANCE TO FISHERY PARTICIPANTS**

**SEC. 12005**

(d) **APPROPRIATIONS.**—In addition to funds that are otherwise made available to assist fishery participants under this Act, there are authorized to be appropriated, and there are appropriated, an additional \$500,000,000, to remain available until September 30, 2021, to carry out this section, of which up to 2 percent may be used for administration and oversight activities.

- **Make Technical Amendments to SBA Programs to Remove Barriers for Tribal Business Concerns**

Amend the CARES Act as follows:

**SEC. 1102. PAYCHECK PROTECTION PROGRAM.**

(a) **IN GENERAL.**—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

...

(2) by adding at the end the following...

“(36) **PAYCHECK PROTECTION PROGRAM.**—

(A) **DEFINITIONS-**

(X) the term ‘Tribal business concern’ means a small business concern that is

(aa) wholly owned by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments; or

(bb) that is owned in part by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments, if all other owners are either United States citizens or small business concerns.

...

“(D) **INCREASED ELIGIBILITY FOR CERTAIN SMALL BUSINESSES AND ORGANIZATIONS.**—

“(i) **IN GENERAL.**— During the covered period, in addition to small business concerns, any business concern, nonprofit organization, veterans organization, or any Tribal Business concern described in Section 31(b)(2)(C) shall be eligible to receive a covered loan without regard to 13 CFR section 120.110 (b) and (g), provided that such business is engaged in lawful business if the business concern, nonprofit organization, veterans organization, or Tribal business concern employs not more than the greater of –

(I) 500 employees; or

(II) If applicable, the size standard in number of employees established by the Administration

for the industry in which the business concern, nonprofit organization, veterans organization, or Tribal business concern operates.

(v) **EMPLOYEE.**—For purposes of determining whether a business concern, non-profit organization, veterans organization, or Tribal business concern ~~described in section 31(b)(2)(C)~~ employs not more than 500 employees under clause (i)(I), the term ‘employee’ includes individuals employed on a full-time, part-time, or other basis.

(F) **ALLOWABLE USES OF COVERED LOANS—**

(iii) **ADDITIONAL LENDERS—**The authority to make loans under this paragraph shall be extended to additional lenders, including community development financial institutions, as determined by the Administrator and the Secretary of the Treasury to have the necessary qualifications to process, close, disburse and service loans made with the guarantee of the Administration.

#### **SEC. 1110. EMERGENCY EIDL GRANTS.**

(a) **DEFINITIONS.**—In this section—

(2) the term “eligible entity” means—

(E) a tribal business concern with not more than 500 employees that is (i) wholly owned by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments; or (ii) that is owned in part by one or more Indian tribal governments, or by a corporation that is wholly owned by one or more Indian tribal governments, if all other owners are either United States citizens or small business concerns. as described in section 31(b)(2)(C) of the Small Business Act (15 U.S.C. 657a(b)(2)(C)), with not more than 500 employees.

- **Appropriate Not Less Than \$100 Million to the Native American CDFI Assistance (NACA) Program**

For an additional amount for the “Native American Community Development Financial Institutions Assistance (NACA) Fund Program Account,” \$110,000,000, to remain available until September 30, 2021, for qualified applicants under the fiscal year 2020 funding round of the Community Development Financial Institutions Program. Provided, That for the purpose of the fiscal year 2020 funding round, the following statutory provisions are hereby waived: 12 U.S.C. 4707(e) and 12 U.S.C. 4707(d).

- **Extend Matching Requirement Waiver for Native CDFIs Receiving NACA Awards**

For assistance provided pursuant to section 108 of the Community Development Banking and Financial Institutions Act of 1994 ([12 U.S.C. 4707](#)) to benefit Native Community Development Financial Institutions, as defined by the Secretary of the Treasury, section 108(e) of such Act shall not apply.

- **Increase Access to the SBA 7(j) Program**

*Amend Section 1103 of the CARES Act as follows:*

*Within the definitions of “resource partner” in Section 1103(a)(2) a new paragraph: “(C) any recipient of a grant under section 7(j) to provide Native American Outreach assistance;”*

*Within Section 1103(b)(3) the following new paragraph: “(C) NATIVE AMERICAN OUTREACH.— The Administration shall award grants under Section 7(j) for Native American Outreach consistent with this section using funds made available to the Administration in Section 1107.”*

- ***Ensure NACs and Participants in the SBA Small Disadvantaged Business Program Can Access COVID-19 Contracting Opportunities***

*Procurement – Inclusion of Small Disadvantaged Businesses under 15 USC §644*

- (a) Any acquisitions, procurements, or contracts for goods and service of all types to be awarded under the provisions of this Act shall include and be subject to the provisions applicable to the Small Disadvantaged Business Program as defined in section 8(a) of the Small Business Act (15 USC §644) and the regulations of the Small Business Administration at 13 CFR § 124.1002.*
- (b) For the purposes of this legislation, the term “contract” includes a prime contract, a task order, a delivery order, a blanket purchase agreement, and a basic ordering agreement.*

- ***The Provisions of the 2020 NDAA, Raising the Cap on Sole Source Contracts, Should be Applied to All Federal Agencies***

*(a) MODIFICATION OF JUSTIFICATION AND APPROVAL REQUIREMENT FOR SOLE-SOURCE CONTRACTS AWARDED BY FEDERAL GOVERNMENT AGENCIES.—*

*This Section specifically addresses and overrides the National Defense Authorization Act for Fiscal Year 2010, Pub. L. 111-84, §811 (2009). (Public Law 111–84; 123) in respect to civilian agency contracts in that —*

- (1) no justification and approval is required under such section for a sole-source contract awarded by any civilian (non-DOD) federal government agency in a covered procurement for an amount not exceeding \$100,000,000; and*
- (2) the appropriate official designated to approve the justification for a sole-source contract awarded by a civilian (non-DOD) federal government agency in a covered procurement exceeding \$100,000,000 is the head of the procuring activity (or the head of the procuring activity’s delegate) for that agency.*

*Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to reflect the changes above.*

- ***Exempt the SBA from Category Management***

**MODIFICATION OF CATEGORY MANAGEMENT REQUIREMENTS FOR ALL CIVILIAN FEDERAL AGENCIES AND THE DEPARTMENT OF DEFENSE FOR CONTRACTS ELIGIBLE UNDER THE U.S. SMALL BUSINESS PROGRAMS INCLUDING SECTION 8(A) BUSINESS DEVELOPMENT PROGRAM.**

*This Section amends the National Defense Authorization Act for Fiscal Year 2010, Pub. L. 111-84, §811 (2009). (Public Law 111–84; 123) in respect to civilian federal agencies and Department of Defense contracts in that —*

*(1) Any acquisition for a contract to be awarded under the procedures of the section 8(a) Business Development Program (including an acquisition for commercial items) shall:*

*(A) be exempt from the procedural requirements of agency-level or government wide guidance on category management, best in class solutions, common contract solutions, or successor strategies for contract consolidation; and*

*(B) be disregarded when measuring attainment of any goal or benchmark established under agency-level or government wide guidance on category management, best in class solutions, common contract solutions, or successor strategies for contract consolidation, unless considering the acquisition aids the achievement of such goal or benchmark.*

*(2) After a contract has been awarded under the section 8(a) Business Development Program (including an acquisition for commercial items), it shall not be removed and placed in category management, best in class solutions, common contract solutions, or successor strategies for contract consolidation.*

*(3) In this subsection, the term “contract” includes a prime contract, a task order, a delivery order, a blanket purchase agreement, and a basic ordering agreement.*

*Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to reflect the changes above.*

- **NACs Should be Included in Relief Provided to Federal Employees**

*Any relief provided to federal employees, such as continued pay, related to the COVID-19 pandemic, including for any government shutdowns, should also apply to federal contractors. The impacts on NACs and small business are massive and must be offset in order to ensure survival of these vital businesses.*