

Congress of the United States
Washington, DC 20515

February 9, 2022

Isabella Casillas Guzman
Administrator
U.S. Small Business Administration
409 3rd St SW
Washington, D.C. 20416

Dear Administrator Guzman:

We write to express support for the U.S. Small Business Administration's (SBA) new Tribal Consultation Policy focused on ensuring that small businesses from Tribal communities can equitably benefit from the agency's resources. As the SBA moves to adopt this policy, we wanted to draw your attention to a unique challenge facing certain small business owners, who are also members of a federally recognized Tribe, and cannot access traditional SBA lending products.

Most recently, barriers to SBA products and assistance were highlighted when Tribal small businesses in our home state could not access critical relief funds provided by the SBA during the coronavirus pandemic, including the Paycheck Protection Program (PPP), Economic Injury Disaster Loan (EIDL) program, and the EIDL Targeted Advances. The inability for these small Tribal businesses, including thousands of Lummi Nation and the Quinault Indian Nation Treaty fishers, to access SBA programs harmed Tribes and Tribal members during a time of economic need. We ask that you work with us to address these unique challenges for Tribal small businesses so that they can access SBA products now and in the future.

As you are aware, in order to secure SBA relief through participating lenders, most lenders require applicants to have: (1) a mechanism to track business financial transactions for operations, such as a bank account; and (2) federally verified income tax statements. Unfortunately, this has presented challenges for many Tribally owned small businesses, which are often denied access to bank accounts as many banks do not accept Tribally registered business licenses, and instead require business licenses that are provided by a state government.

Furthermore, under current law, income earned by a member of a Tribe with federally recognized fishing rights, as well as income earned by a qualified Tribal entity from a fishing rights-related activity, is exempt from federal income tax.¹ Unfortunately, this has had the unintended consequence of further excluding these Tribal fishers and small business owners from meeting SBA eligibility requirements.

Challenges facing Tribal small businesses are also extended to the ability of the business to show evidence of collateral. For example, if the business is located on trust land, then there are inherent complications with using real estate as collateral because it is located on sovereign trust land. Furthermore, other types of collateral, such as a vehicle, would be subject to Tribal court processes rather than federal court processes.

Tribal treaty businesses contribute to our nation's economic vitality and it is our shared goal to encourage equitable lending for these critically important SBA programs. For these reasons, we respectfully urge the SBA to take the following actions:

1. Launch a Tribal Lending Initiative to provide immediate assistance to Tribal small business owners and their workers by updating guidance for traditional SBA lending products and existing COVID relief programs in consultation with Tribal Nations. The guidance should:
 - a. Remove barriers to existing SBA lending products by:
 - i. Requiring participating lenders to accept Tribally registered business licenses for otherwise eligible loan applicants who don't already have an account with the institution. This should include established Tribal treaty fishery income verification and Tribally registered business licenses as eligible documentation to prevent the exclusion of Native Americans from accessing SBA lending products and resources.
 - ii. Addressing the inability of many Tribally owned small businesses and fisheries to obtain federally verified income tax statements, and providing alternative, accessible forms of documentation to meet this underwriting requirement.
2. The Tribal Lending Initiative should also address the long-term barriers that historically excluded Tribal small businesses have experienced in accessing traditional SBA lending programs to ensure that these challenges are finally rectified.
3. The Tribal Lending Initiative should report to Congress on practical alternatives to meeting collateral requirements.
4. The Tribal Lending Initiative should engage with Tribal business leaders and provide a report to Congress on:
 - a. What steps are being taken by the SBA to deliver relief and assistance to federally recognized Tribal fishers and small businesses as quickly as possible;
 - b. What steps are being taken to expand access and outreach for technical assistance to Treaty Tribal members accessing these resources;
 - c. What steps are being taken to educate and enable financial institutions to lend to Tribal treaty businesses; and
 - d. What steps Congress can take to partner in these efforts.

As Members of Congress representing federally recognized Tribal small business owners, it is critical that we right this wrong and ensure that these small businesses have equal opportunity to access critical federal relief programs. We are encouraged by the steps that the SBA has taken to address these longstanding inequities and look forward to partnering on these important issues. Thank you for your time and attention to this matter. We look forward to your prompt response.

Sincerely,



Derek Kilmer
Member of Congress



Suzan DelBene
Member of Congress



Patty Murray
United States Senator



Maria Cantwell
United States Senator



Rick Larsen
Member of Congress



Marilyn Strickland
Member of Congress



Pramila Jayapal
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Kim Schrier, M.D.
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