



April 8, 2020

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
S-230 U.S. Capitol Building  
Washington, DC 20510

The Honorable Charles Schumer  
Minority Leader  
U.S. Senate  
S-221 U.S. Capitol Building  
Washington, DC 20510

**Re: Urgent Need for SBA Paycheck Protection Program Small Tribal Gaming Amendment**

Dear Majority Leader McConnell and Minority Leader Schumer,

On behalf of the California Nations Indian Gaming Association (CNIGA), the largest association of Tribal Governments in the State of California, I write to request that you support our Indian nations with securing the application of the Paycheck Protection Program to small tribal gaming businesses (less than 500 employees). As you know, many of California's tribes are among the largest employers in their region, and they desperately need economic relief to come out of the National COVID-19 Emergency as a going concern. SBA has cast doubt on our ability to access Paycheck Protection Program and the Banks are denying loan requests to Indian tribes with small tribal gaming businesses, causing us to lay off our tribal workers.

The Paycheck Protection Program is designed to save jobs, so Congress created a new program to give "any business," including "any" tribal business concerns, necessary resources to preserve employee jobs during this time period. This is a necessary part of the shelter-in-place policy adopted by many states because people need their Paycheck to keep their homes running. Specifically, the CARES Act provides on "Increased Eligibility," Sec. 1102(a)(2):

**"(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 Tribal business concern described in section 31(b)(2)(C) shall be eligible to receive a covered loan* 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, veteran's organization, or Tribal business concern operates.**

**(Emphasis added).**

**Protecting the sovereign right of California tribes to operate gaming on their lands.**

Accordingly, the SBA limitation on business concerns that generate more than one third of their revenue from legal gambling, 13 C.F.R. Part 120.110 is inapplicable to the new program. Under Federal law, a regulation cannot limit an express congressional mandate, and the increased eligibility of the Paycheck Protection Program is an express mandate. There is confusion about this issue because the SBA applied 13 CFR Part 120.110 to the Paycheck Protection Program in its Interim Final Rule. That was in conflict with the Act.

The PPP is especially important in the remote rural areas of the Nation, where Indian tribes operate gaming facilities mainly to provide employment in impoverished reservation areas. The National Indian Gaming Commission reported in 2018 that the smallest 106 Indian gaming operations generate only \$112 million annually. Yet, in rural areas, these jobs are essential because they provide a livelihood for hundreds of families. The SBA Payroll Protection Program is very important because it substantially covers employment, mortgage, rental, utility and basic operating expenses, with 100% guarantee, and provides loan forgiveness when small businesses maintain our employees for the eight weeks after the origination of the loan.

Please help us resolve this issue in a timely manner before the loan funds for the SBA Paycheck Protection Program runs out by offering the attached Amendment to the CARES Act, which ensures that SBA administers the PPP to make “any small ... tribal business concern” eligible for the program, as Congress intended.

Thank you for your hard work to assist Indian Nations. We appreciate your leadership on behalf of Native Americans and all Americans.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Siva', written in a cursive style.

James Siva  
Chairman