

# United States Senate

WASHINGTON, DC 20510

December 19, 2018

The Honorable Linda McMahon  
Administrator  
US Small Business Administration  
409 3rd St, S.W. Washington DC 20416

Dear Administrator McMahon,

We write to you to express our concerns regarding the U.S. Small Business Administration's (SBA) apparent failure to meaningfully consult with the Alaska Native community, and broader Native American community, in relation to a recent proposed rule, Regulatory Information Number 3245-AG38. This proposal will significantly alter the SBA regulations for the SBA Historically Underutilized Business Zone (HUBZone), we believe that more time should be given to consult and consider the effects these proposed changes will have on traditionally socially disadvantaged populations, including Indian Tribes, Alaska Native Corporations (ANC), Native Hawaiian Organizations (NHO), and their communities. We request that the proposed rule comment period be extended by at least 90 days during which time the SBA will hold HUBZone specific, in-person tribal consultations within the first 60 days.

Under the current administration, we greatly appreciate President Trump's and your commitment to reviewing regulations for a more streamlined federal government to work for the American people instead of against/impede them. In that vein, we support the President's request for information (RFI) to receive public input "on identifying which of the Agency's regulations should be repealed, replaced or modified" and the identification of HUBZone as one of the programs that needs an overhaul. We also appreciate the listening sessions, or general consultations, conducted in Alaska, Oklahoma, and New Mexico focused on tribal communities. Furthermore, we appreciate having SBA Associate Administrator Rob Wong testify at the U.S. Senate Committee on Small Business and Entrepreneurship field hearing in Anchorage, titled "Opportunities and Challenges with the Small Business Administration's Federal Contracting Programs." Within his written testimony, he stated in reference to HUBZone, the SBA is "looking for ways to implement reforms that will make it easier for small business concerns to understand and comply with important program requirements." We appreciate the efforts thus far by the SBA to gather public input to make the proposed rule changes for HUBZone better for the small businesses it was created to serve.

The currently published proposed rule will significantly alter the SBA HUBZone program, within the Federal Register, it has been categorized as "a comprehensive revision to the HUBZone Program." We have been advised that SBA has not held a single tribal consultation and there are no consultations planned. Executive Order 13175 and the SBA Tribal Consultation Plan, which extends to ANCs, places a duty on the SBA to consult with them prior to finalizing SBA policies that will affect these entities. Specifically, EO 13175 directs all federal agencies to ensure consultation and coordination with Indian tribal governments on federal actions that will affect

tribal governments. Further, Congress extended this consultation policy to corporations established under the Alaska Native Claims Settlement Act (ANCSA) under Public Law 108-199. Therefore, federal agencies, including the SBA, are required to consult and coordinate with ANCSA corporations on the same basis as Indian tribes in developing policies that would affect these corporations and their tribal shareholders. While we understand you have not finalized the proposed rule, the SBA's lack of consultation thus far appears to fail the letter and spirit of the consultation requirement.

Furthermore, there is a need to extend the comment period for the rulemaking due to the two-month period which the public is supposed to provide comment, which includes Thanksgiving and Christmas, ending New Year's Eve. Not to mention, Anchorage and the Matanuska-Susitna Valley experienced a 7.0 earthquake that damaged many homes and businesses delaying personal and business plans, and the region is still experiencing after-shocks weeks later preventing some people from returning to their regular physical and mental routine. Anchorage is the headquarters of many tribal entities and ANCs that represent populations from throughout the state; and many of those people commute to Anchorage from the Mat-Su Valley.

Consultation is vitally important to Alaska Native tribes and ANCs to improve the trust relationship between the federal government and our native people. In the past, the SBA has done a better job with consultation on rules of similar complexity and consequence.

To that end, we request that the SBA extend the comment period for at least 90 days during and hold independent, in-person tribal consultations within the first 60 days.

Sincerely,



Lisa Murkowski  
US Senator



Dan Sullivan  
US Senator