



Homeland
Security

September 8, 2023

MEMORANDUM FOR: Deanne Criswell
Administrator
Federal Emergency Management Agency

Michael Coen, Jr.
Chief of Staff
Federal Emergency Management Agency

Adrian Sevier
Chief Counsel
Federal Emergency Management Agency

FROM: Dana Salvano-Dunn (b) (6)
Director, Compliance Branch
Office for Civil Rights and Civil Liberties
(b) (6)
Senior Attorney, Legal Counsel Division
Office of the General Counsel

SUBJECT: FEMA's Outreach and Recovery Assistance to
Tribes and Tribal Communities in Alaska
Complaint No. 005539-23-FEMA

The U.S. Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) is investigating the Federal Emergency Management Agency's (FEMA's) provision of language assistance, outreach, and recovery assistance to tribes and tribal communities in Alaska in relation to potential civil rights concerns. This review is being conducted following allegations that translations of FEMA documents related to Typhoon Merbok were unintelligible and offensive to Native Alaskan people and following reports that there is dissatisfaction throughout Alaska Native communities regarding access to FEMA recovery assistance.

BACKGROUND

CRCL reviewed a January 7, 2023, KYUK news article "Lost in translation: FEMA sent 'unintelligible' disaster relief application information to Alaska Natives impacted by Typhoon Merbok." The article alleged that FEMA hired a contractor, Accent on Languages, to translate

information about how to apply for disaster recovery assistance into Yugtun, the Central Yup'ik dialect, and Iñupiaq, two languages used by Native Alaskan peoples affected by Typhoon Merbok.¹ According to individuals interviewed in the article, the translations were unintelligible and culturally insensitive.

Based on this allegation, CRCL opened a complaint investigation related to FEMA's interactions with Native Alaskan communities when providing emergency assistance following Typhoon Merbok. CRCL submitted a short form request for information to the FEMA Office of Equal Rights on February 7, 2023, FEMA's response, received on March 17, 2023, included records, policies and procedures, information regarding language access and consultation with tribes and tribal communities in Alaska, and documents and information regarding recovery assistance following Typhoon Merbok. CRCL appreciates FEMA's response and has concluded its preliminary review this information. CRCL was also notified by FEMA that it has ended its contract with Accent on Languages.

CRCL's onsite investigation will take place in September 2023. CRCL plans to interview FEMA leadership and staff, stakeholders, and community members in Alaska to assess any remaining civil rights issues.

CRCL

CRCL Mission. CRCL supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL integrates civil rights and civil liberties into all the Department's activities:

- Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners;
- Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns;
- Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel; and,
- Leading the Department's equal employment opportunity programs and promoting workforce diversity and merit system principles.

CRCL authorities. Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL is charged with investigating and assessing complaints against DHS employees and officials of abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion. The procedures for

¹ In September 2022, the west coast of Alaska was struck by Typhoon Merbok, which caused severe flooding, erosion damage, and loss of subsistence infrastructure to over 35 communities along more than 1300 miles of Alaska's western coast. Small, primarily Indigenous communities reportedly lost fish racks and smokehouses as well as subsistence sheds where people keep gear used for subsistence living. See "Western Alaska confronts damage after historic storm," The Washington Post, September 18, 2022.

our investigations and the recommendations they may generate are outlined in DHS Management Directive 3500.

Access to information. More particularly, 42 U.S.C. § 2000ee-1(d) grants CRCL access to the “information, material, and resources necessary to fulfill the functions” of the office, including the complaint investigation function. Management Directive 3500 further authorizes CRCL to:

- “Notify[] the relevant DHS component(s) involved of the matter and its acceptance by CRCL, and whether the matter will be handled by CRCL or by the component organization;”
- “Interview[] persons and obtain[] other information deemed by CRCL to be relevant and require[e] cooperation by all agency employees;” and
- “Access[] documents and files that may have information deemed by CRCL to be relevant.”

Reprisals forbidden. In addition, 42 U.S.C. § 2000ee-1(e) forbids any Federal employee to subject a complainant or witness to any “action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to” CRCL in the course of this investigation.

This memorandum and its accompanying request for information are issued pursuant to these authorities.

Privilege and required transparency. Our communications with DHS personnel and documents generated during this review, particularly the final report, will be protected to the maximum extent possible by attorney-client and deliberative process privileges. Under 6 U.S.C. § 345(b), however, we submit an annual report to Congress—also posted on CRCL’s website—that is required to detail “any allegations of [civil rights/civil liberties] abuses . . . and any actions taken by the Department in response to such allegations.”

We look forward to working with your staff on this matter and will report back to you our findings and recommendations.

SCOPE OF REVIEW

The purpose of our review is to determine whether there are systemic problems with FEMA’s outreach and recovery assistance to tribes and tribal communities in Alaska; if the Constitution, a Federal statute, a Federal regulation, or a Departmental policy has been violated; whether FEMA policies and procedures safeguard the interests of Native Alaskan communities and ensure that there are appropriate oversight and investigative mechanisms in place to respond appropriately and expeditiously.

QUESTIONS PRESENTED

(b) (5)



INITIATING THE INVESTIGATION

Senior Policy Advisor (b) (6), the lead investigator for this complaint will communicate with FEMA's Office of Equal Rights about this investigation, including CRCL's plans to visit the FEMA Region 10 Office and various sites in Alaska. We look forward to working together to determine all the facts surrounding this matter and if appropriate, the best way forward. If you have any questions, please do not hesitate to contact (b) (6) at (b) (6)

Enclosure

Copy to:

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