



USET

SOVEREIGNTY PROTECTION FUND

Nashville TN Office
711 Stewarts Ferry Pike, Ste. 100
Nashville TN 37214
P: (615) 872-7900
F: (615) 872-7417

Washington DC Office
400 North Capitol St., Ste. 585
Washington DC 20001
P: (202) 624-3550
F: (202) 393-5218

Transmitted via diane.cullo@usda.gov

May 6, 2019

The Honorable Sonny Perdue
Secretary
United States Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Perdue,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write to the U.S. Department of Agriculture (USDA) to express concern regarding the limited Tribal consultation on the implementation of the Tribal provisions within the 2018 Farm Bill thus far. The enactment of the Farm Bill in December 2018 included the passage of a record sixty-three Tribal provisions that seek to enhance and promote agricultural efforts by Tribal Nations, Native producers, and Tribal entities. In order to ensure the Farm Bill is implemented in a manner that is fully reflective of the federal trust responsibility and obligations, as well as the expectations of Indian Country, consultation with Tribal Nations is critical. To date, however, USDA's consultative efforts have fallen short. USET SPF urges USDA to provide greater and more varied opportunities for Tribal Nation input and guidance in accordance with its own Tribal Consultation Policy.

USET SPF is an intertribal organization comprised of twenty-seven federally recognized Tribal Nations, ranging from Maine to Florida to Texas¹. USET SPF is dedicated to enhancing the development of federally recognized Tribal Nations, to improving the capabilities of Tribal governments, and assisting USET SPF Member Tribal Nations in dealing effectively with public policy issues and in serving the broad needs of Indian people.

Implementation Warrants More Extensive and Meaningful Consultation

Over the past year, USDA has held a limited number of in-person Tribal consultations on the Tribal provisions within the Farm Bill, including the recent consultation on implementation of all titles of the Farm Bill in Washington, D.C. While we encourage and support in-person consultation, USET SPF underscores that holding only one in-person consultation meeting to discuss the entirety of titles affecting Indian Country will not result in a diverse and comprehensive set of recommendations from 573 Tribal Nations.

In addition, USDA provided notice to Tribal Nations that the agency will be taking written comments for those Tribal Nations not able to attend the Washington, D.C. consultation. The deadline for written comments was today— a mere two business days after the consultation in Washington, D.C. For some Tribal Nations, the Washington, D.C. consultation may have been their first and only opportunity to hear from USDA on plans for

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

implementation. Two days is not an adequate amount of time to review these plans and provide comprehensive and meaningful responses to USDA. Further, to our knowledge, this deadline was shared only with attendees and not with all Tribal Nations.

A limited number of in-person consultations cannot be the only way for Tribal Nations to provide comment on the implementation of the Farm Bill, as this limits the conversation to those Tribal Nations who are able to attend. We urge USDA to not just provide greater opportunities to engage with Tribal Nations through face-to-face consultations, but to provide additional opportunities for formal comment to USDA as well. USDA must extend and publicize its deadline for written comments, so all Tribal Nations can review the implementation information provided by USDA and provide substantive thoughts. The changes outlined in almost every title of the Farm Bill are of great importance to Tribal communities, as they not only aid in Tribal food and agriculture production, but also provide for parity for Tribal governments with state and local governments in multiple USDA programs. With this in mind, it is vital that USDA seek guidance from Tribal Nations on the proper execution of these provisions. As USDA's own Tribal Consultation Policy (TCP) states:

“...it is essential that all agencies of the USDA engage with Tribes in timely and meaningful consultation on policies that have substantial direct effects on one or more Tribes. Consultation, coordination, and collaboration are different but not mutually exclusive; rather, they are mutually supportive. Together, they lead to information exchange, mutual understanding, and informed decision-making.”

The TCP further provides processes for Tribal consultation, stating:

“Each USDA office and agency shall maintain an accountable process to ensure regular and meaningful consultation with Tribal officials in the development of policies that may have Tribal implications. These processes shall incorporate the requirements for critical triggers, minimum standards, consultation processes, reporting, education, training, and other aspects...”

Implementation of the 2018 Farm Bill must be done in an inclusive and transparent manner that is representative of the USDA TCP and the federal government's trust responsibility and obligations to Indian Country. As of now, USDA's consultation on implementation of the Farm Bill has not met its own requirements. Tribal Nations must be fully included through regular and meaningful consultation, as the implementation of the law progresses. This involves providing opportunities for substantive comment from Tribal Nations across Indian Country.

Conclusion

Tribal consultation cannot be considered meaningful if all Tribal Nations are not afforded the opportunity to weigh in. The opportunities for Tribal Nations under the 2018 Farm Bill are historic, but proper implementation of the law remains critical, if it is to function as intended. In pursuit of this goal, USDA must immediately take the necessary steps to ensure its consultation on all Tribal titles of the Farm Bill is comprehensive. USET SPF looks forward to providing more extensive comments under a revised deadline. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 202-624-3550.

Sincerely,



Kirk Francis
President



Kitcki A. Carroll
Executive Director