



USET

SOVEREIGNTY PROTECTION FUND

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*Transmitted Electronically
to consultation@bia.gov*

December 15, 2020

Mr. Morgan Rodman
Acting Director
Office of Indian Energy and Economic Development
U.S. Department of the Interior
1849 C Street NW
Room 4152
Washington, District of Columbia 20240

Dear Acting Director Rodman,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write to provide comments on the Tribal consultation on the Indian Loan Guarantee (ILGP) Program held by the Department of Interior (DOI) Division of Capital Investment (DCI) on December 1, 2020. The purpose of this consultation was to receive recommendations on how the ILGP could further encourage business lending to fully meet Tribal Nation business priorities. While the purpose of the consultation sought comments on how DCI could further engage lenders to serve Tribal Nation businesses and to identify barriers to participation, we are concerned with the lack of transparency and notification methodology used during this Tribal consultation. USET SPF includes these concerns in our comments, as well as ways to improve the ILGP for greater participation by USET SPF member Tribal Nations.

USET Sovereignty Protection Fund (USET SPF) is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

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), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), 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), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), 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), Rappahannock Tribe (VA), 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), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Inappropriate Consultation Notification Methodology

During the consultation call, USET SPF staff became aware of a simultaneous WebEx presentation that had not been previously announced. When asked, DOI revealed that the information for the WebEx presentation was only announced by way of Twitter. Such information was not included in the Dear Tribal Leader Letter (DTLL) announcing the consultation or through a follow-up DTLL. Social media platforms cannot reliably reach all of Indian Country and must not be used as an official means of communication regarding Tribal consultation. DOI should have issued an official statement, such as a supplemental DTLL, to communicate additional details relevant to the December 1, 2020 Tribal consultation on the ILGP. USET SPF strongly urges that DOI and its agencies avoid relying on Twitter or other similar platforms for official communications. In accordance with the trust obligation, transparent and good-faith efforts must be made to inform Tribal Nations regarding consultation on DOI actions, activities, and programs.

Improvements Needed for the Indian Loan Guarantee Program to be Successful for USET SPF Member Tribal Nations

Broadly, the ILGP's positive impact in Indian Country could be increased with additional funding. In 2006, Congress indicated its intent to expand the ILGP by authorizing a substantial increase in the program's aggregate loan principal amount from \$500 million to \$1.5 billion. Since the estimated total loan principal now outstanding is only about \$500 million, there is clearly a need to reauthorize the program and substantially increase its funding in future budget requests. USET SPF urges DOI to include an increase to the ILGP's aggregate loan principal in its annual fiscal year budget requests to Congress. Additional programmatic changes should focus on expanding ILGP's usage beyond issuing guarantees of financing from various private sector financing institutions. These should include Tribal and other Native-owned banks, Tribal credit unions, and Native Community Development Financial Institutions (Native CDFIs), to support Tribal-owned and individual Indian-owned businesses' recovery and expansion and Tribal development projects.

While the ILGP has been a successful program in Indian Country, including for a number of USET SPF member Tribal Nations, we recommend several improvements designed to improve its efficacy in the Eastern Zone. On its website, DCI has touted the success stories of ILGP, but USET SPF notes that there are none represented from the Eastern Zone. We further note that it is not immediately clear what level of benefit the Eastern Zone has from the ILGP—both over time and as compared to other zones. USET SPF recommends that DCI expand its outreach and consultation with Eastern Zone Tribal Nations to ensure financing and lending opportunities are understood, accessible, and available to USET SPF member Tribal Nations. USET SPF also recommends that DCI conduct more education and outreach on how Native-owned LLCs and private businesses can participate in the ILGP. Additionally, due to programmatic decisions made by DOI the ILGP doesn't allow Tribal Nations to take advantage of as many economic development programs as possible, such as the New Markets Tax Credit program. Other challenges for USET SPF member Tribal Nations to participate in ILGP include the lack of program scalability and the 20 percent equity requirement, which have proven to be barriers to participation. USET SPF also recommends clarifying Native CDFIs and other Native lending institutions as eligible lenders because of the current barriers to program access due to equity requirements and underwriting. The ILGP should also consider the extension of the loan approval process for Native CDFIs and other Native lending institutions.

As discussed during the December 1st Tribal consultation, the program's fees should be eliminated, its equity requirement could be modified, its guarantees could be used to guarantee surety bonds and Tribal bond issuances, and its lenders could be given more flexibility to sell their guaranteed loans to the secondary market. The program would be ideal to support financing for more energy, broadband

and infrastructure development projects, as well as backup support for Native CDFIs so that those smaller financing entities can make more micro loans to support Tribal Nation and individual Indian small businesses. Implementing these programmatic changes and increasing the aggregate loan principal to finance business and infrastructure projects will enable the program to reach a broader range of Indian Country. This is especially important for USET SPF member Tribal Nations located in the Eastern Zone that have experienced barriers to participating in the ILGP.

Conclusion

Given the ILGP's suitability for financing on Tribal lands, its capability to address the huge need for economic recovery and reinvestment in Indian Country, and the program's proven track record of substantial return on the federal investment, DOI has the federal trust responsibility and obligation to expand the ILGP substantially. Expanding the finance capabilities of the ILGP will provide yet another dedicated and successful financing tool for Indian Country. As Tribal Nations continue to deal with the harsh economic impacts brought by COVID-19, the federal government must create funding and financing solutions that will support Indian Country. USET SPF supports expanding and improving upon the ILGP, which the federal government has done in the past, to support economic recovery and the continued restoration of Tribal economies. 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 615-838-5906.

Sincerely,



Chief Kirk Francis
President



Kitcki A. Carroll
Executive Director