

The Beat in DC



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Contents

Budget	2
A Second Continuing Resolution for FY 2022	2
USET SPF Submits Comments to OMB on FY23 President’s Budget Request	5
USET SPF Continues to Support Advance Appropriations for IHS	6
COVID-19	6
Build Back Better Act Stalls in Senate; USET SPF, Partners Advocate for Tribal Priorities	6
Infrastructure Investment and Jobs Act Signed into Law	8
SCOTUS Rules on Vaccine Mandate Enforcement During Litigation, USET SPF Advocates for Tribal Sovereignty	8
USET SPF Provides Comments to WHCNA on COVID-19	9
Culture & Heritage	10
USET SPF Submits Comments to DOI on Indian Boarding School Initiative	10
USET SPF Issues Support Letter for Indian Boarding School Commission Bill	10
USET SPF Sends Letter to PA Auction House Urging a Halt to the Auction of Tribal Cultural Items	11
Economic Development	11
USET SPF Submits Comments to DOI on Buy Indian Act	11
USET SPF Submits Comments to DOJ on Risk Management in the Context of Economic Development	12
Environment & Natural Resources	12
USET Climate Change Program Manager Testifies Before House Select Committee on the Climate Crisis	12
USET SPF Submits Comments to CEQ on Phase 1 Proposed Revisions to NEPA Regulations	13
Health	13
USET SPF Submits Comments to HHS on FY22-26 Strategic Plan	13
USET SPF Submits Comments to IHS on ARPA, IIJA, and BBBA Funding	14
USET SPF Continues to Support CARE Act	14
Interior	15
USET SPF Submits Comments to DOI on Proposed Updates to its Tribal Consultation Policy	15
USET SPF Submits Comments to DOI on FY22-26 Strategic Plan	15
Justice	16
USET SPF Submits Testimony for the Record of SCIA VAWA Hearing	16
Land	16
USET SPF Submits Comments to DOI on Homelands Protection and Restoration	16
DOI Affirms Mashpee Homelands, Legal Fight Continues	17
Litigation	18
USET SPF, NCAI Submit Additional Amicus Briefs in Penobscot River Case	18
USET SPF Files Additional Amicus Brief in Seneca Rights-of-Way Case	18
USET SPF, Partners File Amicus Brief in Ysleta del Sur Pueblo Case	19
USET SPF Sends Letter to DOJ in Support of Seminole Appeal	19
Treasury	20
USET SPF Submits Letter to Treasury Urging Tribal Consultation on Development of its FY 2022 through 2026 Strategic Plan	20



Budget

A Second Continuing Resolution for FY 2022

Due to its continued focus on the infrastructure and reconciliation bills, Congress has made little recent progress on full-year continuing appropriations legislation for Fiscal Year (FY) 2022. As you are aware, FY 2022 began with a [Continuing Resolution](#) (CR), which continued to provide discretionary funding for the government at FY 2021 levels through December 3, 2021. Late last week, as that CR was set to expire, agreement was reached on another CR, this time through February 18, 2022. This CR also continues FY 2021 funding for a majority of federal agencies and programs. It provides the Indian Health Service (IHS) with an “additional amount for costs of staffing and operating facilities that were opened, renovated, or expanded in fiscal years 2021 and 2022,” with \$44,838,000 allocated to the IHS Services account and \$4,547,000 for the IHS Facilities Account. President Biden signed the new CR, [H.R. 6119](#), the Further Extending Government Funding Act, into law on December 3rd, just as federal funding was about to expire, avoiding a shutdown for the second time this FY.

Congress will need to complete work on the 12 annual appropriations bills required to provide updated funding to federal agencies for FY 2022 by February 18th or face a shutdown. Thus far, no FY 2022 appropriations bills have been passed by both chambers of Congress or signed into law by the President. A deal will need to be struck with Senate Republicans on a topline funding number before the process can move forward.

On October 18th, the Senate Appropriations Committee released 9 draft FY 2022 appropriations bills, including the [Interior, Environment, and Related Agencies bill](#), which funds the Indian Health Service (IHS), Bureau of Indian Affairs (BIA), and Bureau of Indian Education (BIE). In June, USET SPF submitted [testimony](#) to the Senate Interior Appropriations Subcommittee in support of our regional priorities and providing our impressions of the President’s Request. The Senate bill would fund IHS at a total of \$7.62 billion in FY 2022. This number is \$1.4 billion above the FY 2021 enacted level but it is \$593 million below the President’s request and \$498 million below the House’s recommendation. Of this, \$5.4 billion would be allocated for the Indian Health Services Account and \$1.2 billion for the Indian Health Facilities Account. Within the Indian Health Services account, Hospitals and Health Clinics would be funded at \$2.66 billion (a \$422 million increase) Purchased/Referred Care would be funded at \$1.2 billion (a \$200 million increase), Electronic Health Records would receive \$254.5 million, Dental Health would be funded at \$285.3 million (a \$70.6 million increase), Mental Health would be funded at \$123.6 million (an \$8.5 million increase), and Alcohol and Substance Abuse would receive \$265.5 million (a \$14 million increase).

Importantly, the Senate bill would fund advance appropriations for IHS for the first time, beginning in FY 2023. The amount for FY 2023 advance appropriations is equal to the Committee’s recommendation for FY 2022.

As for 105(l) leases and Contract Support Costs for IHS, BIA, and BIE, the Committee expresses support for reclassifying these accounts as mandatory funding. The bill’s [report language](#) says the Committee has a, “goal of including the language needed to codify such a change in the final



Appropriations Act for fiscal year 2022...” Notably, the topline number for FY 2023 IHS advance appropriations recommended by the Committee does not include CSC or 105(l) leases, assuming they would be reclassified by FY 2022. As written, the bill continues to fully fund these accounts under a separate, indefinite appropriation.

The bill would fund the Bureau of Indian Affairs (BIA), Bureau of Indian Education (BIE), and the Office of the Special Trustee collectively at \$3.938 billion, an increase of \$433 million above the FY 2021 level. Within this sum, BIA receives a \$2.489 billion, an increase of \$330 million over FY 2021 enacted. BIA’s Operation of Indian Programs account would be funded at \$1.876 billion, including the following Eastern Region Priorities: Social Services (TPA): \$63 million, \$12 million above FY 2021 enacted; Natural Resources (TPA): \$18.3 million, \$10.1 million above FY 2021; and Tribal Courts (TPA): \$43.2 million, \$4.2 million above FY 2021 and in line with the Request. In total, this account also includes \$355.4 million for the Tribal Government line, an increase of \$14.4 million over FY 2021 enacted and \$1 million below the President’s Request. Within this sum, \$27.8 million is reserved for Aid to Tribal Government (\$571,000 above FY 2021 and in line with the President’s Request), with \$480,000 allocated to newly recognized Tribal Nations. Finally, the Senate bill allocates \$39 million for Tribal Climate Resilience, \$22 million above FY 2021 enacted and \$22 million below the President’s Request. This would include \$11 million for Alaska Native Village relocation grants, and funding to support the establishment of a Tribal Civilian Climate Corps to address climate change through on-the-ground remediation and resiliency projects, and for Tribal climate adaptation grants to support climate-resilient planning by Tribal Nations consistent with the Federal Government’s trust and treaty obligations. The Senate bill’s [report](#) directs BIA, within 180 days, to “compile a list of [Tribal Nations] requiring full or partial relocation due to climate change or other environmental hazards with the estimated costs to conduct the relocation and to submit the information to the Committee.”

For the BIA Construction account, the Senate bill would provide a total of \$177.8 million, which is \$49 million over FY 2021 enacted and \$10 million below the President’s Request. This includes \$47.8 million for Eastern Region priority Public Safety & Justice Construction (\$5 million above FY 2021 and level with the Request). Finally, the bill would fund the BIE at a total of \$1.07 billion, an increase of \$97 million over FY 2021 enacted and \$113,000 below the [President’s Budget Request](#). This includes \$45 million for Eastern Region priority Scholarships & Adult Education (TPA), which is \$10 million above FY 2021 and in line with the President’s Request. In addition, the Committee provides \$7 million for DOI’s Indian Boarding School Initiative.

You may recall that on July 29th, the full House of Representatives passed a consolidated appropriations bill, [H.R. 4502](#), containing seven appropriations bills for Fiscal Year (FY) 2022, including the Interior, Environment, and Related Agencies bill and the Labor-Health and Human Services bill. This will be a starting point for eventual negotiations with the Senate for full year FY 2022 appropriations. The House Interior bill funds the Indian Health Service (IHS) at a total of \$8.1 billion, which is an increase of \$1.9 billion over FY 2021 enacted and \$400 million less than [President Biden’s request](#) of \$8.5 billion. Of this, \$5.8 billion would be allocated to Indian Health Services and \$1.3 billion for Indian Health Facilities. Within the Indian Health Services account, Hospitals and Health Clinics would be funded at \$2.7 billion (a \$483 million increase over FY 2021 enacted) Purchased/Referred Care would be funded at \$1.2 billion (a \$216 million increase), Electronic Health Records would receive \$284.5 million (a \$250 million increase), Dental Health would be funded at

\$287 million (a \$73 million increase), Mental Health would be funded at \$124.6 million (a \$9.5 million increase), and Alcohol and Substance Abuse would receive \$268 million (a \$17 million increase). Tribal epidemiology centers would receive an additional \$14 million under the bill.

The Interior bill also continues language prohibiting IHS from obligating or expending funds to select or implement a new IT infrastructure system unless IHS notifies the Committee at least 90 days before such funds are obligated or expended. The Committee also directs IHS to ensure that any new EHR system must have full interoperability with Tribal, urban, and VA EHR systems. The Committee further acknowledges that Tribal Nations have incurred significant costs to purchase commercial-off-the-shelf EHR systems and asks IHS to consult with Tribal Nations and consider whether a special appropriation for EHR is necessary.

In addition, the bill's [report language](#) indicates that the Committee is not providing advance appropriations authority for IHS in FY 2023, as the Administration had requested. However, it is also important to note that the \$3.5 trillion budget resolution recently approved by Senate Democrats (and discussed further below) does include IHS' Services and Facilities accounts on the list of eligibility for advance appropriations for the first time. This is a positive step toward enactment of advance appropriations for IHS.

Contract Support Costs (CSC) and Section 105 (l) leases for IHS, the Bureau of Indian Affairs (BIA), and the Bureau of Indian Education (BIE) would continue to be fully funded under a separate, indefinite appropriation. However, the Appropriations Committee does not provide any language transferring these lines to the mandatory side of the budget in FY 2023, as requested by the Biden Administration and supported by USET SPF.

The bill would fund the BIA, BIE, and the Office of the Special Trustee at a total of \$4 billion, which is an increase of \$507 million above FY 2021 enacted and \$65 million below the President's Request. This includes \$1.9 billion for BIA's Operation of Indian Programs—an increase of \$308 million above FY 2021 enacted and \$8 million over the [President's Request](#). This includes \$789 million for Tribal Priority Allocation (TPA) programs, such as USET SPF priorities Social Services, Tribal Courts, Natural Resources and Economic Development. Within this, funding levels for Eastern Region priorities are the following: Social Services (TPA): \$63 million, \$12 million above FY 2021 enacted; Natural Resources (TPA): \$19.8 million, \$11.6 million above FY 2021 and \$1.5 million above the President's Request, to include \$2.5 million to acquire lands for landless and recently recognized Tribal Nations; Trust Services (TPA): \$10.5 million; Tribal Courts (TPA): \$47 million, \$8.2 million above FY 2021 and \$4 million above the Request; Economic Development (TPA): \$9 million. This account also includes a total of \$355 million for the Tribal Government line, an increase of \$13 million over FY 2021 enacted and \$2 million below the President's Request. Within this sum, \$28 million is reserved for Aid to Tribal Government (\$571,000 above FY 2021 and in line with the President's Request), with \$480,000 allocated to newly recognized Tribal Nations. Finally, the House bill allocates \$60 million for Tribal Climate Resilience, \$44 million above FY 2021 enacted and in line with the President's Request. This would include \$23 million for Tribal climate adaptation grants and \$11 million (to be split evenly between Tribal Nations in AK and the lower 48) for Tribal Nations in coastal areas, "who are at risk of damage from tsunamis or where relocation is necessary due to climate change."

In addition, at the request of Assistant Secretary for Indian Affairs, Bryan Newland, the President's Budget Request contained \$10 million under BIA's Natural Resources line for land acquisition for newly recognized and landless Tribal Nations. In response, the House Interior Appropriations bill

provided \$2.5 million for this purpose. USET SPF strongly supports this funding and hopes to see it increased in final FY 2022 appropriations legislation.

For the BIA Construction account, the House bill would provide a total of \$188 million, which is \$59 million over FY 2021 enacted and level with the President's Request. This includes \$51 million for Eastern Region priority Public Safety & Justice Construction (\$8 million above FY 2021 and \$3 million above the Request). Finally, the bill would fund the BIE at a total of \$1.08 billion, an increase of \$110 million over FY 2021 enacted and \$171,000 below the [President's Budget Request](#). This includes \$46 million for Eastern Region priority Scholarships & Adult Education (TPA), which is \$11 million above FY 2021 and \$1 million above the President's Request.

In April, the House Appropriations Interior, Environment, and Related Agencies Subcommittee accepted written testimony from Tribal Nations and Tribal organizations for [FY 2022 American Indian and Alaska Native Public Witness Day Hearings](#). In response, USET SPF submitted [testimony for the record](#) to the Subcommittee. Within our testimony, we elevate the FY 2022 funding priorities identified by Nashville Area Budget Formulation representatives, as well as highlight how the COVID-19 crisis underscored the urgent need to provide full and guaranteed federal funding to Tribal Nations in fulfillment of the trust obligation.

USET SPF will continue to monitor the FY 2022 appropriations process and provide further updates as they develop.

USET SPF Submits Comments to OMB on FY23 President's Budget Request

On October 6th, USET SPF submitted [comments](#) to the Office of Management and Budget (OMB) in response to its September 3rd ["Dear Tribal Leader" letter](#) initiating Tribal consultation to inform the development of the Fiscal Year (FY) 2023 President's Budget Request. As we have noted in response to other recent OMB consultations, the agency's consultation with Tribal Nations on the FY 2023 President's Budget Request is an historic and welcome development. While Indian Country participates in budget formulation processes informing the requests of the Department of the Interior and the Indian Health Service (IHS), to our knowledge, OMB has never consulted directly with Tribal Nations as it works to finalize a Budget Request. We celebrate this consultation and are hopeful that it leads to improved Budget Requests and increased appropriations, as well as improvements in the execution of trust and treaty obligations across the Executive Branch.

USET SPF comments focused on providing general guidance around federal funding and the trust obligation to OMB, as well as specific requests for certain federal agencies and programs. For IHS, USET SPF elevated the funding priorities of the Nashville Area, including our top 10 line items for increases. In addition, we reiterated our comments to the Department of Health and Human Services regarding mandatory funding for IHS. To this end, USET SPF is urging the immediate convening of a joint Tribal-federal workgroup (within the next six months) to examine how to fully fund the agency, discuss appropriate economic growth patterns, and determine the best model for an open-ended entitlement. The Workgroup should have access to a range of supports, including a health economist and/or the Centers for Medicare and Medicaid Services Office of the Actuary, as it seeks to arrive at a comprehensive number for IHS that reflects the full scope of its charge and circumstances. The workgroup's draft recommendations should then be subject to additional Tribal consultation.

USET SPF will continue to monitor the development of the President's FY 2023 Budget Request and will provide updates as they become available.

USET SPF Continues to Support Advance Appropriations for IHS

On November 29th, a [letter](#) signed by 9 Tribal Nations and organizations, including USET SPF, was transmitted to Senate appropriators urging the inclusion of advance appropriations for the IHS services and facilities accounts in the FY 2022 appropriations measure. This would mean that these accounts would be automatically funded at the beginning of FY 2023, regardless of whether Congress has completed work on full year continuing appropriations or even if the government is shutdown. USET SPF continues to support advance appropriations as an important mechanism to provide short-term certainty in funding to Tribal Nations and urges that it be extended to IHS and all federal Indian programs.

COVID-19

Build Back Better Act Stalls in Senate; USET SPF, Partners Advocate for Tribal Priorities

Although the Build Back Better Act (BBBA), the second part of the Biden Administration's two-part COVID-19 recovery plan, passed the House on November 19, 2021, it remains stalled in the U.S. Senate, where Democratic Leadership has had difficulty securing enough votes for passage. Without any support from Senate Republicans, Senate Majority Leader, Chuck Schumer (D-NY), has always planned to pass BBBA via a process known as budget reconciliation, which requires a simple majority to pass. Senate Democrats have a slim majority and cannot afford to lose any of their Senators in this process. However, two moderate Senate Democrats—Senators Joe Manchin (WV) and Kirsten Sinema (AZ) are currently withholding their votes for the bill. Despite negotiations with both Majority Leader Schumer and President Biden, as of mid-December neither Senator's vote was secured for the package. The Senate recessed for 2021 without further movement on BBBA and currently, its fate is unclear. Majority Leader Schumer has suggested he would like to restart negotiations with Manchin sometime in mid-January.

You may recall that in exchange for moderate votes (particularly in the Senate), the White House and Democratic leadership were forced to reduce the overall cost of the partisan reconciliation bill from \$3.5 trillion to approximately \$1.8 trillion prior to House passage. Despite advocacy from USET SPF and others, this included significant cuts to overall direct funding to Tribal Nations by 50% or more. For example, under the higher funding total, the House bill funded various Indian Health Service (IHS) programs at a total of \$3.5 billion. As cuts were made, this was pared back to a total of \$2.35 billion.

As for direct funding to Tribal Nations, the bill currently provides approximately \$12 billion, including: \$3.5 billion for the Indian Health System, \$2 billion for Tribal programs at the Department of the Interior (including \$441 million for Tribal Climate Resilience and \$500 million for Public Safety and Justice), \$200 million for Native language teachers, \$1 billion for Housing programs, \$4 billion for childcare, and \$2.5 billion for universal pre-k.



The House-passed bill also includes important Tribal tax provisions, including: providing governmental parity to Tribal Nations with respect to bond issuance; creating a new, annual \$175 million New Markets Tax Credit allocation for calendar years 2022-2025 for low-income communities in Tribal areas and for projects that serve or employ Tribal citizens; and the inclusion of Tribal areas in the definition of a Difficult Development Area (DDA) to automatically include certain projects located in an Tribal area, making these projects eligible for the 30 percent basis boost for housing development projects.

The bill would also make permanent increased funding for Affordable Care Act premiums. These provisions will lower the cost of purchasing insurance coverage under the Affordable Care Act and make it more attractive for Tribal health programs to create premium sponsorship programs for their members. In addition, the bill seeks to close the Medicaid coverage gap by allowing individuals with household incomes below 138% of the federal poverty line to obtain subsidized coverage through 2025 on the ACA Marketplace plans at no cost to them. More than a decade after the ACA's passage, 12 states, 11 of which include Tribal Nations and all of which include American Indian and Alaska Native (AI/AN) people, have yet to expand and the bill uses no-cost Marketplace plans to expand health coverage to the adult population in these states. Finally, the Build Back Better Act would expand Medicare coverage to include dental, hearing, and vision benefits, among other health care provisions.

USET SPF's primary focus for the BBBA (as well as part one of the recovery package, the Infrastructure Investment and Jobs Act) has been more meaningful inclusion for Indian Country. Direct funding to Indian Country represents slightly more than 1% in the infrastructure package and less than 1% in reconciliation package so far. While we appreciate the direct inclusion, these sums are insufficient. We note that American Rescue Plan contained 1.63% of the total in direct funding for Indian Country and we feel this should be the starting point for Indian Country's advocacy in large packages. Our advocacy centers around increasing the total amount in direct funding for Tribal Nations and ensuring that funding mechanisms reflect our sovereignty and the trust obligation. In pursuit of these goals, joint letters were transmitted to the [House](#) and the [Senate](#) on behalf of 20 Tribal organizations, including USET SPF, outlining Indian Country's remaining priorities for recovery legislation. In addition, as cuts to the Build Back Better Act were being considered, USET SPF also sent a [letter](#) to Congressional leadership urging the preservation of Tribal funding levels.

Finally, when an earlier version of the provision to close the Medicaid coverage gap included a fully federally-operated version of Medicaid, USET SPF led a [letter](#), joined by six partner organizations, that supported closing the Medicaid expansion gap and urged Congress to ensure all AI/AN managed care protections are maintained in any program managed by a third party. It also makes the case to include one or more of our priority Medicaid amendments in this bill in order provide health equity to all AI/ANs under the federal trust responsibility, and says that if Congress is going to create a separate federal health program for individuals in non-expansion states, it should create a separate federal program for AI/ANs, which would better reflect the federal trust obligation and provide baseline equity in the program.

We encourage our member Tribal Nations to reach out to your respective Congressional delegations in support of Tribal priorities as the Build Back Better Act continues to be negotiated on the Senate

side. Please feel free to utilize our recent letters in your outreach. For additional background on these bills, we also enclose the following:

- [WH Fact Sheet on Reconciliation Bill](#)
- [Senate Democrats Memo on Budget Resolution](#)

Infrastructure Investment and Jobs Act Signed into Law

After months of disagreement and negotiation among Congressional Democrats regarding the scope of the partisan reconciliation bill, otherwise known as the Build Back Better Act, the House of Representatives has taken further action on both this measure and the Senate-approved [infrastructure package](#). House Democratic Leadership had previously planned for the bills to be voted upon together in late September/early October, but differences within the party threw the prospects of both packages into jeopardy. At least 45 progressive House Democrats insisted that their votes for the [infrastructure package](#) were contingent on a reconciliation package deal. Meanwhile, moderate Democrats in both chambers urged an immediate vote on the physical infrastructure bill and suggested that the \$3.5 trillion price tag for the reconciliation bill was much too high.

Ultimately, Democratic Leadership was able to negotiate with progressives and moderates in order to hold a House vote on both bills. With additional provisions included in the Build Back Better Act, the House progressives allowed a floor vote for the infrastructure bill, which passed the House on November 5th and was signed into law by President Biden on November 15th. The \$1.2 trillion package contains more than [\\$11 billion in direct funding for Tribal Nations](#), including \$3.5 billion for the Indian Health Service Sanitation Facilities Construction Program and \$2 billion for the Tribal Broadband Connectivity Grant Program.

As with the BBBA Act, USET SPF continued to state that \$11 billion (or less than 1% of the funding total) is an insufficient level of funding for Tribal Nations, particularly given the extreme federal neglect of Tribal infrastructure, as well as the nearly 2% in direct funding to Tribal Nations under the American Rescue Plan Act. We remain committed to working with our partners, in Indian Country and at the federal level, to achieve substantial investment in Tribal infrastructure, including through the enactment of a Marshall Plan-like package for Indian Country.

With the passage of IIJA, many federal agencies have initiated Tribal consultation on distribution of funds. USET SPF is participating in these consultations and providing comments. Broadly, we are urging federal agencies to ensure that funding to Tribal Nations is distributed rapidly, equitably, and in a way that upholds our inherent sovereignty. USET SPF will continue to monitor the implementation of the IIJA and will provide updates as they develop.

- [WH Fact Sheet on Bi-Partisan Infrastructure Legislation](#)

SCOTUS Rules on Vaccine Mandate Enforcement During Litigation, USET SPF Advocates for Tribal Sovereignty

Today, the Supreme Court issued opinions on whether two federal vaccine mandates could take effect pending further litigation. In the first [opinion](#), in National Federation of Businesses v. Department of



Labor, the Supreme Court halted the enforcement of the Occupational Safety and Health Administration's (OSHA) [Emergency Temporary Standard](#) (ETS) requiring most employers with 100 or more employees to ensure their workers are fully vaccinated or tested for COVID-19 on a weekly basis. This means OSHA will be unable to enforce the mandate as litigation continues in the lower courts and the Supreme Court does not think it will survive a Supreme Court challenge.

As we previously [alerted](#), OSHA had initiated Tribal consultation on the ETS via [Dear Tribal Leader letter](#), with a virtual consultation scheduled for January 19, 2022. Presently, it remains unclear if the SCOTUS decision will impact the consultation or OSHA's [public comment](#) deadline, which is also January 19th. We will provide further information on those as it becomes available.

Also today, the Supreme Court issued an [opinion](#) in Biden v. Missouri, allowing the Centers for Medicare and Medicaid Services' (CMS) [Interim Final Rule](#) (IFR) to take effect in the 25 states party to ongoing litigation against the rule. The IFR requires that covered facilities develop a policy ensuring all eligible staff have received the first dose of a two-dose COVID-19 vaccine or a one-dose COVID-19 vaccine prior to providing any care, treatment, or other services by a revised deadline of **January 27, 2022**. All eligible staff must have received the necessary shots to be fully vaccinated – either two doses of Pfizer or Moderna or one dose of Johnson & Johnson – by **February 28, 2022**.

On January 4, 2022, USET SPF submitted [comments](#) to CMS on the IFR. Broadly, our comments oppose the imposition of this mandate on Tribal Nations, as this should be our sovereign choice. We further note that CMS has failed to properly consult with Tribal Nations on the IFR and has not provided clarity on its application in Indian Country. Finally, we express concern that the implementation of the IFR at some member Tribal Nation health facilities could lead to critical staffing shortages as we continue to battle the pandemic.

Based on lower court decisions, CMS [announced](#) in late December that it would begin enforcing its vaccine mandate Interim Final Rule (IFR) at facilities in the 25 states where the mandate had not been paused pending further legal action. Today's Supreme Court decision means that the IFR will now be enforced nationwide as litigation continues. CMS has provided additional implementation guidance [here](#). The new guidance provides that, “Facility staff vaccination rates under 100% constitute noncompliance under the rule. Non-compliance does not necessarily lead to termination, and facilities will generally be given opportunities to return to compliance.” The guidance goes on to describe a phased compliance, as well as thresholds for “additional enforcement.”

USET SPF will continue to monitor both the OSHA ETS and the CMS IFR, including the ongoing litigation, and will provide updates as they become available. Click [here](#) for additional information and FAQs on the two mandates. We strongly encourage you to contact your legal counsel with questions on their application to your Tribal Nation.

USET SPF Provides Comments to WHCNAA on COVID-19

On November 5th, USET SPF submitted [comments](#) in response to the Nation-to-Nation Dialogue on COVID-19 held on October 27 and 28, 2021. This dialogue was hosted by the Health Subcommittee of the White House Council on Native American Affairs (WHCNAA) for federal agencies to share their



resources, demonstrate inter-agency response efforts, and hear from Tribal Leaders on how to improve federal resource and assistance response to support Tribal Nations to respond to the COVID-19 pandemic. This dialogue was also meant to inform the work of WHCNAA to develop an interagency plan to improve health systems and infrastructure to address the ongoing COVID-19 pandemic and prepare for future public health emergencies in Indian Country. USET SPF's comments focused on key issues discussed during the Nation-to-Nation Dialogue on COVID-19, including infrastructure, testing and supplies, Tribal economies, and short- and long-term solutions for future public health (and other) emergency response efforts in Indian Country.

Culture & Heritage

USET SPF Submits Comments to DOI on Indian Boarding School Initiative

On December 16, 2021, USET SPF submitted [comments](#) to the Department of the Interior (DOI) in response to Tribal consultations on implementation of its Indian Boarding School Initiative. DOI held Tribal consultations on November 17, 18, and 23, 2021 to receive input from Tribal Leaders on the historic and ongoing impacts of Indian Boarding School policies on Tribal citizens, families, and cultures. USET SPF expressed support for the efforts of DOI Secretary Deb Haaland and the Bureau of Indian Affairs (BIA) to shed light on these historic injustices and the continued trauma that these policies have visited upon our people. We urged DOI to commit fully to the work of reconciliation and ensure this effort is sustained beyond this current Administration to a meaningful and thorough conclusion.

Our comments emphasized that the federal government must appropriately identify remains on federal, state, and private lands. Similarly, we emphasized that DOI must advocate for Tribal Nations when burial sites are located at or near boarding schools that were controlled and operated by religious and state institutions. We recommended that DOI continue to consult with our Tribal and cultural Leaders to determine and facilitate appropriate cultural protocols for repatriation or ceremonial acknowledgement. USET SPF also recommended that DOI coordinate with the Department of Health and Human Services and other federal partners to provide and advocate for increased funding for mental and behavioral health assistance and services to Tribal citizens affected by Indian Boarding School policies. USET SPF will continue to work with DOI to ensure that the U.S. atone for centuries of transgressions against our children and the historical and ongoing trauma Indian Boarding Schools have on our communities and citizens.

USET SPF Issues Support Letter for Indian Boarding School Commission Bill

On December 1, 2021, USET SPF transmitted a [letter of support](#) to Senator Elizabeth Warren (D-MA), Congresswoman Sharice Davids (D-KS-3), and Congressman Tom Cole (R-OK-4) for [S. 2907/H.R. 5444](#), "The Truth and Healing Commission on Indian Boarding School Policies in the United States Act". USET SPF has supported this legislation since it was first introduced in 2020. The legislation would establish a formal commission to investigate, document, and acknowledge past injustices of the federal government's Indian Boarding School policies. This includes attempts to terminate Native cultures, religions, and languages, the use of assimilation practices, and the perpetuation of human



rights violations. Furthermore, the commission would also help develop recommendations for Congress to aid in healing of the historical and intergenerational trauma passed down in Native families and communities, including recommendations to prevent the continued removal of Native children from their families and Tribal communities under modern-day assimilation practices.

USET SPF will continue to advocate for passage of this legislation to bring to light the abuses of Indian Boarding School policies in the United States. This is critical for truthful acknowledgement and reconciliation by the federal government, and it will allow us all to move forward as citizens of a more just and honorable United States.

USET SPF Sends Letter to PA Auction House Urging a Halt to the Auction of Tribal Cultural Items

On October 8, 2021, USET SPF sent a [letter](#) to Marburg Auctions regarding an auction scheduled for October 9th, which contained items of cultural heritage, some of which may be associated with USET SPF member Tribal Nations. Our letter called upon Marburg Auctions to halt the auction and then work with Tribal Nations to identify cultural heritage items present in the catalogue with the goal of appropriately and respectfully reuniting those items with their people.

Tribal cultural heritage items are irreplaceable to us, and they are necessary for the continued cultural practices of our people. For too long, USET SPF Tribal Nations, and Tribal Nations across the country, have faced the ongoing theft and commercial sale of these items. They are part of us and part of our communities, and they must come home. As we seek to return them to their rightful places, USET SPF calls upon auction houses across the world to be part of the story of reuniting the Tribal cultural heritage items present in the catalogue with their respective Tribal Nations.

Economic Development

USET SPF Submits Comments to DOI on Buy Indian Act

On December 13, 2021, USET SPF submitted [comments](#) in response to the Department of the Interior's (DOI's) proposed revisions to its Buy Indian Act regulations. DOI held a Tribal consultation on December 1, 2021 on a Notice of Proposed Rulemaking (NPRM) to revise regulations implementing the Buy Indian Act. In the NRPM, DOI proposed to increase contract preferences for Indian Small Business Economic Enterprises (ISBEEs) and Indian Economic Enterprises (IEEs), as well as provide updates on subcontracting to ensure consistency with Federal Acquisition Regulations (FAR).

USET SPF supported these proposed revisions, which are necessary to update the Buy Indian Act regulations and fulfill the intent of the law. However, we had a few additional recommendations for DOI to increase accountability, communication, and evaluation on the implementation of the Buy Indian Act. This included a recommendation to develop a new section in the regulations to improve internal accountability mechanisms and establish efficient monitoring and compliance protocols to enhance the success of the Buy Indian Act. Furthermore, we requested that there must be ongoing

coordination between DOI and the Indian Health Service (IHS) to ensure consistent Buy Indian Act regulation revisions and implementation, as well as support for expansion of the Act's provisions across the whole of the federal government. USET SPF will continue to work with DOI, and by extension IHS, to ensure updates to the Buy Indian Act support economic growth and federal contracting opportunities in Indian Country.

USET SPF Submits Comments to DOJ on Risk Management in the Context of Economic Development

On November 12, 2021, USET SPF submitted [comments](#) in response to the U.S. Department of Justice's (DOJ) Tribal consultations on risk management and sovereign immunity in economic development. These consultations were held on October 28 and 29, 2021 and were the result of a Joint Explanatory Statement included in the Fiscal Year 2021 appropriations bill. Specifically, the Statement directed DOJ's Office of Tribal Justice to consult with Tribal Nations on issues concerning risk management, loss prevention, the resolution of tort claims, and protecting Tribal sovereign immunity. Our comments focused on how DOJ can better deliver upon trust obligations to protect Tribal sovereignty in the face of challenges to our sovereign immunity. Additionally, USET SPF strongly recommended that DOJ provide technical assistance to Tribal Nations for risk management and increase coordination and communication with Tribal Nations regarding resources available to us to protect from current and emerging threats.

Our comments emphasized that Tribal governments face numerous financial, physical, and property risks that require dedicated staff to protect against and mitigate potential threats. Therefore, we recommended that DOJ should provide funding to Tribal governments to establish risk management programs to safeguard Tribal assets. Furthermore, USET SPF recommended that DOJ should also coordinate with DOI and establish a Tribal Risk Management Office to provide technical assistance and directly inform Tribal governments of new and emerging threats to our governments and assets. These new and emerging threats also include the areas of cybersecurity where Tribal Nations, much like the rest of the U.S., are facing ever increasing threats from hackers and ransomware activities. Also, we strongly recommended that DOJ coordinate with DOI and the Office of Management and Budget (OMB) to inform Tribal governments when non-Tribal entities submit Freedom of Information Act Requests (FOIA) to gain access to our economic and other sensitive information. USET SPF will continue to work with DOJ to strengthen sovereign immunity and improve risk management practices for Tribal Nations.

Environment & Natural Resources

USET Climate Change Program Manager Testifies Before House Select Committee on the Climate Crisis

On November 18th, USET Climate Change Program Manager and Climate Science Liaison, Dr. Casey Thornbrugh, [testified](#) before the House Select Committee on the Climate Crisis during a hearing entitled, "Tribal Voices, Tribal Wisdom: Strategies for the Climate Crisis." Dr. Thornbrugh's

testimony focused on the impacts of a rapidly changing climate in the USET region, as well as recommendations for improvement in funding for Tribal climate change adaptation, the restoration of Tribal homelands, and the incorporation of Traditional Ecological Knowledge.

To view the hearing, please visit the Committee's website [here](#).

USET SPF Submits Comments to CEQ on Phase 1 Proposed Revisions to NEPA Regulations

On November 22, 2021, USET SPF submitted [comments](#) to the Council on Environmental Quality (CEQ) on its Notice of Proposed Rulemaking (NPRM) on proposed revisions to the National Environmental Protection Act (NEPA) regulations and the NEPA 2020 Final Rule. In the NPRM, CEQ stated that revisions to the NEPA 2020 Final Rule would be conducted in two phases, respectively designated as Phase 1 and Phase 2. Phase 1 of this process was initiated through this NPRM to restore general provisions of NEPA that were in effect for decades before being modified in 2020. Phase 2 of the proposed revisions to NEPA regulations have yet to be published. In response to the Phase 1 proposed revisions, USET SPF's comments focused on emphasizing the recognition of Tribal Nations as sovereigns, how NEPA must consider the cumulative impacts of projects, and issues with NEPA implementation across the federal government.

Our comments emphasized that Tribal Nations are not “stakeholders” or the “public”, which are terms that generally include reference to Tribal Nations in NEPA proceedings. We reiterated that as sovereign governments pre-dating the formation of the United States and engaged in a diplomatic relationship with the federal government, CEQ and federal agencies must consult with Tribal Nations prior to or during any consideration of any NEPA proceeding. We also emphasized that including Tribal Nations in NEPA “public scoping meetings” does not fulfill Tribal consultation and collaboration requirements of the federal government. Additionally, USET SPF supported the Phase 1 proposed revisions to NEPA regulations to restore the terms “direct” and “indirect” in the definition of “effects” that were removed in the NEPA 2020 Final Rule. USET SPF will continue to monitor these important Phase 1, and forthcoming Phase 2, revisions to NEPA regulations to ensure the protection of our natural, cultural, and historical resources.

Health

USET SPF Submits Comments to HHS on FY22-26 Strategic Plan

On November 22nd, USET SPF submitted [comments](#) to the Department of Health and Human Services (HHS) on its Fiscal Year (FY) 2022 – 2026 Strategic Plan (Plan). As written, the Plan does not represent a commitment to uphold HHS' trust and treaty obligations to Tribal Nations; it doesn't even mention them. While we note that Tribal Nations are mentioned many times throughout the Draft Plan, our inclusion is most often alongside other units of government, as opposed to within dedicated goals and objectives. The final Plan must reflect HHS' unique obligations to Tribal Nations, measurable goals for the execution of federal functions, and to the promotion and advancement of self-governance and self-determination. With this in mind, we offered the comments to provide some broad guidance to HHS as it seeks to achieve a Plan that is more reflective of its full commitment to Tribal Nations.

USET SPF Submits Comments to IHS on ARPA, IIJA, and BBBA Funding

On November 22, 2021, the Indian Health Service (IHS) issued a [Dear Tribal Leader Letter](#) announcing a Tribal consultation on the allocation of funding to IHS from the American Rescue Plan Act of 2021 (ARPA) ([P.L. 117-2](#)), the Infrastructure and Investment Jobs Act (IIJA) ([P.L. 117-58](#)), and the Build Back Better Act (BBBA) (currently under consideration by Congress).

Following a Tribal consultation on December 14, 2021, USET SPF provided [comments](#) on December 16, 2021 regarding IHS' proposed distribution of funding from each of the bills. This includes \$210 million in public health workforce funding under ARPA, \$3.5 billion for Sanitation Facilities Construction under IIJA, and \$2.3 billion in possible funding from the as yet unenacted BBBA. In addition to specific comments on the distribution of this funding, we remind IHS that it should focus on rapid, equitable funding to Tribal Nations that upholds our inherent sovereignty. It should further ensure that it provides maximum flexibility in the use of funds and minimal, streamlined reporting requirements.

In response to Tribal requests, IHS held an additional, separate consultation on the \$3.5 billion in Sanitation Facilities Construction funding under the IIJA on January 5, 2022. The agency is accepting additional comments on the distribution of these funds through January 21, 2022. Comments can be sent to consultation@ihs.gov.

USET SPF Continues to Support CARE Act

On December 7, 2021 USET SPF issued a [letter of support](#) for S.3418/H.R. 6311, the Comprehensive Addiction Resources Emergency (CARE) Act of 2021. USET SPF has supported this legislation since it was first introduced in 2018.

Introduced by Senator Warren (D-MA) and Representative Maloney (D-NY), the CARE Act will begin treating the substance-use crisis like the critical public health emergency it is by dedicating substantial resources to treatment and prevention. As you are likely aware, USET SPF Tribal Nations, and Tribal Nations across the country, continue to experience the destructive effects of substance use disorder--often at higher rates than non-Indian communities. The CARE Act of 2021 would ensure Tribal Nations, like other units of government, are well-equipped to combat the opioid epidemic and other substance use disorders in our communities. In total, this bill would provide \$1 billion annually over a period of ten years directly to Indian Country to address the disproportionate impacts opioid abuse and addiction is having in our communities. This level of funding, and its delivery through Indian Self-Determination and Education Assistance Act contracts and compacts, recognizes our governmental status and the unique relationship between the federal government and Tribal Nations.

USET SPF will continue to monitor the progress of the CARE Act and provide updates as they develop.

USET SPF Submits Comments to DOI on Proposed Updates to its Tribal Consultation Policy

On December 17, 2021, USET SPF submitted [comments](#) to the Department of the Interior (DOI) regarding proposed updates to its Tribal Consultation Policy. The proposed revisions to DOI's Tribal Consultation Policy (TCP) sought to encourage early and robust consultation prior to any decision making that may have implications for Tribal Nations, and included many changes requested in USET SPF's March 19, 2021 [comments](#) to the Department. Additionally, the TCP revisions included an unprecedented Consensus-Seeking Model (Model) to provide a process for the Department to seek consensus with Tribal Nations when DOI's actions would have an impact on our lands, governments, or citizens. USET SPF was encouraged by the development of this Model as a first step toward achieving Tribal Nation consent for federal action, for which we have long advocated.

Greater detail and transparency are required on the Model, so both Tribal and federal officials have a full understanding of just how the consensus-seeking process would proceed. Additionally, we recommended further Tribal consultation on the proposed Model in order to develop a more transparent and tangible consensus-seeking process as well as recognition of submerged and off-reservation sacred sites and cultural resources. USET SPF also recommended that annual consultation reports published by DOI describe DOI's decision-making processes and a published summary of all comments received, how that guidance influenced the agency's decision, and why the decision was reached. Furthermore, we recommended that DOI agencies follow-up with Tribal Nations following the execution of federal decisions to assess efficacy and better understand associated consequences. USET SPF is encouraged by the proposed revisions to DOI's Tribal Consultation Policy, and we will continue to work with DOI to ensure that the policy promotes a more diplomatic and respectful Nation-to-Nation relationship.

USET SPF Submits Comments to DOI on FY22-26 Strategic Plan

On November 19th, USET SPF provided [comment](#) to the Department of the Interior (DOI) on the Framework for its Fiscal Year (FY) 2022 – 2026 Strategic Plan (Plan). As written, the Framework does not represent a commitment to uphold DOI's trust and treaty obligations to Tribal Nations; it doesn't even mention them. The final Plan must reflect these solemn obligations, as well as a commitment to nation rebuilding within Indian Country, to measurable goals for the execution of federal functions, and to the promotion and advancement of self-governance and self-determination. With this in mind, we offered our comments to provide some broad guidance to DOI as it seeks to achieve a Plan that is more reflective of its full commitment to 21st century Tribal Nations.

Along with other actions, statements, and initiatives, USET SPF views DOI's Strategic Plan as reflective of its commitment to Tribal Nations. Historically, DOI's Plans have come up short in articulating a clear vision for delivery of trust and treaty obligations and support for our sovereignty. We urge DOI to make measurable improvements as it develops and finalizes its Strategic Plan for FY 2022-2026. This necessarily includes ensuring its obligations to Tribal Nations are front and center. As we stated in our comments, USET SPF welcomes the opportunity, through consultation, to further refine DOI's Strategic Plan.

Justice

USET SPF Submits Testimony for the Record of SCIA VAWA Hearing

On December 16th, USET SPF submitted [testimony for the record](#) of the Senate Committee on Indian Affairs' (SCIA) December 8th hearing on Title IX of the Violence Against Women Act (VAWA), which governs Tribal provisions within the law. On the day of the hearing, Senators Lisa Murkowski (R-AK) and Brian Schatz (D-HI), who are the Vice Chair and Chair of the Senate Committee on Indian Affairs (SCIA), respectively, released a [discussion draft](#) of Title IX of the Senate reauthorization of the Violence Against Women Act (VAWA), which governs Tribal provisions within the bill. The discussion draft contains the following provisions:

- Restores Tribal criminal jurisdiction in crimes against children and law enforcement, as well as sexual assault, stalking, and human trafficking;
- Creates a reimbursement program for Tribal Nations exercising Special Domestic Violence Criminal Jurisdiction;
- Codifies, funds, and ensures all Tribal Nations can participate in the Tribal Access Program (TAP), which facilitates access to the National Crime Information Center database for law enforcement; and
- Clarifies that VAWA's Tribal provisions apply in the states of Maine and Alaska.

In our testimony for the record, we express support for the discussion draft, while noting that many of our other member Tribal Nations, in addition to those with homelands adjacent to Maine, are subject to restrictive settlement acts that states may use to challenge the full application of VAWA and other laws.

VAWA has not been reauthorized since 2013 due to partisan disagreement in the Senate over a number of proposed provisions. A reauthorization of VAWA has already [passed the House](#). USET SPF will continue to monitor the progress of a reauthorization in the Senate and will provide updates as they develop.

Land

USET SPF Submits Comments to DOI on Homelands Protection and Restoration

On November 8, 2021, USET SPF submitted [comments](#) in response to a "[Dear Tribal Leader](#)" letter from Department of Interior (DOI) Assistant Secretary - Indian Affairs, Bryan Newland, seeking Tribal priorities for the protection and restoration of Tribal homelands. The letter focuses on three related topics, in particular: the land into trust process, leasing and rights-of-way, and sacred sites and treaty rights.

USET SPF's comments focus on urging DOI to better support and uphold the ability of Tribal Nations to exert our sovereign rights and authorities within our homelands without interference. This requires DOI to prioritize the restoration of Tribal Nation homelands, including for Tribal Nations that remain landless. This naturally includes restoring parity to the land into trust process through a Carcieri fix, as well as the defense of existing trust lands. It further compels DOI to move beyond

outdated, paternalistic, and antiquated models of lands acquisition, leasing, and rights-of-way in recognition of its obligations to promote Tribal sovereignty, self-governance, and self-determination. Finally, DOI must ensure it has the appropriate level of funding to carry out these responsibilities, as well as hold itself accountable via its Strategic Plan.

USET SPF is encouraged by and supports the focus of this consultation. Tribal land base is a core aspect of Tribal sovereignty, cultural identity, and represents the foundation of our Tribal economies. And as a partner who shares in the trust relationship, it is incumbent upon the federal government to prioritize and defend the restoration of our land bases, including sacred and cultural sites. Despite the vital importance of this charge, DOI's processes for lands protection and restoration do not fully honor or uphold Tribal sovereignty and its trust and treaty obligations. In an effort to better deliver upon its foundational obligations to Tribal Nations, we urge DOI to commit to improvements that will facilitate the swift return of our homelands and their unqualified protection, as well as increased Tribal ownership and control.

DOI Affirms Mashpee Homelands, Legal Fight Continues

On December 22, 2021, the Department of the Interior (DOI), in a [letter](#) from Assistant Secretary for Indian Affairs, Bryan Newland, to Mashpee Tribal Chairman, Brian Weeden, confirmed that the Mashpee Wampanoag Tribe was under federal jurisdiction in 1934, meaning the Tribal Nation's homelands remain held in trust by the federal government. The 55-page decision reverses the March 2020 attempt by the Trump Administration to remove Mashpee's homelands from trust. It follows the Biden Administration's withdrawal of DOI's appeal in the case of *Mashpee v. Bernhardt* last February.

"Our USET/USET SPF family shares in Mashpee's joy and relief in knowing that DOI will continue to hold its ancestral homelands in trust for the benefit of the Mashpee people," said USET/USET SPF President, Kirk Francis. "It is our hope that Mashpee can soon turn the page on challenges to the status of its lands after centuries of injustice. Like all Tribal Nations, Mashpee deserves a land base from which to govern. DOI's reaffirmation brings the Tribal Nation one step closer to certainty in its homelands."

While DOI's decision is an important step toward righting centuries of wrong against the Mashpee Wampanoag Tribe, our collective work is not finished. Following DOI's decision, the plaintiffs in *Littlefield v. Mashpee Wampanoag Indian Tribe*, litigation challenging Mashpee's ability to have the lands placed in trust, have filed a yet another lawsuit, seeking to reopen their case questioning Mashpee's historical connection to Taunton, MA and DOI's decision to call two non-contiguous parcels of land a single reservation.

USET SPF remains committed to restoring and protecting the homelands of Mashpee and all Tribal Nations. This includes continued advocacy for a fix to the Supreme Court decision in *Carcieri v. Salazar*. *Carcieri* has created a deeply inequitable 2-class system, in which some Tribal Nations have the ability to restore their homelands and others do not. This 2-class system serves to deny these Tribal Nations a critical component of the trust relationship, vital aspects of the exercise of inherent sovereignty, and the opportunity to qualify for several government programs. USET SPF continues to

call for the immediate passage of a fix that contains the two features necessary to restore parity to the land-into-trust process: (1) a reaffirmation of the status of current trust lands; and (2) confirmation that the Secretary has authority to take land into trust for all federally recognized Tribal Nations.

We will continue to fight for the restoration of Tribal homelands and the full delivery of trust and treaty obligations. We will provide updates on the lawsuit, *Carcieri*, and other issues related to the land-into-trust process as they develop.

Litigation

USET SPF, NCAI Submit Additional Amicus Briefs in Penobscot River Case

On December 22, 2021, USET SPF and the National Congress of American Indians (NCAI) submitted two joint amicus briefs in support of petitions from the [Penobscot Indian Nation](#) [amicus brief linked] and the [United States](#) [amicus brief linked] urging the Supreme Court to take up the Penobscot River case. The case concerns whether USET SPF member, the Penobscot Indian Nation, has the authority to regulate activities occurring on the Main Stem of the Penobscot River as a part of its reservation under settlement acts with the state of Maine and prior treaties. The state asserts that no part of the river falls within Penobscot's reservation, despite the river running through Penobscot's lands and its islands being considered part of the reservation. Meanwhile, state-sanctioned pollution of the river is impeding Penobscot's sustenance fishing rights, among other issues. In an en banc rehearing, the U.S. Court of Appeals for the First Circuit ruled that the Penobscot Indian Nation's homelands extend only to the islands in the Penobscot River and not the river itself.

Our amicus briefs in both the Penobscot and U.S. cert petitions discuss the statutory construction of laws that govern the Penobscot Indian Nation's homelands and argue that the lower court decision fails to recognize Supreme Court precedent and construction doctrines, including the Indian Canons of Construction.

USET SPF will continue to monitor progress on this case, including whether the Supreme Court agrees to consider it, and will provide updates as they become available.

USET SPF Files Additional Amicus Brief in Seneca Rights-of-Way Case

On November 19th, USET SPF submitted an [amicus brief](#) to the U.S. Court of Appeals for the Second Circuit in the case of *Seneca Nation v. Cuomo*. The case concerns New York's use of a thruway over Seneca's homelands. USET SPF's amicus curiae brief supports the Seneca Nation of Indians in their claims against the state of New York that federal law was violated in 1954 when the state acquired an easement for a 300-acre parcel of the Nation's restricted fee lands. We assert that grants of rights-of-way across Tribal Nation lands require federal approval due to the federal government's trust and treaty obligations to Tribal Nations and, therefore, the state of New York had no authority to negotiate this easement in 1954.

The case is scheduled for oral arguments on January 20, 2022. USET SPF will provide further updates as they develop.

USET SPF, Partners File Amicus Brief in Ysleta del Sur Pueblo Case

On December 9, 2021, USET SPF, in partnership with the National Indian Gaming Association (NIGA) and the National Congress of American Indians (NCAI), submitted an [amicus brief](#) to the Supreme Court in the case of Ysleta del Sur Pueblo v. Texas. The case concerns whether the Ysleta del Sur Pueblo and Alabama Coushatta Indian Tribes of Texas Restoration Act, a law designed to restore the federal trust relationship and obligations for these Tribal Nations, recognizes the Ysleta del Sur Pueblo's sovereign authority to regulate non-prohibited gaming activities (such as bingo) or subjects it to Texas' gaming regulations. Ysleta del Sur Pueblo is petitioning the Supreme to overturn the Fifth Circuit's April 2020 [decision](#) in the case, which held that under the Restoration Act, Texas governs Ysleta del Sur Pueblo's gaming activity.

USET SPF has consistently supported the right of our member Tribal Nation, the Alabama Coushatta Tribe, to conduct gaming on its homelands without state interference, including through a previous [amici effort](#). Because the two Tribal Nations are both subject to the Restoration Act, a positive ruling in Ysleta del Sur Pueblo v. State of Texas is likely to assist Alabama Coushatta in its gaming efforts.

Oral arguments in this case are set for February 22, 2022. We will continue to follow the case and will provide further updates as they develop.

USET SPF Sends Letter to DOJ in Support of Seminole Appeal

On December 4, 2021, USET SPF [wrote](#) to the Department of Justice (DOJ) to urge that it appeal the November 22, 2021 decision of the United States District Court for the District of Columbia regarding the Seminole Tribe of Florida's 2021 Compact. This decision purported to vacate the Department of the Interior's deemed approval of the 2021 Compact based on the District Court's faulty conclusion that the Compact's online sports betting provisions do not comport with the Indian Gaming Regulatory Act (IGRA). We reminded DOJ that the federal government has a trust obligation to the Seminole Tribe of Florida and to Tribal Nations more broadly to defend the 2021 Compact, and thereby promote and uphold Tribal sovereignty. USET SPF called on DOJ to carry out this trust obligation by immediately appealing the District Court's decision.

The 2021 Compact is an example of an historic agreement between a Tribal Nation and a state to allow a Tribal Nation to offer online sports betting under IGRA's unique regulatory framework designed specifically for Tribal gaming. The need for this kind of agreement between Tribal Nations and states is a reality of the modern digital age. Through this cooperative approach, a Tribal Nation can regulate its internet gaming under one seamless regulatory structure and do so for the purpose of providing Tribal government funding, just as Congress intended in enacting IGRA.

The federal government has until January 22, 2022 to appeal the District Court's decision in this case. We will provide updates as they become available.



Treasury

USET SPF Submits Letter to Treasury Urging Tribal Consultation on Development of its FY 2022 through 2026 Strategic Plan

On October 29, 2021, USET SPF submitted a [letter](#) in response to the U.S. Department of the Treasury’s solicitation for feedback on its Strategic Plan for Fiscal Years (FY) 2022 through 2026. Treasury initially conducted “public outreach” on this Strategic Plan to assist “underserved” communities to access programs for climate-friendly investments and strengthen its coordination with “non-governmental partners” to advance equitable economic growth. However, the questions posed by Treasury during this initial outreach failed to recognize or prioritize Treasury’s execution of trust and treaty obligations to Tribal Nations and were of little relevance to our Nation-to-Nation relationship. USET SPF strongly recommended that Treasury conduct Tribal consultation separate from this “public outreach” effort to seek and incorporate Tribal Nation guidance as it sought to finalize its Strategic Plan.

In response to USET SPF’s October 29, 2021 letter, Treasury initiated Tribal consultation on November 30, 2021 to receive input from Tribal Leaders on development of its FY 2022 through 2026 Strategic Plan. Following the consultation, USET SPF submitted [comments](#) to Treasury detailing how it could assist Tribal communities to access incentives or programs for climate-friendly investments, advance equitable economic growth and/or promote financial stability, and how Tribal communities could be reflected in Treasury’s Strategic Plan. Our comments also focused on appropriately identifying and recognizing Tribal Nations as sovereigns as opposed to being combined under terms such as the “public”, “stakeholders”, “underserved”, and “non-governmental partners”.