



USET

SOVEREIGNTY PROTECTION FUND

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*Transmitted Electronically
To TribalConsult@treasury.gov*

May 13, 2022

Jeffrey Stout
Director
Office of Federal Program Finance
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Dear Director Stout,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Tribal consultation held by the Department of the Treasury on the Small Business Credit Initiative (SBCI) Technical Assistance Program (TA Program). Treasury has allocated \$200 million of TA Program funds to directly support very small businesses (VSBs) and businesses owned and controlled by socially and economically disadvantaged individuals (SEDI-owned businesses). However, of the \$200 million allocation for the TA Program, Treasury has decided to allocate just \$14.73 million (7.73 percent of the total allocation) for use by eligible Tribal governments to support Tribal VSBs and SEDI-owned businesses. Due to the limited amount of TA Program funds available, USET SPF recommends that funds be allocated and distributed equitably to eligible Tribal governments. In addition, requirements regarding the submission of a TA Plan to apply for and receive TA funds and the ensuing reporting requirements should be minimized.

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), 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), , Mi'kmaq Nation (ME), 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).

Because there is Strength in Unity

TA Program Funds Should be Distributed Equitably Among Eligible Tribal Governments

USET SPF supports the list of legal, accounting, and financial advisory services outlined in the SBCI TA Program Guidelines issued by Treasury on April 28, 2022. These services will support and benefit VSBs and SEDI-owned businesses in accessing SBCI capital or seeking participation in other federal or state programs that support small businesses. However, regarding the allocation of TA Program funds to Tribal governments, we recommend an equitable distribution to eligible Tribal governments applying for these funds.

Under the American Rescue Plan Act of 2021 (ARPA), Congress authorized \$500 million in SBCI TA Program funds for Tribal Nations, states, territories, and the District of Columbia. However, ARPA did not mandate how these funds would be allocated among the eligible governments. It was not until Treasury published the SBCI TA Program Guidelines on April 28, 2022 that Treasury announced it would allocate \$200 million, of the \$500 million authorization, to provide TA Program funds to eligible governments to support VSBs and SEDI-owned businesses. The Guidelines also stipulated that of the \$200 million in TA Program support, Tribal governments would only be eligible to receive just \$14.73 million in TA Program funds to support our VSBs and SEDI-owned businesses. This is significantly less than the \$185.27 million in TA Program funds allocated to the other eligible governments to support VSBs and SEDI-owned businesses. Treasury has also not indicated how it intends to distribute the remaining \$300 million of the total \$500 million authorization in funds for the SBCI TA Program.

USET SPF recognizes that these SBCI TA Program funds allocated to Tribal governments will not adequately fulfill application requests to support our VSBs and SEDI-owned businesses and the program will quickly become oversubscribed. Prior to determining the TA Program amount that eligible Tribal governments would receive, Treasury should have hosted consultations with Tribal Nations. States have participated in the SBCI program since it was established by the 2010 Small Business Jobs Act (P.L. 111-240). Therefore, state governments have prior experience, expertise, and capacity in applying for the SBCI Program and utilizing awarded funds to support small business development. In contrast, this is the first time Tribal Nations are eligible to participate in the SBCI program, so the importance of obtaining TA Program funds is vital to support Tribal Nation efforts to utilize SBCI capital and other federal dollars to support Tribal small business development. Due to the prior experience and knowledge state governments have in applying for, receiving, and managing awards from the SBCI Program, Tribal Nations should receive increased TA Program assistance to navigate the SBCI Program requirements and fulfill awards to our VSBs and SEDI-owned businesses. Providing Tribal Nations with just 7.73 percent of the \$200 million in TA Program funds for our VSBs and SEDI-owned businesses does not adhere to the Biden Administration's commitment to establishing equity in access to federal programs and dollars, or its obligation to promote nation rebuilding for Tribal Nations.

Moving forward, we recommend that Treasury expand the April 28, 2022 SBCI TA Program Guidelines. USET SPF recommends that Tribal governments applying for TA Program funds to support our VSBs and SEDI-owned businesses should be prioritized with access to the remaining \$300 million in TA Program funds if their application is unfulfilled due to program oversubscription. Additionally, in the SBCI TA Program Guidelines, Treasury has indicated that it, "may invite eligible recipients to apply for any remaining TA funds that are not awarded, not disbursed, or returned." USET SPF recommends that any TA Program funds that are not awarded, disbursed, or returned should be reallocated directly to Tribal governments, especially those that experience the unfulfillment of an application request. If a Tribal government application for TA Program funds is denied, Treasury must work with the Tribal Nation to assist in bringing the application into compliance with program application requirements. However, as highlighted below, the TA Program application requirements outlined in the SBCI TA Program Guidelines should be streamlined and minimized to increase opportunities for Tribal governments to access these funds.

Minimize TA Program Application and Reporting Requirements

The SBCI TA Program Guidelines issued by Treasury on April 28th listed several application requirements to access TA Program funds. Among these requirements were the submission of a TA Plan to describe each program TA funds would be used to support. Treasury has stipulated that applications for TA Program funds would be required to address the following in their TA Plan:

- A data-driven assessment of the needs of eligible beneficiaries in the eligible recipients jurisdiction;
- The organizational capacity and ability of the TA provider(s);
- The connection between the TA project and SBCI or other program that supports small businesses;
- The strategy and efforts to reach SEDI-owned businesses and VSBs that are eligible beneficiaries; and
- Performance Goals.

Due to the limited and severely under-allocated TA Program funds available to Tribal governments to support our VSBs and SEDI-owned businesses, we assert that these application requirements are onerous and cost prohibitive for Tribal governments. For instance, the costs associated with conducting a data-driven assessment to fulfill part of the application requirements may well exceed the actual amount and benefits received from applying for and receiving TA Program funds. USET SPF recommends that Treasury provide additional TA Program guidance specifically for Tribal governments on application requirements to access TA Program funds. These application requirements should be streamlined to distribute TA Program funds quickly and efficiently to Tribal governments. Treasury should automatically assume that eligible Tribal governments applying for the TA Program have an urgent demand for these dollars and should not be required to develop and submit a TA Plan to qualify for a program award. At the very least, the application requirements for Tribal governments should require a simple budget and narrative justification.

Similarly, reporting requirements for Tribal governments awarded TA Program funds should be minimal and streamlined. Treasury must account for the unique circumstances that Tribal governments and businesses experience that contribute to delays in economic development and business project completion. These could impact and delay the expenditure of TA Program funds by Tribal governments to our VSBs and SEDI-owned businesses, which could exceed the five-year award period that has been determined by Treasury in its SBCI TA Program Guidelines. Therefore, we urge Treasury to ensure flexibility in the five-year award period to Tribal governments to take into consideration the unique challenges to economic and business development that exists on Tribal Lands.

Conclusion

The American Rescue Plan Act of 2021 (ARPA) was enacted to provide economic relief and recovery to Tribal Nations following the devastating impacts of COVID-19 on our communities, economies, and public health. Among the many programs and funds authorized under ARPA, the SBCI Program and SBCI TA Program received authorizations to expand access to capital, promote economic resiliency, create new jobs, and increase economic opportunity for small businesses. While Tribal governments received a \$500 million set-aside in the SBCI Program, Treasury has determined that we are only eligible to receive \$14.73 million in SBCI TA Program funds for our VSBs and SEDI-owned businesses.

This allocation will not adequately address the economic and business development priorities of our VSBs and SEDI-owned businesses and many applications will remain unfulfilled as the TA Program becomes


oversubscribed with fund requests. Due to the limited TA Program funds available to Tribal governments, Treasury must not adopt guidelines that create burdensome, restrictive, and cost prohibitive requirements to access these funds. These requirements aren't just inappropriate because of the inadequate and insignificant amount of TA Program funds allocated for Tribal governments, but they also do not reflect or acknowledge our sovereign nationhood status.

The allocation of TA Program funds to eligible Tribal governments should be structured in a manner that respects Tribal Nation sovereignty and self-determination in accordance with Treasury's trust and treaty obligations to Tribal Nations. In the recent past, we have witnessed Treasury make proactive efforts to ensure Tribal Nations have equitable access and opportunities to utilize programs, funds, and services authorized by the various COVID-19 relief laws in accordance with trust and treaty obligations. We have also witnessed Treasury adopt and implement policies and procedures to distribute COVID-19 relief funds equitably, efficiently, and expeditiously to Tribal Nations. We implore Treasury to make similar efforts to increase Tribal Nation access to and utilization of SBCI TA Program funds. This will beneficially contribute to our continued nation and economy rebuilding efforts, which falls within Treasury's trust and treaty obligations. Tribal Nations, businesses, and economies have been the most severely impacted by the COVID-19 health emergency. Therefore, Treasury must make concentrated efforts to ensure that we have access to the necessary programs, funds, and services required for our recovery and nation and economy rebuilding efforts. We look forward to our continued work and dialogue with you on these important matters. 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,



Kirk Francis
President



Kitcki A. Carroll
Executive Director