



# USET

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December 15, 2022

Chief Lynn Malerba  
Treasurer of the United States  
Treasury Point of Contact for Tribal Consultation  
1500 Pennsylvania Ave NW  
Washington, DC

Dear Chief Malerba,

We write on behalf of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) to provide comment to U.S. Department of Treasury (Treasury) in response to its Tribal consultation on its Fiscal Year (FY) 2022-2026 Strategic Plan (Plan). USET SPF previously submitted comments to Treasury regarding the Strategic Plan in both [October](#) and [November](#) of 2021. While Treasury has taken steps to more meaningfully include Tribal Nations in the Plan, it still does not fully reflect an understanding of or commitment to the Department's trust and treaty obligations to Tribal Nations. As an agency of the federal government, Treasury shares in trust and treaty obligations to Tribal Nations, including the obligation to uphold Tribal sovereignty and self-determination, as well as facilitate the rebuilding of our Tribal Nations. However, we do not feel as though the final Plan reflects the execution of this solemn charge or includes proper recognition of our Nation-to-Nation relationship.

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.<sup>1</sup> 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.

### **Addition of "Understanding the Unique Status of Tribal Governments"**

USET SPF notes the inclusion of a separate section summarizing outside engagement in the final Plan focused on strengthening Treasury's relationships with Tribal Nations. We view this as a positive development in the evolution of the Plan. However, although this is an improvement over previous versions of the Plan, this section lacks both specificity on deliverables/objectives, as well as an explicit

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<sup>1</sup> 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*

acknowledgement of Treasury's trust and treaty obligations to Tribal Nations. The section does reference Treasury's Action Plan for Tribal Consultation and Collaboration, but this document predates the establishment of Treasury's newly formed Office of Tribal and Native Affairs. We suggest that, in consultation with Tribal Nations, this section should become a "Goal" and the Office of Tribal and Native Affairs should be engaged in providing specific deliverables under this Plan. Deliverables should include permanency for the Office of Tribal and Native Affairs, implementation of the General Welfare Exclusion Act, and improved utilization of Treasury's Tribal Advisory Committee in the development and implementation of policy.

### **Objective 1.3 Economically Resilient Communities**

In addition, we are pleased to see Tribal Nations included among the units of government to which Treasury intends to provide continued assistance in recovering from the economic crisis. However, we continue to see a focus on 'underserved communities' under Goal #1, as opposed to a broader, targeted inclusion of Tribal Nations and interests. Indeed, Tribal Nations are only named in Strategy 1.3.B, despite several other strategies that are likely to be of interest to Indian Country. We encourage Treasury to provide greater direct inclusion for Tribal Nations and Indian Country throughout this and other objectives in the Plan.

### **Objective 4.2 Climate Incentives and Investment**

Similarly, while we appreciate Treasury's interest in promoting tax incentives for private investment in clean energy projects in Indian Country, we argue that due to both federal trust and treaty obligations, as well as the disproportionate impact Climate Change is already having on Tribal Nations, efforts should be made for our broader inclusion under Goal #4. As Treasury well knows, for a variety of reasons, private investment in projects in Indian Country can be difficult to incent. Tribal Nations should be pointedly included as full partners in Objective 4.2.A, as well as in Objective 4.2.C's federal investments in climate friendly projects and activities.

### **Conclusion**

USET SPF appreciates Treasury's efforts to better incorporate Tribal Nations into the FY 2022-2026 Strategic Plan. However, we continue to urge Treasury to work to better demonstrate its commitment to upholding trust and treaty obligations under this and other strategic documents. The establishment of the Office of Tribal and Native Affairs provides Treasury with an opportunity institutionalize and imbue these solemn agreements into the Department's broader policy and procedures. We ask that the Department utilize this opportunity to its fullest extent. Going forward, Treasury must enact policies that uphold our status as sovereign governments, our right to self-determination and self-governance, and honor the federal trust obligation in full. 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](mailto:LMalerba@usetinc.org) or 615-838-5906.

Sincerely,



Kirk Francis  
President



Kitcki A. Carroll  
Executive Director