

The Beat in DC



A Publication of the USET Sovereignty Protection Fund

January - March 2023

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Biden Administration

Congress Confirms Appointment of Patrice Kunesh for ANA Commissioner

On March 8, 2023, by a vote of 57 to 35, the U.S. Senate confirmed Ms. Patrice Kunesh as the Biden Administration's nominee for Commissioner of the Administration for Native Americans (ANA) within the Administration on Children and Families at the Department of Health and Human Services. She was sworn into office on April 18, 2023. The mission of ANA is to promote the goal of self-sufficiency and cultural preservation by providing social and economic development opportunities through financial assistance, training, and technical assistance to Tribal Nations. Importantly, the ANA is currently working to support Native language preservation and revitalization in the wake of the COVID-19 pandemic under the American Rescue Plan Act.

A descendant of the Standing Rock Sioux, Ms. Kunesh has dedicated her career to the development of Tribal economies and advancement of sovereignty. Previously, she established and led the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis, an economic policy research center dedicated to Indian Country issues. She also has held appointments as the Deputy Under Secretary for Rural Development at the US Department of Agriculture and as the Deputy Solicitor for Indian Affairs at the US Department of the Interior. In addition, she served as in-house counsel to USET SPF member, the Mashantucket Pequot Tribal Nation, and on the faculty at the University of South Dakota School of Law. This depth of experience makes Ms. Kunesh exceptionally prepared to serve as the next ANA Commissioner and to do so in a way that puts Tribal Nations in the drivers' seat.

USET SPF consistently supported Ms. Kunesh as her nomination moved through the Senate process. In June of 2022, USET SPF registered our support via [press release](#) following the White House's announcement of the intent to nominate Ms. Kunesh for ANA Commissioner. Then, ahead of a full Senate vote on confirmation, we [refreshed our release](#), as well as called upon member Tribal Nations and partners to reach out to Senators, in an effort to solidify support.

"Patrice is a well-known advocate for the rebuilding of Tribal Nations and our economies," said USET SPF President, Chief Kirk Francis. "From her establishment of the Center for Indian Country Development to her service as Deputy Solicitor, to her extensive legal career, she has worked tirelessly to advance Tribal self-governance and economic development in Indian Country. As we work to recover from the economic, social, and cultural impacts of the COVID-19 pandemic, the role of ANA will be critical to 'building back better' for Indian Country. As ANA Commissioner, we know that Patrice's focus will be on the promotion and restoration of healthy, resilient Tribal Nation communities that provide opportunities to our citizens for generations to come."

Ms. Kunesh's strong background in federal and Tribal service will allow her to immediately begin making substantive contributions to the ANA's mission. Her well-established commitment to self-determination will ensure that ANA is honoring Tribal guidance and promoting Tribal sovereignty as it delivers upon its obligations to Indian Country. USET SPF welcomes the opportunity to work with Ms. Kunesh in her new role.

Budget

Biden Administration Issues Budget Request for FY 2024

President Biden released the Administration's Budget Request for Fiscal Year (FY) 2024 on March 9, 2023. According to the White House, the President's [FY 2024 Budget Request](#) reflects the Administration's budget priorities to lower costs for families, protect and strengthen Social Security and Medicare, and reduce the national deficit. The FY 2024 Budget Request also reflects the Administration's commitment to Indian Country through investments in the Indian Health Service, Tribal public safety and Missing and Murdered Indigenous Persons, affordable housing, infrastructure, education, and environmental justice. The following information reflects the Administration's budget priorities for Indian Country and was informed through direct consultation with Tribal Leaders. To view a Fact Sheet produced by the White House on the President's FY 2024 Budget Request for Tribal Nations and communities, please [click here](#).

The following is a brief analysis of proposed funding for selected federal Departments, agencies, and bureaus charged with executing federal Indian programs and funding:

[Department of the Interior \(DOI\)](#)

The Administration requests \$4.7 billion to fund DOI Tribal programs, which is a \$690 million increase over the FY 2023 enacted level, including investments that would support public safety and justice, social services, and educational needs to uphold Federal trust responsibilities and advance equity for Native communities. The Budget also reclassifies contract support costs and leases at DOI as mandatory in 2024, a proposal that USET SPF continues to strongly support. Additional details can be viewed via Budget Justifications from the [Bureau of Indian Affairs](#) and the [Bureau of Indian Education](#). President Biden's FY 2024 Budget Request for DOI includes—

- \$717 million (+\$86 million over FY 2023 enacted) to support pressing Tribal public safety needs in Indian Country and continue efforts to address the crisis of Missing and Murdered Indigenous Persons;
- \$7.5 million to support revitalization of Native languages and expand the use of language immersion in Bureau of Indian Education schools;
- \$7 million for the Secretary's Federal Indian Boarding School Initiative;
- \$1.6 billion for the Bureau of Indian Education (+\$209.2 million over FY 2023 enacted);
- \$12 million for a new Bureau of Indian Affairs program to support Tribal land acquisition for natural and cultural resources conservation, outdoor recreation, and co-stewardship, including \$2 million for newly recognized or landless Tribal Nations;
- \$23 million for Tribal Historic Preservation Officers;
- \$48 million for the Tribal Climate Resilience Program;
- \$205,000 to provide a permanent coordinator for the Secretary's Tribal Advisory Committee;
- \$181 million (+\$70 million over 2023 enacted) to accelerate deployment of clean energy on public lands and waters through the leasing, planning, and permitting of solar, wind, and geothermal energy projects—

- The Administration has a goal of deploying 30 gigawatts of offshore wind capacity by 2030 and 25 gigawatts of clean energy capacity on public lands. USET SPF member Tribal Nations have adopted a [resolution](#) calling for a moratorium on further offshore wind development pending the negotiation and adoption of a Nationwide Programmatic Agreement with the Bureau of Ocean Energy Management addressing Tribal concerns related to project consultation, siting, and compensation, as well as seeking a co-management agreement for Tribal Nations.

The Request also provides the following increases/reductions for the Eastern Region’s top priorities for FY 2024 in eight different strategic funding categories:

- **Strengthening Tribal Communities: Social Services (TPA) (+\$24.5M)**
- **Trust-Natural Resources Management: Natural Resources (TPA) (+\$538k)**
- **Trust-Land & Water Rights Management: Real Estate Services Program (TPA) (+\$2M)**
- **Public Safety & Justice: Tribal Courts (TPA) (-\$4.8M)**
- **Economic Development: Economic Development (TPA) (+\$2M)**
- **Education: Scholarships & Adult Education (TPA) (-\$104k)**
- **Construction: Education Facilities Improvement and Repair (\$9.8M)**
- **Resource Management Construction: Federal Power Compliance [FERC] (+\$9k)**

Indian Health Service (IHS)

The Request proposes a total funding level of \$9.7 billion for the IHS, a \$2.5 billion or 36% increase over FY 2023 enacted levels, as well as a mandatory funding formula for the IHS beginning in FY 2025 that would culminate in a total funding level of \$44 billion by FY 2033. This proposal would provide a total of \$192 billion over the next 10 years, representing a 519% increase in funding over FY 2023 enacted levels. The Request also proposes reclassifying Contract Support Costs (CSC) and the 105(l) Lease Program as mandatory spending. The Request also provides the following increases for Nashville Area priorities—

- Hospitals & Health Clinics +\$1.05B
- Purchased/Referred Care +\$181M
- Alcohol & Substance Abuse +\$42M
- Mental Health +\$37M
- Electronic Health Record System +\$696M
- Dental Health +\$71M
- Community Health Representatives +\$9M
- Maintenance and Improvement +\$17M
- Health Education +\$4M

In addition, though not governed by the discretionary appropriations process, the Request proposes a three year reauthorization of the Special Diabetes Program for Indians (SDPI), with \$250 million in FY 2023, and an additional \$10 million each year after.

[U.S. Department of Agriculture \(USDA\)](#)

The Administration's FY 2024 Budget Request for USDA focuses on creating jobs and opportunity in rural communities, lowering energy costs, strengthening food supply chains and the nutrition safety net, addressing climate change and mitigating its impacts, and advancing environmental justice. Some highlights of the President's FY 2024 Budget Request include—

- \$8.1 million (+\$6.6 million over FY 2023 enacted) for the Natural Resources Conservation Service;
- \$400 million for the ReConnect Program, which provides grants and loans to deploy broadband to unserved areas, especially Tribal Lands;
- \$30 million for grants and \$1 billion for loan guarantees for renewable energy systems and energy efficiency improvements for farmers and rural small businesses;
- \$6.5 billion in authority for rural electric loans to support additional clean energy, energy storage, and transmission projects; and
- \$15 million to support the create of the Rural Clean Energy Initiative to provide technical assistance to rural electric providers.

[Department of Commerce](#)

The Department of Commerce is responsible for promoting job creation, supporting and overseeing international trade, and providing economic, environmental, and scientific information needed by businesses, citizens, and governments. Several highlights of the FY 2024 Budget Request for the Department include—

- \$20 million for the Economic Development Administration (EDA) to establish a grant program focused on the economic development needs of Tribal Nations and communities;
- \$60 million (+39 million over FY 2023 enacted) to expand offshore wind permitting activities at the National Oceanic and Atmospheric Administration (NOAA);
- \$231 million (+7 million over FY 2023 enacted) for NOAA climate research programs;
- \$375 million (+\$163 over FY 2023 enacted) for the National Institute of Standards and Technology's Industrial Technology Services to promote domestic product of institute-developed technologies.

[Department of Education](#)

The Administration requests a total of \$201.7 million for Indian Education programs and grants, a \$7 million increase over FY 2023 enacted levels. These programs supplement the efforts of states, local education agencies, and Tribal Nations to improve educational opportunities for Native children. The total request includes:

- \$117 million for Indian Education Grants to Local Educational Agencies (LEAs) (+\$7 million over FY 2023 enacted) to address the needs of Indian children enrolled in urban and rural schools;
- \$72 million for Special Programs for Indian Children, which will support competitive awards of teacher retention programs, projects to improve college and career readiness for Native children, and professional development grants for Native teachers and administrators;

- \$12.4 million for National Activities, which support Native language immersion programs, state-Tribal educational partnership grants, Native American resource centers, and data collection activities on the educational status and needs of Native children; and
- A \$51.2 million set-aside for the American Indian Vocational Rehabilitation Services program. This will support approximately 94 grants, 44 of which will be new.

Department of Justice (DOJ)

The Administration has requested \$4.9 billion in discretionary resources for state and local grants and \$30 billion in mandatory funding to support and promote public safety. These requests include increases for several Tribal-related programs at the agency. The funding will support various grants, the Office of Violence Against Women, and the Office of Tribal Justice. The budget request for DOJ includes:

- \$104.7 million at the Office of Violence Against Women (OVW) to support various Tribal grants and initiatives (a \$23.7 million over FY 2023 enacted)
- \$5 million for the Tribal Access Program (TAP), (+\$5 million over FY 2023 enacted)
- \$30 million for Tribal Youth programs within DOJ’s Juvenile Justice and Safety Programs (+\$13 million over FY 2023 enacted)
- \$40 million for the Tribal Resources Grant Program (+\$6 million over FY 2023 enacted)
- Under the mandatory side of the budget, the Tribal Victims of Violence Grant line item received a \$35 million reduction request to \$60 million for FY 2024.

Administration for Children and Families (ACF)

The President’s FY 2024 Budget Request includes \$87.5 million for Native American Programs at ACF, as well as increases for programs for which Tribal Nations are eligible. Requests for the ACF include—

- \$5 million for Native language programs;
- \$70 million for Native American Nutrition and Supportive Services;
- \$15 million for the Strengthening Trauma Resiliency of Native Grant demonstration project;
- \$7 million for the Tribal Integrated Early Education Services demonstration project (legislative action would be required for this project);
- A 2% Tribal set-aside of the \$770 million for the Community Services Block Grant (a minimum of \$10,000 per Tribal Nation); and
- A 10% Tribal set-aside of the \$491 million requested for the Family Violence Prevention and Services Act Program.

Centers for Disease Control and Prevention (CDC)

For FY 2024 the Administration has mostly requested funding equal to that provided in the FY 2023 enacted levels, despite Tribal advocacy for increases. The proposed budget for CDC includes—

- \$6.79 million for Tribal Epidemiology Centers for Public Health Infrastructure (level with FY 2023 enacted);

- \$5.35 million for Tribal Practices for Wellness in Indian Country (level with FY 2023 enacted); and
- \$24 million for the Good Health and Wellness in Indian Country Program (level with FY 2023 enacted).

Department of Housing and Urban Development

The President’s FY 2024 Budget Request proposes \$1.1 billion for Native American Programs (+1.6% over FY 2023 enacted level). Proposed funding at HUD includes—

- \$820 million in formula grants for the Indian Housing Block Grant (IHBG) Program (+\$33 million over FY 2023 enacted level), and \$150 million for IHBG competitive grants;
- \$75 million for the Indian Community Development Block Grant (ICDBG) Program;
- \$906,000 in credit subsidy for the Section 184 Program (-\$4.6 million of FY 2023 enacted level); and
- \$1 billion to fund Tribal efforts to expand affordable housing, improve housing conditions and infrastructure, and increase economic opportunities for low-income families. Of this, \$150 million would prioritize activities to advance resilience and energy efficiency in housing-related projects.

Environmental Protection Agency (EPA)

The Request proposes a total of \$12.8 billion for the EPA, an increase of \$1.9 billion over the FY 2023 enacted level. The Request prioritizes and includes the following proposals affecting Tribal Nations—

- \$34.7 million in Tribal Capacity Building Grants, an increase of \$20 million;
- \$142.6 million for Drinking Water Programs, an increase of \$21 million;
- \$5.9 million for Environmental Justice, an increase of \$12,000; and
- \$5.9 billion for State and Tribal Assistance Grants, an increase of \$1.4 billion.

As always, it is important to remember that the President’s Budget Request is just a starting point for negotiations with Congress, as only Congress has the power to appropriate funding. Congressional appropriators remain at the beginning of the annual appropriations process, with no appropriations bills introduced in either chamber. Congress will need to enact all twelve appropriations bills by September 30, 2023 or pass a [Continuing Resolution](#) in order to avoid a government shutdown at the beginning of FY 2024. USET SPF continues to monitor progress on appropriations and will provide further information as it becomes available.

USET SPF Testifies Before Congress on FY 2024 Appropriations

On March 8, 2023, USET SPF President, Chief Kirk Francis, appeared before the House Appropriations Subcommittee on Interior, Environment, and Related Agencies to provide [testimony](#) on our regional budget priorities during annual American Indian and Alaska Native Public Witness Hearings. To view a recording of President Francis' testimony, please [click here](#). USET SPF also provided [our priorities](#)

to the Office of Management and Budget in October 2022 to inform its preparation of the President's Request.

In addition to advocating for funding increases for regional priority budget line items at the Bureau of Indian Affairs and Indian Health Service (IHS), USET SPF's testimony urges increased funding for Tribal Historic Preservation, increased funding and self-governance authority for the Special Diabetes Program for Indians, funding for the White House Council on Native American Affairs, and funding and permanency for Treasury's Office of Tribal and Native Affairs, among other priorities. We also support and call upon OMB and the Administration to work with Tribal Nations on a more detailed mandatory funding proposal for the IHS, correct longstanding failures in the federal budgeting process, and support a Marshall Plan for Tribal Nations.

Additionally, on March 27th, USET SPF joined staffers with the Senate Committee on Indian Affairs (SCIA) in a briefing to provide our funding priorities for FY 2024. Though informal, SCIA utilizes these briefings to prepare a "views and estimates" letter to be transmitted to the Senate Budget Committee as it sets topline and subcommittee spending thresholds.

As Congress works through the annual appropriations process, USET SPF will continue to monitor its progress and provide advocacy on behalf of our organizational priorities as it proceeds.

Congress

USET SPF Submits Testimony for the Record of SCIA Hearing, "Native Communities' Priorities for the 118th Congress"

On March 22, 2023, USET SPF submitted [testimony for the record](#) to the Senate Committee on Indian Affairs (SCIA) on the oversight hearing on, "Native communities' priorities for the 118th Congress."

We emphasized our continued advocacy to seek foundational and systemic change to the Nation-to-Nation relationship between Tribal Nations and the United States to lead to a more appropriate, respectful, honorable, and modern diplomatic relationship for the 21st century. USET SPF urged SCIA to harness its long history of bipartisanship to enact bold, transformative policy that will have lasting impacts on the trust and treaty obligation and relationship.

Our testimony recommended expansion of Tribal 638 self-governance capabilities across all federal programs. The federal government must move beyond the piecemeal grant method and other fund allocation efforts that do not uphold trust and treaty obligations. Expansion of Tribal 638 authority would empower Tribal Nations to have real decision-making in the management of our own affairs and assets. Furthermore, we urged full and mandatory funding for federal trust and treaty obligations. We noted that, while appreciated, advance appropriations for programs and service delivery, such as the advance appropriations authorized by Congress to the Indian Health Service, are only a temporary funding mechanism.

USET SPF also reminded SCIA of the need to enact short- and long-term solutions to restrictive settlement acts, which have limited some of USET SPF's member Tribal Nations from exercising criminal and civil jurisdiction over our lands. Additionally, we urged SCIA and Congress to support the restoration of Tribal Homelands and enact a 'Carcieri Fix' as well as an investment in a Marshall

Plan for Tribal Nations to rebuild and restore Tribal infrastructures. USET SPF also emphasized that SCIA and Congress must ensure that federal tax law treats Tribal Nations in a manner consistent with our sovereign governmental status, as well as address issues of dual taxation in Indian Country.

Culture & Heritage

USET SPF Submits Comments to DOI on NAGPRA Proposed Rule

On January 31, 2023, USET SPF submitted [comments](#) to the Department of the Interior (DOI) in response to a proposed rule to revise the Native American Graves Protection and Repatriation Act (NAGPRA) regulations. NAGPRA was enacted by Congress in November 1990 to establish a process for Tribal Nations to protect and bring home our ancestors, our funerary sacred items, and items of sacred and cultural importance that were stolen from our people or otherwise illegitimately obtained. USET SPF previously submitted [comments](#) to DOI on September 30, 2021 in response to the Tribal consultations held in August 2021 regarding proposed revisions to the NAGPRA regulations that were initiated under the Trump Administration.

Moving past the proposed revisions initiated by the Trump Administration, we expressed support for DOI's renewed efforts to streamline requirements for federal agencies and federally funded museums to identify ancestors and sacred, cultural items in inventories to begin the repatriation process to Tribal Nations. Our January 2023 comments emphasized that language regarding Tribal consultation requirements should be explicitly referenced throughout the NAGPRA regulations, requirements for consultation with Tribal Nations on Comprehensive Agreements, and strengthening of civil penalties for NAGPRA violations. USET SPF will continue to monitor this proceeding and provide an update to our member Tribal Nations if DOI initiates another rulemaking or proceeds in publishing a Final Rule on its revised NAGPRA regulations.

USET SPF Submits Comments to Department of Education on National Native Language Resource Center

On February 10, 2023, USET SPF submitted [comments](#) to the Department of Education's Office of Indian Education, in response to a Tribal consultation held on January 10, 2023 on the development of a National Native American Language Resource Center (NNALRC). This initiative is mandated by the Native American Language Resource Center Act of 2022 (P.L. 117-335) and directed the Secretary of Education to make a grant to, or enter into a contractual agreement with, eligible entities to establish, operate, and staff an NNALRC. USET SPF emphasized that Native language revitalization and preservation is highly important to our member Tribal Nations, especially since our member Nations were the first to contend with the harmful and disastrous effects of assimilation and other attempts to destroy our cultures and languages. We recommended that the Department of Education prioritize funding through contractual agreements and ensure funding coordinates language revitalization, preservation, and retention through a regional focus.

USET SPF also recommended that the development of online tools, curriculum, and other resources should be developed by Tribal Nations. Additionally, throughout P.L. 117-335, the NNALRC is

charged with supporting Tribal-state partnerships for the use of Native languages in higher education programs in the same manner as other world languages. Although USET SPF did not express opposition to this practice, we stated that the Department of Education and the NNALRC must ensure that federal funds are not allocated without established agreements between a Tribal Nation, or consortium of Tribal Nations, to develop such partnerships for the instruction of Native languages at institutions of higher education. Furthermore, we recommended that the Department must ensure that Tribal Nations are empowered to set the parameters of these agreements, especially in the use of online tools, libraries, dictionaries, and other language materials that may be developed and stored in both physical and cloud-based locations. At the time of this publication, the Department of Education has not yet announced how the NNALRC will be structured or how language revitalization and preservation efforts will be funded. USET SPF will continue to monitor the progress of the establishing a NNALRC and continue to advocate for direct support to our member Tribal Nations pursuing Native language revitalization and preservation efforts.

Economic Development

USET SPF Submits Testimony for the Record of House Natural Resources Hearing, “Unlocking Indian Country’s Economic Potential”

On March 15, 2023, USET SPF submitted [testimony for the record](#) to the House Subcommittee on Indian and Insular Affairs (SIIA) on the March 1, 2023 oversight hearing, “Unlocking Indian Country’s Economic Potential.” The inaugural hearing of SIIA in the 118th Congress focused on the challenges Indian Country faces in pursuing economic opportunities due to the complex status and restrictions imposed on Tribal Lands. However, our testimony emphasized that this issue is just one example of the barriers that persist as a direct result of shameful federal policies that sought to terminate Tribal Nations, assimilate Native people, and to erode Tribal territories, learning, cultures, and economies. USET SPF also stated that the management and funding systems of federal programs continue to operate under an archaic model of paternalism that does not support Tribal Nation sovereignty and self-determination.

In addition to addressing land use and restrictions, USET SPF offered several additional priorities that must also receive the same consideration from Congress and the Subcommittee to empower Tribal Nations to pursue efforts in Nation rebuilding. These included support for the restoration of Tribal homelands, tax parity, and the expansion of self-governance contracting and compacting across the federal government. We also expressed concern regarding legislative proposals to streamline environmental review processes and other proposed revisions to the National Environmental Policy Act (NEPA), support for the restoration of Tribal Homelands through a ‘Carceri Fix’, and prioritizing investment in and the rebuilding of Tribal infrastructure through a Marshall Plan for Tribal Nations.

USET SPF Submits Comments to Treasury on Tribal Consultation Policy

On March 31, 2023, USET SPF submitted [comments](#) to Treasury in response to a Tribal consultation held on March 8, 2023 to revise its Tribal Consultation Policy, which was last updated in 2015. Prior to this consultation, USET SPF participated in and submitted comments in April 2021 to the inter-agency joint Tribal consultations held by Treasury, the Department of Veterans Affairs, the Social Security Administration, and the Small Business Administration.

We expressed appreciation for Treasury's follow-up to specifically update and revise its 2015 Tribal Consultation Policy, as well as its request for input from Tribal Nations prior to releasing any proposed revisions. USET SPF's comments reiterated some of the recommendations we submitted to the inter-agency joint Tribal consultations held in April 2021, but with additional recommendations based on Treasury's questions in its Dear Tribal Leader Letter regarding the "Uniform Standards for Tribal Consultation" issued by President Biden on December 5, 2022. Once a draft of proposed revisions to Treasury's 2015 Tribal Consultation Policy is released, USET SPF will provide additional comments and recommendations as needed. We will also provide updates on this process as well as inform USET SPF's member Tribal Nations of any future consultations that may be scheduled once Treasury releases its draft of proposed revisions to its 2015 Tribal Consultation Policy.

Health

HHS National and Regional Tribal Budget Consultations Upcoming, USET SPF Provides Talking Points

On February 16, 2023, the Department of Health and Human Services (HHS) announced that the HHS Annual Tribal Budget Consultation (ATBC) will be held on April 18-19, 2023 at the Hubert Humphrey Building in Washington, DC. Additionally, HHS released the dates for the 2023 regional Tribal budget consultations. More information on the meetings can be found in the [Dear Tribal Leader Letter](#).

The ATBC provides a forum for Tribal Nations to share our views and priorities with HHS officials on national health funding priorities and make recommendations for the agency's Fiscal Year (FY) 2025 budget request. In accordance with HHS's Tribal Consultation Policy, written comments on the HHS FY 2025 budget may also be submitted for the consultation record to consultation@hhs.gov through May 19, 2023.

Following the ABTC, HHS Regional Tribal Consultations to be held in the USET SPF region will be on the following dates:

- HHS Region 2: June 6, 2023
- HHS Region 1: June 27, 2023
- HHS Region 3: July 19, 2023
- HHS Region 6: August 22-24, 2023
- HHS Region 4: August 30-31, 2023

As we have in the past, USET SPF provides a series of [talking points](#) for the use of our member Tribal Nations during both the ATBC and the Regional Tribal Consultation sessions. These talking points will be updated in advance of each regional consultation.

USET SPF Submits Comments on HHS Tribal Consultation Policy

On January 27, 2023, USET SPF [submitted comments](#) to the Department of Health and Human Services (HHS) in response to the agency's request to engage in Tribal consultation on strengthening the HHS Tribal Consultation policy pursuant to President Biden's Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships. In our comments, we underscored the importance of commitment to focusing on meaningful Tribal consultation, but reminded the agency that these actions alone are not sufficient to address systemic failures in the various consultation processes across the federal government.

USET SPF reminded HHS that consultation is an essential part of the federal trust responsibility and obligations, and it is borne out of the sacred and unique relationship between the federal government and Tribal Nations as well as numerous treaties, court cases, laws, and executive actions. However, consultation policies and processes often do not hold agencies accountable for implementing the guidance of Tribal Nations, leading to failures in the delivery of trust and treaty obligations. Importantly, we were concerned that the HHS Tribal consultation policy fails to specifically acknowledge HHS's role in fulfilling the U.S.'s trust and treaty responsibilities and obligations. We urged HHS to take this opportunity to align itself with the Presidential Memorandum on Uniform Standards for Tribal Consultation and explicitly acknowledge the Nation-to-Nation relationship between the US and Tribal Nations and the responsibilities that relationship entails.

Our comments also highlighted the importance of expanding self-governance contracting and compacting within HHS Divisions and programs. While the HHS Tribal consultation policy indicated it would "explore legal mechanisms to directly fund Tribes" it is the continued position of USET SPF that that all federal programs and dollars be made eligible for inclusion in self-governance contracts and compacts. We continue to support efforts to expand ISDEAA to various agencies throughout HHS. USET SPF strongly supports Congressional efforts to expand self-governance authorities, and urge HHS to do the same.

In our comments USET SPF also reminded HHS that Tribal consultation occurs on a Nation-to-Nation basis. Therefore, Alaskan Native Corporations (ANCs), which are for-profit entities and not Tribal governments, do not enjoy a consultative relationship with the United States. We acknowledge that HHS and its Divisions may have cause to seek the input of ANCs on various issues, but we assert that Tribal consultation is reserved for Tribal governments. We note that while other federal agencies and departments reserve Tribal consultation for Tribal Nations, several seek the input of non-governmental Tribal entities through a 'confer' process, including the IHS. As a result, USET SPF recommended that HHS remove references to ANCs in the policy.

USET SPF also urged HHS to pursue consent-seeking mechanisms in their actions and policies. We have long advocated for a Tribal Nation-defined model of consultation with dual consent as the basis for strong and respectful diplomatic relations between equal sovereign nations. Other recommendations in our comments included clarifying the role and definition of Tribal

Organizations in the policy. We also reminded HHS that the federal trust responsibility lies solely with the federal government and may not be delegated to states.

USET SPF Leads Joint Letter to OMB Supporting Funds for the Native Behavioral Health Resources Program

On February 17, 2023, USET SPF, joined by three partner organizations, [sent a letter](#) to Office of Management and Budget (OMB) Director, Shalanda Young, urging inclusion of the full authorized level of \$80 million in the President's Fiscal Year (FY) 2024 Budget Request for the Native Behavioral Health Resources Program as included in the Restoring Hope for Mental Health and Well-Being Act.

The Act, which was included as part of the Consolidated Appropriations Act of 2022, authorizes \$80 million in funding for each of the fiscal years 2023-2027 to the Substance Abuse and Mental Health Services Administration (SAMHSA) to award mental health and substance use disorder prevention, treatment and recovery services formula grants, with the possibility of receiving funds through Indian Self-Determination and Education Assistance Act (ISDEAA) contracts and compacts. However, the provision has yet to be appropriated any funds.

To combat the opioid epidemic and the broader behavioral health crisis in Indian Country, Tribal Nations and facilities across the Indian Health System require flexible and substantial funding to create behavioral health programs that are responsive to our unique circumstances. While our original advocacy urged greater resources and flexibility, we are now advocating for the full authorized level of \$80 million for the Native Behavioral Health Resources Program. We urge OMB to include the \$80 million for the program in the President's FY 2024 Budget Request as a first step toward funding the program through the congressional appropriations process. USET SPF will continue to advocate for these and greater resources, and for broader access to federal mental health and substance use disorder programs for Tribal Nations.

USET SPF Continues to Monitor Public Health Emergency/Medicaid Unwinding

As of February 1, 2023, states may begin reevaluating the Medicaid eligibility status of millions of people who have remained covered by Medicaid through the COVID-19 pandemic. Since March 2020, states have been required to refrain from removing anyone from their Medicaid rolls in exchange for additional federal funding. In December 2022, Congress separated this “continuous coverage requirement” from the federal public health emergency (PHE) and decided that states could resume eligibility redeterminations on February 1, 2023 and begin removing people from the Medicaid rolls as early as April 1, 2023. All states must begin their unwinding process by the end of April 2023.

The Biden Administration also announced that the PHE will end on May 11, 2023. The end of the PHE marks the end of additional federal funding for Medicaid and the Children's Health Insurance Program (CHIP), as well as the end of several flexibilities for health care providers and facilities.

During the redetermination process, state Medicaid offices will request information, like income or residency information, from Medicaid beneficiaries—often through the mail. These letters often go unreturned or are sent to incorrect addresses, which could lead to beneficiaries being wrongfully denied Medicaid coverage. In some states, experts are predicting that upwards of 30% of eligible Medicaid recipients could lose their coverage [by not responding to requests for information](#). Given

the importance of Medicaid reimbursements to the Indian Health System, loss of coverage for our patients could have devastating effects for the provision of care at our facilities.

It is vital that Medicaid beneficiaries update their address information and take care to respond to any information requests from state Medicaid offices. USET SPF urges member Tribal Nations to begin planning to assist Medicaid eligible patients through this process. While states officially have a [year to complete their unwinding process once they begin](#), many states plan to initiate the redetermination process as quickly as possible. Georgetown University has created a [map showcasing each state's progress on redetermination](#) and a [spreadsheet of state-specific documents related to unwinding](#). Information on when states are expected to begin the Medicaid unwinding process, as well as additional resources on unwinding can be found on the [USET SPF Medicaid Unwinding webpage](#).

USET SPF Submits Comments on VA Copayment Exemption for AIAN Veterans

On February 13, 2023, USET SPF submitted [comments](#) in response to the Department of Veteran's Affairs' (VA) request for comment on the VA copayment exemption for American Indian and Alaska Native (AI/AN) veterans. USET SPF has long sought this exemption, as subjecting AI/AN veterans to co-pays for the health care to which they are entitled is a violation of federal trust and treaty obligations. USET SPF is strongly supportive of the effort to implement this policy following its codification in 2021, but offered additional comments to the agency regarding facets of the policy that could be changed to better serve Tribal Nations.

AI/AN veterans serve in the military at higher rates per capita than any other group in the nation, and the VA itself has found that Native American veterans are more likely to have a service-connected disability than non-Native veterans. In addition, AI/AN veterans also often face significant disparities in care compared to other veterans. Particularly in the USET SPF region, AI/AN veterans face a lack of services due to their remote locations, often the chronically underfunded Indian Health Service (IHS) or Tribally-operated health facilities are their only option for care. USET SPF is strongly supportive of removing copayment requirements for AIAN veterans. AI/AN veterans prepaid for their healthcare through the cession of their Tribal homelands to form the United States.

Removal of the copayment requirement for AI/AN veterans is long overdue. AI/AN veterans prepaid for their healthcare first through the cession of our homelands to create the United States, and then through their service and sacrifice for this nation. USET SPF appreciates the elimination of the majority of copayment requirements, but strongly urged the VA to consider full elimination of all payment requirements, in line with the services available through the Indian Health Service. Additionally, VA must take care to properly implement this policy to ensure no additional burdens are placed on AI/AN veterans, and that culturally appropriate and sensitive care is provided to AI/AN veterans at each step of the process.

Infrastructure

USET SPF Submits Comments to DOI on IRA Funding

On January 17, 2023, USET SPF submitted [comments](#) to the Department of the Interior (DOI) in response to Tribal consultations held on funding for energy projects authorized by the Inflation Reduction Act of 2022 (IRA). On November 17, 2022, the IRA was signed into law, which included investments to address our climate crisis, lower costs for working families, and create job opportunities for our communities. The IRA authorized \$6.6 billion in direct funding to the Department of the Interior (DOI) to assist in the transition to a clean energy economy, advance key habitat restoration and land resilience projects, and secure environmental justice for disadvantaged communities. The total funding included a \$385 million investment for the Bureau of Indian Affairs (BIA) for climate resilience and adaptation, hatchery needs, and a new Tribal Nation electrification program.

Although USET SPF expressed general support for the equitable disbursement of these funds, we expressed concerns regarding the method for allocation of funds, especially through a grant process in competition with state and local governments. Furthermore, we recommended that DOI ensure that appropriate and advance notice of Tribal consultation is initiated prior to the construction of renewable energy projects that could potentially harm sacred sites and submerged areas of cultural significance. USET SPF will continue to monitor the implementation of these IRA funds by BIA.

USET SPF Submits Comments to FPISC re: Funding Transfers to Tribal Nations for FAST-41 Projects

On March 10, 2023, USET SPF submitted [comments](#) to the Federal Permitting Improvement Steering Committee (FPISC) in response to Tribal consultations held on funding transfers to Tribal Nations for the purposes of reviewing FAST-41 covered infrastructure projects (FAST-41 projects). Covered FAST-41 projects include those pertaining to renewable and conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, mining, and carbon capture. FPISC has also created a Permitting Dashboard website, which lists all FAST-41 projects currently identified as planned, in progress, cancelled, or completed. To support Tribal Nations, in December 2022, FPISC announced it was making an initial allocation of \$5 million to transfer to Tribal Nations for the permitting review and authorization process of FAST-41 projects. During several consultations held throughout February 2023, FPISC sought input from Tribal Nations to develop criteria for what types of resources and activities would be eligible for funding from the \$5 million allocation. USET SPF expressed support for FPISC's decision to set aside this initial allocation, however, we stated that these funds are insufficient to address the review processes of FAST-41 projects.

Due to the discretionary nature of these funds, we urged further allocations from FPISC, as well as the Council's support and advocacy for additional funding for Tribal Nations to be active participants in the environmental review processes for FAST-41 projects. This would not only ensure we have the necessary funds needed to protect our cultural resources, sacred sites, natural resources, and the public health of our communities, but also benefit the federal government and project proponents since it would facilitate prompt, efficient, and informed reviews of these projects. Our comments

recommended that the award of these funds should be conducted through P.L. 93-638 contract and compact agreements with Tribal Nations and increased funding from FPISC and its member federal agencies for technical assistance and Tribal Historic Preservation Officers.

USET SPF's comments also emphasized that several of our member Tribal Nations are contending with the impacts of the deployment of offshore wind energy projects. We cited concerns regarding the failure of the Bureau of Ocean Energy Management (BOEM) to conduct appropriate consultation and engagement with Tribal Nations prior to the approval of permits for these projects. Several of these projects are currently under construction and additional project proposals are currently being considered while several Tribal Nations, within the USET SPF region and otherwise, continue to raise concerns about potential threats to submerged sites of cultural significance, natural and environmental resources, and aquatic life. USET SPF shared USET SPF Resolution No. 2023 SPF:013 with FPISC, which urges a temporary moratorium on BOEM's offshore wind scoping and permitting processes until a Nationwide Programmatic Agreement (NPA) is developed and agreed upon with Tribal Nations.

FPISC has yet to announce how it will award the \$5 million funding transfer to Tribal Nations for the review of FAST-41 projects. USET SPF will continue to monitor this and advocate for increased allocations from FPISC and its member federal agencies to support and provide resources to Tribal Nations for the review of FAST-41 infrastructure projects. We will also continue to urge FPISC to work with federal agencies, such as BOEM, to address Tribal concerns regarding FAST-41 project planning, scoping, permitting, and deployment.

USET SPF Submits Comments to FEMA re: Build America, Buy America Act

On January 9, 2023, USET SPF submitted [comments](#) in response to the Tribal consultation on the Build America, Buy America Act (BABAA) hosted by the Federal Emergency Management Agency (FEMA) on December 8, 2022. Included in the Infrastructure Investment and Jobs Act, BABAA established a new purchasing preference for American-made products to be utilized in all federally funded infrastructure projects. Despite ongoing federal efforts to consult with Tribal Nations as well as temporary general applicability exemptions, USET SPF's comments express concern that Tribal Nations will be affected disproportionately by BABAA. Some federal agencies are seeking, and some have received, BABAA waivers for programs that Tribal Nations access. However, we strongly recommend that all Tribal Nations receive a blanket exemption from BABAA, which would be consistent with the federal government's stated commitment to uphold Executive Order 13175.

To better deliver upon trust and treaty obligations, as well as prevent delays in long-awaited infrastructure construction on Tribal Lands, USET SPF urged FEMA to provide a General Applicability Waiver from the requirements of BABAA to Tribal Nation projects. On February 6, 2023, FEMA announced that it would be providing a six month [General Applicability Waiver](#) to all Tribal recipients and subrecipients as it continues to consult with Tribal Nations on the application of BABAA. The waiver is currently scheduled to expire on August 6, 2023. We look forward to continued consultation from FEMA and other federal agencies on this issue to ensure Indian Country's infrastructure priorities are addressed in all federal funding efforts.

USET SPF Continues Advocacy Around White Paper Advocating for Marshall Plan for Tribal Nations

For several years now, USET SPF had included in its budget and infrastructure advocacy support for a Marshall Plan for Tribal Nations. For generations, the federal government – despite abiding trust and treaty obligations – has substantially under-invested in Indian Country’s infrastructure. While the United States faces crumbling infrastructure nationally, there are many in Indian Country who lack even basic infrastructure. Following insufficient levels of funding for Tribal Nations in the Infrastructure Investment and Jobs Act, the United States must commit to supporting the rebuilding and restoration of the sovereign Tribal Nations that exist within its domestic borders. Much like the U.S. investment in the rebuilding European nations following World War II via the Marshall Plan, the legislative and executive branches should commit to the same level of responsibility to assisting in the rebuilding of Tribal Nations, as our current circumstances are, in large part, directly attributable to the shameful acts and policies of the United States. In the same way the Marshall Plan acknowledged America’s debt to European sovereigns and was utilized to strengthen our relationships and security abroad, the United States should make this strategic investment domestically. Strong Tribal Nations will result in a strengthened United States.

In an effort to intensify our advocacy around a Marshall Plan for Tribal Nations, as well as spur Congressional action to make this proposal a reality, USET SPF has drafted a [white paper](#) articulating the necessity and our vision for this investment. Following our presentation on this visionary proposal at our 2022 Annual meeting, USET SPF has been pursuing endorsements from partner organizations, receiving several over the last few months. We also plan on conducting outreach and education with Congress and the Administration later this year. We will provide updates and opportunities to elevate this concept as they become available.

Land

USET SPF Submits Comments to DOI on Proposed Revisions to 25 CFR Parts 151 and 293

On February 28, 2023, USET SPF submitted [comments](#) in response to the Department of the Interior’s (DOI) Proposed Rules revising [25 C.F.R. Part 151](#) (Land Acquisition) and [25 C.F.R. Part 293](#) (Class III Tribal State Gaming Compact Process). USET SPF continues to be encouraged by DOI’s focus on Tribal homelands restoration, including this proceeding. As you know, 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 current processes for lands protection and restoration do not fully honor or uphold Tribal sovereignty and its trust and treaty obligations. We are pleased to see, then, DOI commit to improvements that will better facilitate the swift return of our homelands and their unqualified protection, as well as increased Tribal ownership and control.

In general, USET SPF strongly supports DOI’s Proposed Rulemaking revisions to 25 C.F.R. Part 151. We agree that what DOI has proposed is likely to lead to a more efficient, less cumbersome, and less

expensive fee-to-trust process. In particular, we extend our appreciation to DOI and to Assistant Secretary Newland for the codification of procedures for determining whether a Tribal Nation was ‘under federal jurisdiction’ in 1934. We share the Department’s other priorities as they pertain to its proposed revisions. We agree that it is critical for DOI to affirmatively favor trust land acquisition for Tribal Nations in these regulations and to approach fee-to-trust applications from this perspective. In addition, departmental deadlines for notification and decision-making following receipt of a completed application have long been sought by Tribal Nations. We are particularly appreciative of the Department incorporating our recommendation that DOI be required to issue notice of completed application within 30 days, in addition to the previously proposed requirement that it issue a decision within 120 days. And finally, we support the streamlining of the various processes for DOI’s for forms of acquisition, underscoring our strong support for the inclusion and intention behind “Initial Indian Acquisitions.”

While we support these revisions, we continue to offer additional recommendations in an effort to further refine and strengthen Part 151. USET SPF continues to support the Administration’s renewed focus on the protection and restoration of Tribal homelands, and efforts to ensure that the land-into-trust process better serves these aims. We urge the Department to commit to additional significant and lasting improvements in this space, and look forward to the finalization of these regulations.

Litigation

USET SPF Joins Amicus Brief in *Lac Du Flambeau v. Coughlin*

USET SPF has joined eight Tribal Nations and the National Congress of American Indians on an [amicus brief](#) to the Supreme Court in the case of *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin*. The question before the Court is whether the U.S. Bankruptcy Code expresses unequivocally Congress’ intent to abrogate the sovereign immunity of Tribal Nations. The case concerns a wholly owned subsidiary of the Lac du Flambeau Band of Lake Superior Chippewa Indians sought repayment of a \$1,100 debt after imposition of an automatic stay. The debtor sued, and the Tribal Nation invoked its sovereign immunity. The U.S. Bankruptcy Court agreed with the Tribal Nation that the Bankruptcy Code does not unequivocally abrogate Tribal sovereign immunity, but the U.S. Court of Appeals for the First Circuit disagreed.

The Tribal amicus brief urges the Supreme Court to avoid including Tribal Nations in the definition of “governmental units” under U.S. Bankruptcy Code and Congress has not explicitly abrogated Tribal sovereign immunity in this case. Further, Tribal Nations are engaged in extensive governmental and regulatory activities. In this role, they interact regularly with individuals and businesses that may become debtors under the United States Bankruptcy Code. Preserving the sovereign immunity of Tribal Nations in these instances is essential to preserving their rights to self-determination and self-governance.

On April 24, 2023, the U.S. Supreme Court heard oral arguments in *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin* ([No. 22-227](#)). A decision from the Court is expected by July 1, 2023. USET SPF will continue to monitor this case and provide updates as they develop.

2nd Circuit Rules in Favor of Seneca Nation in Thruway Case, State- Requested Rehearing Denied

On April 6, 2023, the U.S. Court of Appeals for the 2nd Circuit refused to reconsider its decision allowing the Seneca Nation to pursue its challenge to a portion of the New York State Thruway running through the Tribal Nation's homelands. "Appellants filed a petition for panel rehearing, or, in the alternative, for rehearing en banc," court Clerk Catherine O'Hagan Wolfe wrote. "The panel that determined the appeal has considered the request for panel rehearing, and the active members of the court have considered the request for rehearing en banc. It is hereby ordered that the petition is denied."

The rehearing bid came after [a split Second Circuit in January](#) found that the Seneca Nation could move forward with its suit against state officials in federal court, affirming the lower court's rejection of state officials' dismissal effort. The April decision further supports Seneca's pursuit of justice in this case.

On November 19, 2021, 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. 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.

Distribution of Tribal Opioid Settlement Funds to Begin Soon

Distribution of settlement funds from nine Tribal opioid settlements—totaling over \$1 billion for the prevention and abatement of the opioid crisis in Indian Country over the next 15 years—will begin as early as May or June of this year. All federally recognized Tribal Nations are eligible to receive a share of the settlement payments, provided they have submitted the required participation forms and payment information.

Tribal opioid settlements have now been finalized with nine defendant entities: manufacturers Janssen (Johnson & Johnson), Teva, and Allergan; distributors AmerisourceBergen, McKesson, and Cardinal Health; and pharmacies Walgreens, Walmart, and CVS. Pursuant to the settlement agreements, settlement funds will be turned over to a series of Tribal Abatement Fund Trusts (TAFTs), which will make annual payment distributions directly to federally recognized Tribal Nations and Alaska Tribal Health Organizations. The initial Directors (Trustees) of the TAFTs are former Acting Director of the Indian Health Service Mary Smith; former Assistant Secretary for Indian Affairs Kevin Washburn; and financial expert and Chair of the Board of Trustees for the Smithsonian National Museum of the American Indian, Kathy Hannan.

On March 27, 2023, the TAFT Directors released a [letter](#) to all Tribal Nations announcing that they intend to make two distributions in Calendar Year 2023, and that the first payment is likely to go out in late spring or early summer. In order to make those distributions, the TAFT Directors are

requesting that Tribal Nations submit a completed IRS Form W-9 as well as a Payment Election Form to provide their payment receipt selection (wire or check).

As more fully explained in the above letter, the required forms can be accessed, completed, and submitted through an online settlement portal. A Tribal Nation can request access to the online portal by emailing NATO@browngreer.com, and navigating to the log in page on the tribal opioid settlement website at <https://www.tribalopioidsettlements.com/>. Additional information and documents relating to each of the settlements are also available on the website.

In order to receive payments from the Tribal opioid settlement, **a Tribal Nation must have submitted executed participation forms for each of the settlements.** The participation forms, along with instructions for submitting them, can also be found on the settlement website.

Tribal Nations that have *not* already submitted signed participation forms have **three years** from the effective date of each settlement to join. However, because payments will begin in the next few months, Tribal Nations are encouraged to submit participation forms and payment information as soon as possible so that they can receive their share of settlement funds as soon as those funds become available. The initial payments will be allocated according to a recent [partial allocation order](#) and must be used for one or more of the approved abatement activities identified in the settlement agreements.

USET SPF will continue to monitor developments in the settlements and will provide updates as they become available.

Restrictive Settlement Acts

Wabanaki Tribal Nations Provide ‘State of the Tribes’ Address to Maine Legislature regarding MICSA

On March 16, 2023, the leaders of the five Wabanaki Tribal Nations—the Houlton Band of Maliseet Indians, the Mi’kmaq Nation, the Passamaquoddy Tribe – Indian Township, the Passamaquoddy Tribe – Pleasant Point, and the Penobscot Indian Nation—addressed the Maine state legislature for the first time in 21 years. The remarks of the five Chiefs centered primarily on the 1980 Maine Indian Claims Settlement Act (MICSA), a law that severely restricts Tribal jurisdiction, as well as the exercise of sovereignty and self-governance by empowering the state government to block the applicability of federal Indian policy in Maine. Despite continued advocacy from the Tribal Nations and others, necessary changes to MICSA remain unaddressed.

“Yet in Maine, we are stuck in 1980s policy,” said Penobscot Chief Kirk Francis in his address. “And the tribes have had to commit significant resources to trying to advocate on a case-by-case basis to be included in federal laws that are passed and are supposed to apply to us.”

USET SPF continues to assert that Congress did not intend these land claim settlements to forever prevent a handful of Tribal Nations from taking advantage of beneficial laws meant to further recognize the exercise of our sovereignty and improve the health, general welfare, and safety of Tribal communities. We support the efforts of the Wabanaki Tribal Nations, as well as all of our

member Tribal Nations adversely affected by restrictive settlement acts, and continue to advocate for change at the federal level.

The full address can be viewed [here](#).

Taxation

USET SPF Submits Comments to Treasury on TTAC Dual Taxation Report

On March 31, 2023, USET SPF provided [comment](#) to the U.S. Department of Treasury (Treasury) in response to its February 28, 2023 consultation on the findings and recommendations released in the [Treasury Tribal Advisory Committee's \(TTAC\) Dual Taxation Report](#) adopted by the TTAC December 9, 2021. This was the second consultation period on the Dual Taxation Report, as Treasury felt it necessary to reprise the consultation under its new Office of Tribal and Native Affairs.

Through inequities in the tax code as well as state dual taxation, revenue generated within Indian Country continues to be taken outside its borders or otherwise falls victim to a lack of parity. In addition, Tribal Nations continue to lack many of the same benefits and flexibility offered to other units of government under the tax code. With this in mind, USET SPF welcomes the Dual Taxation Report and applauds the TTAC Dual Taxation Subcommittee for its work in highlighting this critical issue. We strongly agree with the Report's findings and recommendations and offer additional comments to further strengthen and refine its message. The U.S. government has a responsibility to ensure that federal tax law treats Tribal Nations in a manner consistent with our governmental status, as reflected under the U.S. Constitution and numerous federal laws, treaties and federal court decisions. Our comments urge Treasury to honor the guidance of Tribal Nations, the TTAC, and others in Indian Country as it seeks to address the problem of dual taxation.

USET SPF appreciates the opportunity to revive a conversation with Treasury around dual taxation via the Subcommittee's Report. Organizationally, we have united around the principle that economic activity taking place in Indian Country must generate revenue for the benefit of Tribal communities. Economic sovereignty is essential to Indian Country's ability to be self-determining and self-sufficient. Rebuilding of our Tribal Nations includes rebuilding of our Tribal economies as a core foundation of healthy and productive communities. As state and local governments reach into Tribal coffers and siphon away revenue, Tribal Nations lose the opportunity for economic growth and sovereignty. If Tribal Nations are ever to achieve parity with other communities in the United States, we must have the right to make the sovereign choice whether to assess taxes on our lands free from the overreach and interference of other governments levying their own taxes. Our comments call upon Treasury to ensure that this consultation is merely the beginning of Treasury's efforts to address this injustice. To do so would be nothing short of game-changing, and would truly reflect a commitment to Tribal self-determination on the part of the federal government.

USET SPF Submits Comments to Treasury on TTAC General Welfare Exclusion Report

On January 13, 2023, USET SPF provided [comment](#) to the U.S. Department of Treasury regarding the [Treasury Tribal Advisory Committee's \(TTAC\) report on the Tribal General Welfare Exclusion Act](#)



[\(TGWEA\)](#). Passage of the TGWEA at the end of the 113th Congress was an important step forward in recognizing and affirming the sovereign governmental rights and authorities of Tribal Nations to provide for the general welfare needs of our respective citizenry. Since then, USET SPF has urged that implementation of the law be in accordance with Congressional intent and in consultation with Tribal Nations. It is long past time that TGWEA should be fully implemented, and we urge this Administration to ensure that this occurs prior to its conclusion. We appreciate the efforts of the TTAC in soliciting Tribal comment in the development of its recommendations to the U.S. Department of Treasury. Treasury must ensure that its interpretation of the law upholds Tribal sovereignty and self-determination, especially through deference to Tribal Nation decision-making in accordance with Section 3 of Executive Order 13175 and the Indian Canons of Construction.

Nearly 10 years after passage of the TGWEA, USET SPF is pleased to see the Department of Treasury commitment to implementing the law through Tribal consultation. The TTAC's GWE Report represents a regulatory framework that supports the sovereign decisions of Tribal Nations, in accordance with the law and this Administration's stated policies. We ask that Treasury commit to revising its overall approach to our Nation-to-Nation relationship in a way that upholds the inherent sovereignty and self-determination of Tribal Nations and ensure this is memorialized through meaningful policy change.

Treasury and the TTAC are currently evaluating the comments received through this consultation. USET SPF will provide information regarding next steps, including the issuance of a proposed rule, when it becomes available.