



USET

SOVEREIGNTY PROTECTION FUND

1730 Rhode Island Avenue, NW
Suite 210
Washington, DC 20036
P: (615) 872-7900
F: (615) 872-7417
www.usetinc.org

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Tribal Infrastructure Development under Recently Enacted Laws Tribal Leader Talking Points White House Tribal Nations Summit 2023

Summary

For generations, the federal government – despite abiding moral and legal trust and treaty obligations – has both chronically failed to invest in and support Tribal Nation infrastructure, as well as committed hostile acts against Tribal governments, leading to the shameful conditions we face across Indian Country today. While the United States faces crumbling infrastructure nationally, there are many in Indian Country who lack even basic running water and passable roads. Indeed, there are hundreds of billions of dollars in unmet infrastructure obligations across Indian Country to include housing, transportation, judicial, health care, communication, among other forms that directly affect the safety, health, and wellness of Tribal citizens. In its 2018 Broken Promises report, the U.S. Commission on Civil Rights found that, “the funding of the federal trust responsibility and obligations remains “grossly inadequate” and a “barely perceptible and decreasing percentage of agency budgets.”

Under recently enacted federal infrastructure packages, including the Inflation Reduction Act (IRA) and the Infrastructure Investment and Jobs Act, Tribal Nations will now have access to over \$14 billion in direct funding and are eligible for billions more in funding through competitive grants, loans, loan guarantees, tax credits and contracts. With proper implementation, funding from these recent laws could be transformative for Tribal Nations and our infrastructure. However, it is critically important that Tribal Nations have awareness and access to these resources, and that our interests are represented as funding and reporting mechanisms are implemented.

In addition, the implementation of these new laws must be reflective of trust and treaty obligations to Tribal Nations, especially as these laws stand to spur infrastructure development across the United States, much of which will occur on our ancestral homelands, but outside currently held territories. Tribal Nations, along with our cultural preservation and natural resources departments, need to be prepared for the considerable increase in infrastructure projects requiring cultural and environmental review. While these reviews are legally mandated, Tribal Nations lack access to sufficient funding.

Talking Points/Recommendations

- **Tribal priorities for infrastructure funding include:**
 - Access to IRA and other infrastructure funding, which necessarily includes implementing programs in ways that work for Tribal Nations;
 - Equity in the distribution of funding between Tribal Nations and with other units of government;
 - Flexibility to respond to local conditions;
 - Streamlining in application and reporting processes; and
 - Protection for Tribal sovereignty, sacred/cultural sites, and public health
- **Funding for Tribal Historic Preservation.** Due to chronic underfunding, many Tribal Historic Preservation Offices (THPOs) are currently operating without the necessary personnel to conduct National Historic Preservation Act Section 106 reviews. THPOs are the protectors of irreplaceable resources: our cultures and spirituality. The explosion in infrastructure development that will be funded by the Inflation Reduction Act and Bipartisan Infrastructure Law is likely to overwhelm THPOs without additional funding and other resources. We urge the Administration to request and provide additional, increased resources for THPOs, so that we may protect our cultural and sacred sites.

Because there is Strength in Unity