



USET

SOVEREIGNTY PROTECTION FUND

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Transmitted Electronically

April 5, 2024

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250

Re: USDA Must Support the Expansion of P.L. 93-638 Contracting and Compacting Authority Throughout the Agency

Dear Secretary Vilsack,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we are writing to urge you to express your public support to the House and Senate Agriculture Committees for the expansion of 638 Indian self-determination contracting and Tribal self-governance compacting throughout the U.S. Department of Agriculture (USDA). For years, Tribal Nations have utilized 638 contracting and compacting to provide critical services to our communities in an effective manner that supports our sovereignty, self-determination, and Nation rebuilding efforts. The programs, services, functions, and activities Tribal Nations have provided under 638 contracting and compacting authorities are more complex to administer than most USDA programs, services, functions, and activities. From this work, we know firsthand that 638 contracting and compacting has consistently proven to be the most cost effective and efficient approach in administering federally funded programs in Indian Country. Congress has recognized the benefits of 638, as well, and, for these reasons, we strongly urge you to voice your support for the expansion of P.L. 93-638 contracting and compacting across all USDA programs. USET SPF strongly urges USDA to uphold its trust and treaty obligations to promote the sovereignty and self-determination of Tribal Nations, as well as comply with Executive Order 14112, by supporting the expansion of 638 contracting and compacting for all USDA programs.

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

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

advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

Support the Expansion of ISDEAA Contracting and Compacting Across All USDA Programs for Tribal Nations

Tribal Nations are political, sovereign entities whose status stems from the inherent sovereignty we have as self-governing peoples that pre-dates the founding of the United States. The U.S. Constitution, treaties, statutes, Executive Orders, and judicial decisions all recognize that the federal government has a fundamental trust relationship to Tribal Nations, including the obligation uphold the right to self-government. Our federal partners, including USDA, must fully recognize the inherent right of Tribal Nations to fully engage in self-determination and self-governance, so we may exercise full decision-making in the management of our own affairs and governmental services.

While Tribal Nations have experienced great success in exercising authority under P.L. 93-638, the Indian Self-Determination and Education Assistance Act (ISDEAA), the goals of self-governance have not been fully realized. Many opportunities still remain to improve and expand upon the principles of self-governance and self-determination. The expansion of self-determination contracting and self-governance compacting at USDA will not only empower us to better serve our citizens and communities, but it will also enhance our ability to administer USDA programs in co-management, stewardship, and agriculture; the deployment and maintenance of critical infrastructure; and pursuit of economic development on our lands. It is long-past time for Congress to enact legislation that expands our self-governance capabilities across the federal government so that we may fully exercise our inherent sovereign rights to manage our affairs and resources for the benefit of our people.

This is why Members of Congress have introduced several marker bills expanding 638 contracting and compacting capabilities to various USDA programs as well as establishment of an Office of Self-Governance at USDA. These marker bills include:

- **[S. 1780](#), PRIME Meat Processing in Indian Country Act** (*Food Safety and Inspection Service (FSIS) meat inspection*)
- **[S. 2354](#), the ARCTIC Act** (*Food Distribution Program on Indian Reservations (FDPIR), Forest Service, [Natural Resources Conservation Service](#), FSIS meat inspections, establishes an Office of Self-Governance*)
- **[S. 2489](#), FDPIR Tribal Food Sovereignty Act of 2023** (*FDPIR*)
- **[S. 2457](#), A bill to amend the Department of Agriculture Reorganization Act of 1994 to establish an Office of Self-Governance, and for other purposes** (*Establishes an Office of Self-Governance*)

We must move beyond piecemeal approaches directed at specific functions or programs and start ensuring that Tribal Nations have real decision-making in the management of our own affairs and assets. It is imperative that Tribal Nations have the expanded authority to redesign federal programs to appropriately serve our communities as well as have the authority to redistribute funds to administer services among different programs as necessary. To accomplish this requires a new framework and understanding that moves us further away from the current archaic, paternalistic approach of the federal government managing Tribal affairs, especially regarding the management of USDA programs, which exists as one of the largest agencies in the federal government.

Expansion of 638 Contracting and Compacting for USDA Programs Adheres to the Directives of EO 14112

Federal support for the expansion of 638 contracting and compacting upholds the directives of President Biden's recent [Executive Order 14112](#), "Reforming Federal Funding and Support for Tribal Nations to Better Embrace our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination." This Executive Order was issued to support our inherent sovereignty and self-determination to advance economic growth, pursue Nation rebuilding, and directly address the economic, social, and public health priorities of our citizens. Many current models of federal funding allocation, administration, and oversight remain reflective of a paternalistic, pre-self-determination era. This continues to stifle the proper management and use of federal resources by Tribal Nations, along with our efforts at genuine Nation rebuilding after centuries of hostile federal policies. In order to usher in a new era of Tribal self-determination, federal laws and regulations must be rescinded or revised to truly advance our sovereign efforts to pursue economic development and Nation rebuilding for the improved economic, social, and public health of our communities. **We remind USDA and Congress, however, that no level of economic success attained by Tribal Nations diminishes or eliminates the United States' moral and legal trust and treaty obligations to fully fund Tribal programs and services.** While ISDEAA 638 contracting and compacting was an initial, positive step forward in advancing our sovereignty and self-determination, the federal government must remove statutory and regulatory barriers for us to appropriately manage federal programs and funds for the benefit of our communities and citizens.

As a reflection of your support to improve the delivery of USDA services for Indian Country, we strongly urge you, Secretary Vilsack, to relay to Congress—and USDA staff—your unequivocal support for the expansion of 638 contracting and compacting to USDA programs. We look forward to working with you and your staff to ensure that the House and Senate Agriculture Committees are aware of your support for critical 638 contracting and compacting marker bills as we prepare for the upcoming Farm Bill. 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,



Chief Kirk Francis
President



Kitcki A. Carroll
Executive Director

CC:

House Agriculture Committee
Senate Agriculture Committee
House Natural Resources Subcommittee on Indigenous People
Senate Committee on Indian Affairs