



# USET

SOVEREIGNTY PROTECTION FUND

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*Transmitted Electronically*  
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December 13, 2024

Reneé Ferguson  
Director  
Office of Native American Partnerships  
Office of the Commissioner  
Social Security Administration  
1100 West High Rise  
6401 Security Blvd  
Baltimore, MD 21235

Dear Director Ferguson,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Tribal consultation hosted by the Social Security Administration (SSA) on its "Fiscal Year 2024 Tribal Consultation Call to Action Plan." This Plan seeks to meet six goals to uphold Executive Order (EO) 13175, "Consultation and Coordination with Indian Tribal Governments", as well as EO 14112, "Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination." USET SPF appreciates SSA's consultation on these EOs to advance the mission of SSA's program and service delivery. We offer the following comments on how SSA may improve its outreach and engagement with Tribal Nations and better fulfill its trust and treaty obligations. Awareness of and access to SSA programs and services are vital to Tribal Nations and our citizens. USET SPF encourages SSA to work proactively to improve Tribal citizen participation in these programs, as well as establishing a Commissioner's Tribal Advisory Committee.

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.

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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 Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

*Because there is Strength in Unity*

### **Support for Proactive Outreach and Education Efforts**

USET SPF appreciates the efforts SSA has taken over last year to advance the goals and objectives of its Tribal Consultation Call to Action Plan. USET SPF recommends that SSA continue to identify and implement methods to increase awareness of and enrollment in SSA programs and services—particularly within the Call to Action Plan objective of increasing the “use of technology to connect SSA with Tribal Communities.” During the Tribal consultation session, SSA shared information about the Remote SSA Services program it piloted in Alaska, which provided in-person navigator services to educate and enroll eligible American Indian and Alaskan Native (AIAN) people in SSA services in areas that lack broadband access. SSA requested input on other remote areas that could benefit from this service. USET SPF reminds SSA that remote and underserved communities exist across Indian Country, including within our region, and that barriers like the lack of broadband access can exist in areas that may not seem geographically remote compared to other areas of the country. Further, the same connectivity issues that may prevent a Tribal citizen from accessing navigator services may also inhibit the ability of Tribal governments and service providers to access this information and request for input. In addition, the AIAN population is younger—in some areas by an average of 10 years or more—than the general U.S. population due to our low life expectancies. This means that there may be few, if any, elders in a community that have knowledge of and can provide guidance on SSA enrollment and services.

Given these challenges and low attendance at the recent Tribal consultation, USET SPF encourages SSA to work proactively to identify ways to disseminate knowledge of SSA programs and services among Tribal communities, such as the public service advertisements the agency intends on running in 2025. In the 2024 Call to Action Plan, SSA stated that, “improv[ing] outreach to Tribal communities based on data and trends in claims outcomes through the use of technology” as a goal, and USET SPF urges continued focus on this. USET SPF reminds SSA that any insufficient Tribal Nation capacity to engage in these efforts and activities is the direct result of the failure of the federal government to honor its trust and treaty obligations. Therefore, low attendance at consultations and lack of uptake in services among Tribal communities must not be perceived as a lack of interest in or lack of “need” for SSA programs or services. Tribal Nations—especially smaller populated Tribal Nations and those that don’t have a strong economic base—often experience capacity issues that prevent us from engaging in proactive efforts to identify and secure technical assistance services that SSA offers. USET SPF strongly encourages SSA to work internally to identify ways it can increase engagement with Tribal Nations and avoid over-reliance on infrequent Tribal consultation as a means for determining which Tribal communities may benefit from SSA outreach.

### **Support for the Establishment of a SSA Commissioner’s Tribal Advisory Committee**

USET SPF supports the establishment of an SSA Commissioner’s Tribal Advisory Committee (CTAC). There are longstanding issues that SSA must address regarding the loss of benefits, such as Supplemental Security Income (SSI), for Tribal citizens receiving Sec. 139E Tribal General Welfare benefits. SSA must recognize that Tribal General Welfare programs established by Tribal Nations to provide critical support for Tribal citizens must not disqualify them from receiving additional support from programs such as SSI. The interpretation of Tribal General Welfare benefits received by Tribal citizens has also affected their eligibility to participate in other federal assistance programs, such as the U.S. Department of Agriculture’s Supplemental Nutrition Assistance Program (SNAP) and programs administered by the Department of Housing and Urban Development and the Department of Veterans Affairs.

On September 17, 2024, the Department of the Treasury issued a Noticed of Proposed Rulemaking (NPRM) on Tribal General Welfare Benefits. In this NPRM Treasury and the Internal Revenue Service (IRS) noted that these agencies, “have authority to interpret and provide rules under section 139E to determine whether a benefit is excludible from gross income for Federal income tax purposes...the issue of whether a Tribal general welfare benefit is taken into account for purposes of determining other Federal

benefits is outside the authority of the Treasury Department and the IRS, and therefore beyond the scope of these proposed regulations.” Treasury and IRS further stated that they are, “...willing to work with the [Treasury Tribal Advisory Committee (TTAC)] and Tribes to confer with other Federal agencies and provide advice on how the Federal tax law applies to Tribal general welfare benefits.”

Since this is stated in the Treasury and IRS NPRM, SSA must coordinate with Treasury and IRS to address the issue of Tribal citizens becoming ineligible to receive benefits such as SSI when receiving Tribal General Welfare benefits. SSA must recognize that, since Tribal General Welfare benefits are not taxable income, such benefits should also not be counted as income for Tribal citizens seeking access to SSI benefits. This is an issue the CTAC must address, but it should also be an issue that SSA seriously reviews before the establishment of the CTAC since the CTAC is conditional on whether federal appropriations to SSA are authorized for CTAC’s establishment. Tribal citizens must not be penalized for the assistance provided by Tribal governments. To leave this issue unaddressed does not uphold the intent and purpose of the 2014 Tribal General Welfare Exclusion Act. For these reasons, USET SPF urges that SSA engage in Tribal consultation on this issue to gather input and recommendations on how this issue can be resolved.

### **Conclusion**

As part of its trust and treaty obligations, SSA must evaluate how it conducts consultation, outreach, and engagement with Tribal Nations. This evaluation must consider how SSA can improve its training of SSA personnel to ensure they understand the nature of U.S.-Tribal Nation relations. In its “Tribal Consultation Call to Action Plan” SSA must take the initiative to implement this Plan and train its personnel on how to appropriately engage with Tribal Nations and citizens. USET SPF looks forward to the establishment of an SSA Commissioner’s Tribal Advisory Committee to assist in these 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](mailto:LMalerba@usetinc.org) or 615-838-5906.

Sincerely,



Chief Kirk Francis  
President



Kitcki A. Carroll  
Executive Director