



USET

SOVEREIGNTY PROTECTION FUND

Washington, DC Office

1730 Rhode Island Ave., NW, Suite 406
Washington, DC 20036

Nashville, TN Office

711 Stewarts Ferry Pike, Suite 100
Nashville, TN 37214
P: 615-872-7900 | F: 615-872-7417

Transmitted Electronically
To SM.FN.SNAPRules@usda.gov

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Patrick A. Penn
Deputy Under Secretary
Food, Nutrition, and Consumer Services
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250

Dear Deputy Under Secretary Penn,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments to the U.S. Department of Agriculture (USDA) in response to proposed policies to implement provisions of the One Big Beautiful Bill Act (OBBBA) for the Supplemental Nutrition Assistance Program (SNAP). Among USDA's proposals for SNAP include a work exception for able-bodied adults without dependents (ABAWD) that are American Indians or Alaska Natives. USET SPF fully supports implementation of this exception as work requirements for ABAWD Tribal SNAP recipients violate the federal government's trust and treaty obligations to Tribal Nations and our people. In addition, we reiterate to USDA our longstanding support for expansion of Public Law 93-638 (638) self-determination authority for Tribal Nations to administer SNAP. Moving forward, USDA must support legislative efforts to empower Tribal Nations and Tribal organizations to administer SNAP programs through a 638 process, which would ensure that SNAP funds are utilized for the direct benefit of our citizens and communities.

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

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

Support for SNAP ABAWD Tribal Work Exception Authorized in the OBBBA

The OBBBA changed which individuals are subject to the ABAWD work requirements to receive SNAP for more than three months in a 36-month period. While the OBBBA rescinded ABAWD work requirements exceptions for certain individuals, it also authorized—for the first time—exceptions for all individuals considered to be “Indian,” “Urban Indian,” or “California Indian” (Tribal individuals) as defined in the Indian Health Care Improvement Act (IHCIA). These Tribal individuals are no longer required to meet the ABAWD work requirements to receive SNAP benefits for more than three months in a 36-month period. USET SPF supports the implementation of this exception for Tribal individuals as defined by the IHCIA but recommends that USDA develop clear guidance, in consultation with Tribal Nations, for state agencies on implementing this OBBBA provision.

Moving forward, USDA must ensure that state agencies are appropriately informed of these exceptions for Tribal individuals and coordinate with Tribal Nations and federal agencies to identify appropriate documentation standards required for the ABAWD Tribal work exception. Appropriate Tribal documentation can include—but *is not limited to*—Tribal identification cards (Tribal IDs) or enhanced Tribal IDs issued by Tribal governments, Certificates of Degree of Indian Blood (CDIBs) issued by the Bureau of Indian Affairs (BIA), or other official documentation on Tribal letterhead from a Tribal Citizenship/Enrollment Office identifying Tribal status.

USET SPF also recommends that USDA coordinate with the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), which already administers certain Tribal exceptions under Medicaid and has a list of documentation to verify Tribal status that could be instructive for USDA. In addition, to aid state agencies in accepting Tribal or federal documentation for the ABAWD Tribal work exception, we reiterate that USDA must develop clear guidance for these agencies to implement the ABAWD Tribal work exception provision of OBBBA. The previously referenced CMS list of documentation should be used by USDA as the foundation for developing this guidance, as well as engaging in further consultation with Tribal Nations to gather additional input and refine such guidance.

If state agencies refuse to accept forms of Tribally or federally issued identification to except Tribal individuals from the SNAP ABAWD work requirements, then USDA must intervene on behalf of Tribal Nations and ensure that all eligible Tribal individuals receive this exception. In addition, any effort by state agencies to develop and adopt stringent or burdensome Tribal documentation requirements to prevent Tribal citizen access to the SNAP program under the ABAWD Tribal work exception is a violation of federal trust and treaty obligations. Further, USET SPF emphasizes that such actions by state agencies do not uphold the goals and purpose of the SNAP Tribal ABAWD Tribal work exception authorized by the OBBBA.

Support Expansion of P.L. 93-638 Self-Governance Agreements for SNAP

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 to uphold the right to self-governance. USDA must fully recognize the inherent right of Tribal Nations to fully engage in self-determination and self-governance, so that 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 (638) authorities, the goals of self-governance have not been fully realized. Many opportunities remain to improve and expand upon the principles of self-determination and self-governance, especially beyond the Tribal demonstration projects that USDA is currently managing.

Tribal Nations continue to be excluded from administering SNAP and other nutrition programs under 638 contracts and compacts. USET SPF Tribal Nations have demonstrated we have the capacity to fully administer SNAP programs to Tribal citizens, as we have been administering far more complex federal programs under 638 authority for years, including twenty-two Tribally operated healthcare facilities. Tribal control over SNAP administration would result in improved food assistance for Tribal citizens as Tribal self-determination has proven to be an efficient, effective approach that recognizes our inherent sovereignty, promotes local control, and produces results for our people. USET SPF strongly urges USDA to support legislative efforts to expand 638 authorities and support Tribal self-determination and self-governance authorizations in the next Farm Bill Reauthorization. This will support the Administration's goals of streamlining federal functions and ensuring that federal dollars are spent appropriately to address the priorities of our communities by empowering Tribal Nations to assume full management of our own nutrition programs under SNAP.

Conclusion

USET SPF continues to underscore that services provided through SNAP are another mechanism that the federal government utilizes to deliver upon federal trust and treaty obligations to Tribal Nations. Impeding the ability of Tribal Nations to utilize this program would be a violation of that obligation and any proposed rules to modify the SNAP program must not reduce access to basic nutrition services for Tribal individuals. In addition, while expansion of 638 authority for the SNAP program would require a change to current law, USET SPF supports this change and strongly recommends USDA includes this in its recommendations for amendments to current law during its interactions with Congress. As sovereign governments, Tribal Nations are in the best position to manage our own affairs, and the federal government is obligated to uphold and support policies that advance Tribal self-determination and self-governance in these areas. We look forward to continuing to work with USDA to ensure its obligations are fully met and that any barriers to Tribal participation in SNAP—and all USDA programs—are addressed and removed appropriately. 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