



USET

SOVEREIGNTY PROTECTION FUND

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Transmitted Electronically

September 21, 2026

Ryan Lambert
Associate Administrator
Office of Government Contracting & Business Development
U.S. Small Business Administration
409 3rd St. SW
Washington, DC 20024

Re: USET SPF Comments to the SBA on its Proposed Rule for New Small Business Size Standards, RIN 3245-AI67, Docket ID No. SBA-2026-0199-0001

Dear Associate Administrator Lambert,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the U.S. Small Business Administration's (SBA) proposed rule for new small business size standards.¹ The proposed rule, if finalized, would conduct a sweeping overhaul of how SBA defines a "small business" for purposes of federal contracting, as well as access to SBA loans and other small business programs. While USET SPF supports SBA efforts to increase access to resources for small businesses, particularly those owned by Tribal Nations and Native people, we oppose further consideration of the proposed rule until SBA engages in formal consultation with Tribal Nations. Our primary concern is that while SBA's sweeping proposal to change its small business size standards may increase Tribal business growth and expansion, it could also potentially affect the availability of already limited and competitive business development resources for Tribal Nations, our business entities, and individual Native-owned businesses.

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 Turtle Island.² 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.

We remind SBA that Tribal Nations often establish business entities to generate revenue to support services and programs for the welfare of our Tribal citizens and communities. Similarly, individual Tribal citizens establish businesses that provide critical support services and goods in our communities that also contribute to growing Tribal

¹ 91 Fed. Reg. 53741 (Aug. 20, 2026).

² 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).

economies and creating jobs. These economic pursuits are an exercise of our inherent sovereignty and self-determination and are necessary as a direct result of the federal government's failure to uphold its debt-based trust and treaty obligations to fully fund these programs and services. Due to the critical importance of federal support for Tribal small business and Native-owned business development, we urge SBA to halt consideration of this proposed rule until it appropriately conducts meaningful Tribal consultation to determine how these changes could affect Tribal access to funds and services that support our business development and operations.

SBA Programs Provide Critical Economic Development Opportunities for Indian Country

Tribal Nations are and always have been inherently sovereign governments, a status that predates the arrival of colonizing forces and the establishment of the United States. This inherent sovereignty, while existing independently from the United States' affirmation, is recognized in the U.S. Constitution, by the U.S. Supreme Court, in treaties and legislation, and via other legal proclamations.³ In addition, the United States owes debt-based trust and treaty obligations to Tribal Nations and Native people because it took our lands and resources, oftentimes by force, and limited our authorities. As part of these debt-based trust and treaty obligations, the federal government, including SBA, must ensure that the appropriate resources are accessible and available to support and restore Tribal economies.

However, the existing conditions that prevent or hinder economic development on Tribal lands are a direct result of federal policies that actively sought to destroy our Tribal economies and lifeways. In combination with these policies and actions, the federal government has persistently failed to uphold its trust and treaty obligations to fully fund programs and services that support business development and sustainability for Tribal Nations. Funding for these obligations remains grossly inadequate, constituting a barely discernable, ever-decreasing percentage of federal budgets. This chronic underfunding of federal programs has hindered Tribal Nations' efforts to fully exercise our inherent sovereignty and effectively pursue Nation building, and rebuilding, that supports diverse Tribal economies. For these reasons, Tribal Nations and our people rely on SBA programs to access significant economic resources and programmatic support for Indian Country to develop and sustain business operations. Several SBA programs provide critical investments and capital for Tribal Nations to establish business entities that serve as economic drivers in our communities and fulfill critical community service functions. These operations have become necessary components for economic development and diversification in our communities, while also providing critical support to Tribal Nation government and social services. Any proposed revisions to the small business size standards could have significant impacts on the financial stability and economic advancement of start-up and existing Tribal Nation business entities.

The Proposed Rule Risks Diluting SBA Programs to the Detriment of Tribal Economic Development

Due to the already limited and competitive funding available to support Tribal small business development, USET SPF is deeply concerned about SBA's proposal to significantly overhaul its small business size standards. SBA has admitted that its proposal to change its small business size standards for 338 industry groups and industries would result in a net increase of about 114,541 new businesses classified as "small." Expanding these standards to increase opportunities for potentially larger industries to access federal contracts and small business support without first considering the risks such an expansion poses to Tribal Nations, our communities, and our business

³ See *Haaland v. Brackeen*, 599 U.S. 255, 308 (2023) (Gorsuch, J., concurring) (explaining Tribal Nations "existed as 'self-governing sovereign political communities'" that "[d]id not 'cease to be sovereign and independent'" after colonization (first quoting *United States v. Wheeler*, 435 U.S. 313, 322–23 (1978), then quoting *Worcester v. Georgia*, 31 U.S. [6 Pet.] 515, 561 (1832))); *Michigan v. Bay Mills Indian Cmty.*, 572 U.S. 782, 788 (2014) (describing Tribal Nations as "separate sovereigns pre-existing the Constitution" (quoting *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 56 (1978))). Tribal Nations' inherent sovereignty and right to self-determination is further supported by international law principles adopted into the foundations of federal Indian law that carry through to the present day. *Worcester*, 31 U.S. at 520 (describing Tribal Nations' retained sovereignty and right to self-government as consistent with "the settled doctrine of the law of nations"); *Brackeen*, 599 U.S. at 308 (Gorsuch, J., concurring) (describing the concept of retained sovereignty as a "long-held tenet of international law"); see also G.A. Res. 61/295, arts. 3–5, U.N. Declaration on the Rights of Indigenous Peoples (Oct. 2, 2007).

entities is unacceptable. SBA has not provided an analysis on how changes to the small business size standards could affect already limited and competitive small business resources for Tribal business entities and individual Native-owned businesses. We remind SBA that every federal dollar lost in support of Tribal small businesses is another dollar that Tribal Nations must supplement from our general revenues to start and maintain these business operations. This predicament also applies to our individual Native-owned businesses that seek financial and other support from SBA to establish, maintain, and grow their business operations.

While USET SPF supports responsible modernization of these standards to support Tribal small business growth and opportunity, the proposed expansion risks fundamentally changing the competitive composition of the small business marketplace in which Tribal Nations and our business entities, as well as those of Native people, operate. The significant changes proposed to the small business size standards by SBA risk further limiting federal contract opportunities and small business support for Tribal economic development. In addition, there is no data presented by SBA on how this proposed rule could affect individual Native-owned businesses and their participation in the small business marketplace. This is extremely concerning since Tribal Nations, our businesses, and individual Native-owned businesses rely on federal contracting and SBA loans and other small business programs to create jobs and contribute to Tribal, local, and, in some instances, national economies. Specifically, Tribal businesses are able to supplement governmental funds to support programs and services for our citizens and communities, and individual Native-owned businesses provide services and jobs for our communities.

SBA Must Initiate Tribal Consultation Prior to Adopting New Small Business Size Standards

SBA's proposed changes would completely restructure small business size standards and introduce thousands of established, larger federal contractors into the already overly competitive small business marketplace. Further, as aforementioned, SBA has provided no discernible information or data on how these changes could impact existing Tribal business and individual Native-owned business development and operation. For these reasons, USET SPF urges SBA to immediately halt consideration of the proposed rule and engage in formal Tribal consultation to determine the potential effects the proposed rule may have on increasing or decreasing opportunities for Tribal small business development and growth. We note that nowhere in the SBA proposed rule is there a reference to possible consultation with Tribal Nations nor a section on how the proposed rule could impact Tribal Nations and our people.

Initiating formal Tribal consultation on this proposed rule to gather vital input on its potential impacts is necessary and would comply with SBA's own [2022 Tribal Consultation Policy](#). Specifically, SBA's Tribal Consultation Policy states that it will, "assess the impact of its proposed policies on Native American Tribes . . . and engage in consultation and collaboration with Tribes . . . early in the decision-making process to ensure that Tribal government . . . rights and concerns are considered." Sec. V. We note that SBA's Tribal Consultation Policy is modeled after the Tribal consultation obligations under [Executive Order \(EO\) 13175](#) and the federal government's trust and treaty obligations. EO 13175, "Consultation and Coordination with Indian Tribal Governments," has, for nearly twenty-five years, required federal agencies to "have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." Sec. 5(a). The phrase "policies that have tribal implications" is defined as "regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." Sec. 1(a).

As a matter of upholding its trust and treaty obligations to ensure critical small business development resources—such as technical assistance and SBA loans and other financial services—will not be affected by the proposed rule, USET SPF urges SBA to initiate, engage, and complete consultation activities with Tribal Nations. Conducting these consultation activities would comply with the directives of SBA's Tribal Consultation Policy as well as EO

13175. Tribal Nations must be provided with the opportunity to directly engage with SBA to determine how the proposed rule may affect the availability and accessibility of SBA resources for Tribal business development and sustainability. Additionally, SBA would benefit from these consultation activities to determine how the proposed rule could be modified to improve access to small business resources to support the growth of Tribal business entities and uphold its trust and treaty obligations to support our economic pursuits.

Conclusion

As Tribal Nations continue to pursue our efforts in building and rebuilding our Tribal economies, the federal government must uphold its trust and treaty obligations to ensure federal programs are appropriately accessible to fully support these efforts. Expanding SBA's small business size standards too aggressively will result in Tribal small businesses competing against larger firms with greater financial resources, substantially larger workforces, and greater accessibility to additional critical capital resources. Until SBA conducts and completes consultation with Tribal Nations on the proposed rule, SBA is proceeding without the necessary data and input from Tribal Nations and individual Native-owned businesses to determine how we may, or may not, be impacted by the proposed changes to the small business size standards.

As a matter of upholding its trust and treaty obligations, SBA must ensure that access to already limited and competitive small business development resources is not disrupted by haphazard changes to the small business size standards. Any changes to SBA's small business size standards must not increase difficulty for Tribal businesses to access federal contracts and small business resources. USET SPF strongly urges SBA to halt consideration of this proposed rule until it has initiated and completed formal consultation with Tribal Nations to determine how the proposed changes could affect our economic pursuits. SBA must ensure that the appropriate guardrails are in place to protect current Tribal business and individual Native-owned business operations that rely on these resources. Should you have any questions or require further information, please contact 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