

2024 BARRIERS TO ACCESS TRIBAL CONSULTATION AND LISTENING SESSION
REPORT OUT

U.S. Department of Agriculture (USDA)
Economic Development: Barriers to Access

April 22, 2024
Virtual Meeting

Mission Area: Rural Development (RD)

Agencies: Rural Business-Cooperative Service (RBCS), Rural Housing Service (RHS), Rural Utility Service (RUS)

Consulting Official(s): Farah Ahmed, Deputy Under Secretary, RD

Facilitator: Heather Dawn Thompson, Director, Office of Tribal Relations (OTR)

I. Welcome, and Opening Remarks from Consulting Officials

- OTR Director Thompson opened the consultation session. Feedback from Tribal Caucus requested more targeted conversation on Tribal eligibility for the Community Facilities (CF) program and the Rural Energy for America Program (REAP).
- Deputy Under Secretary Ahmad affirmed steps taken by RD to better recognize Tribal sovereignty and jurisdiction such as Tribal self-certification of broadband service and the requirement of non-Tribal applicants to provide resolutions of consent from Tribe(s) in their application to infrastructure funding programs.
- RD shared that its changes to the Rural Business Development Grant to recognize Tribal business structures might serve as a model for other programming like CF and REAP.
- RD further sought input from Indian Country on opportunities for improving grant assistance, including the streamlining of required paperwork in reports and applications.

II. Nation-to-Nation Consultation (Tribal Government Officials)

A. Proposed Amendments to the CF Program

- A Tribal Leader asserted that while the program focuses on non-profit and public service activities, Tribal government activities serve the same purpose without being considered eligible. Tribal government operation of grocery stores and wellness/fitness centers serve their community through job creation and community services, with any revenue returning to the government for provision of education and government services. Tribal governments typically discount cost of goods and services for Tribal members who often reside in high-poverty areas. USDA should recognize entities wholly owned and operated as the Tribe for eligibility including Section 17 corporations. Additionally, Tribes cannot waive sovereignty as a condition of partnership.
- A Tribal Leader reflected that the Federal government encouraged Tribes to establish enterprises for participation in economic and business development, and Tribes would likely not have taken such steps without Federal intervention. USDA policies should align Tribal eligibility requirements accordingly. Additionally, matching requirements

call Tribes to draw from their limited resource pools that could otherwise be used for critical services. These matching requirements should be expanded to recognize in-kind funds or other Federal funds and associated equity in Tribal lands. Tribal sovereignty includes the right to levy taxes and tax authorities.

- A Tribal Leader concurred that matching requirements and expectation for cost share are a barrier for Tribal participation.

B. Recognition of Tribal Regulatory Jurisdiction and Definition of Tribal Lands in ReConnect and Electric Programs

- A Tribal Leader asserted that the Tribal lands definition hindered submission of an application serving all Tribal members, including those geographically located along reservation boundaries. A proposed definition of Tribal lands should include “trust (land), reservation, and near-reservation designations” for all grant and loan programs, although USDA should generally defer to Tribes in designating Tribal land in their applications. The ReConnect program should allow for projection of future broadband use, allowing greater income generation for communities. Additionally, Tribal governments should be eligible to receive broadband subsidy even when not servicing only Tribal lands, and USDA should notify Tribes of when they anticipate funding near-reservation activities.
 - USDA acknowledged the challenge in defining which Tribe can issue a resolution of consent to non-Tribal entities due to uncertainty on where Tribes have regulatory jurisdiction.
 1. The Tribal Leader recommended USDA coordinate with the Bureau of Indian Affairs and that USDA should respect near-reservation designations submitted in the application process. Additionally, lands never ceded by a Tribe should be subject to Tribal consent including waterways and Spectrum.
 - USDA identified that applicants must file public notice to solicit information from incumbent service providers. These notices may be helpful for Tribes in determining activity adjacent to Tribal lands. Notably, RD maintains limited discretion to waive these requirements for underserved areas on Tribal lands.
- A Tribal Leader further reflected on challenges in identifying “chronic economic distress” on a county level which may not apply to the full Tribal reservation. “Rurality” also continues to be a barrier in limiting where Tribal lands meet ReConnect priority point requirements. Requirements for Irrevocable Letters of Credit (ILOC) also create significant workload for Tribes in the program.
 - USDA acknowledged that Census data may not consistently depict actual Tribal economic values. Separately, ILOC may not be required if the Tribe is willing to guarantee the grant.

C. Other Comments

- A Tribal Leader asserted a need for low-interest loan financing supporting rehabilitation, repair, and construction for Tribal housing.

III. Listening Session (Open to Indian Country Speakers)

A. Proposed Amendments to the CF Program

USDA Report Out on Tribal Consultation on Barriers to Access in Economic Development

- A commenter expressed frustration with the level of delay and paperwork in the CF Emergency Rural Health Care Grant application and grant agreement.

B. Other Comments

- A commenter acknowledged that despite RD's reputation with onerous applications, RD Washington State demonstrated a noticeable culture shift. The representative thanked RD staff for these efforts.

IV. Tribal Caucus Report-Out

- Tribal Caucus discussions also raised that one application with snap-together parts specific to Federal programs could help streamline the application process.

V. Closing Remarks

- RD expressed gratitude for the honesty and directness of feedback and reflected on themes raised throughout the consultation such as reframing matching requirements and taking a more expansive view on Tribal business structures and lands.