

USDA TRIBAL ADVISORY COMMITTEE

September 5, 2024

The Tribal Advisory Committee was convened for its third meeting at approximately 12:00 P.M. Eastern Time on September 5, 2024 on a Zoom webinar.

In accordance with the provisions of Public Law 92-463, the meeting was open to the public from approximately 12:00 P.M. Eastern Time to approximately 7:00P.M. Eastern Time.

Council members present:

Meagen Baldy
William (Billy) Barquin, J.D.
President Whitney Gravelle, J.D., Bay Mills Indian Community
Benjamin (Ben) Jacobs
Trenton Kisse, M.P.A.
Charles (Monty) Roessel, Ph.D.
Whitney Sawney
Kelsey Scott
Glenn Teves

Council members absent:

Councilmember David Pourier, Oglala Sioux Tribe
Karen Linnell

Staff of the U.S. Department of Agriculture (USDA) Office of Tribal Relations attending were:

Betsy Rakola, Acting Director
Josiah Griffin, Designated Federal Officer
Elena Krajeski, Administrative Officer
Ariel Williams, Administrative Assistant

Staff of the U.S. Department of the Interior (DOI) Office of the Assistant Secretary for Indian Affairs attending were:

Bryan Newland, Assistant Secretary for Indian Affairs
Wizipan Little Elk Garriott, Principal Deputy Assistant Secretary for Indian Affairs
Johnna Blackhair, Deputy Bureau Director for Trust Services
Thomas Mendez, Branch Chief, Branch of Agriculture and Rangeland Development

INTRODUCTION AND ADOPTION OF THE AGENDA

Committee members considered the agenda presented and approved the agenda with an amendment to include dedicated time for Committee deliberation on meeting times and Committee member introductions.

ADOPTION OF MAY 2024 MEETING MINUTES

Committee members adopted minutes pertaining to the May 2024 Committee meeting as presented.

OFFICE OF TRIBAL RELATIONS UPDATES AND DISCUSSION

Acting Director Rakola updated Committee members on tribal recommendations carried by other USDA Federal Advisory Committees and related USDA actions to date.

Equity Commission Recommendations. The first Equity Commission recommendation discussed involved restoring the USDA Office of Tribal Relations to the Office of the Secretary and consolidating the USDA Tribal Colleges and Universities program within the Office of Tribal Relations. USDA fully implemented these recommendations.

The Equity Commission further recommended the elevation of the USDA Director of Tribal Relations to an Assistant Secretary level role and to change the name of the Office of Tribal Relations to reflect this status. These positions are typically senate confirmed appointments, and the name of the Office of Tribal Relations is confirmed under statute (7 U.S.C. 6921). Committee members discussed whether the Director role is a Senior Executive Service level position. Acting Director Rakola affirmed that the Director of Tribal Relations is compensated at a Senior Executive Service level but that the position remains a political appointment which typically do not carry tenure across different administrations. This role is the only political appointment in the Office of Tribal Relations, and the remaining staff are career employees. The Office has grown to approximately 14 staff in total.

While the Equity Commission also carried recommendations on USDA procurement, the nature of procurement is regulated under the Federal Acquisition Regulations. Unlike the Department of the Interior, USDA does not maintain Indian purchase preference but can negotiate contracts and solicitations targeting business entities with 8(a) certification.

Council for Native American Farming and Ranching Recommendations. The *Keepseagle v. Vilsack* settlement agreement mandated the establishment of a Council for Native American Farming and Ranching (CNAFR) at USDA through 2016. USDA re-

authorized the CNAFR as a discretionary federal advisory committee for another two-year term, where the CNAFR authority subsequently lapsed.

Acting Director Rakola affirmed the status of CNAFR recommendations made over this seven-year period. Out of the 59 CNAFR recommendations, USDA fully implemented 29 recommendations, 10 recommendations spoke to matters outside existing USDA statutory authority, 14 recommendations related to topics that no longer apply, and one (1) recommendation addressed an issue outside USDA's authority altogether.

Committee member discussion raised a number of topics including whether USDA has the authority to support tribal government development and regulation of 'food codes' and food inspectors. USDA staff affirmed that, to their knowledge, no such statutory authorities currently exist to compensate Tribal governments for these interests.

SUBCOMMITTEE REPORT OUTS

Administration Subcommittee. Committee Chair Kisse provided the report out of information gathered and potential recommendations for Committee discussion. Committee members raised the timeliness of submitting reports sooner rather than later and the nature of information to be included in these reports. Rather than submitting a report following this meeting, Chair Kisse suggested that a final report could be considered by the Committee during the next quarterly meeting.

Economic Development Subcommittee. Subcommittee Chair Kisse provided the report out of information gathered by this subcommittee and potential recommendations for Committee discussion. Committee members discussed the nature of waivers and whether the Committee should recommend that no match applies to tribal entities, that matches should be waivable by law for tribal entities, and/or that tribal entities should be able to utilize other federal funding for match.

Acting Director Rakola acknowledged that the Office of the Chief Financial Officer could brief this Subcommittee on flexibilities meeting match requirements under existing USDA authorities.

DEPARTMENT OF THE INTERIOR

Assistant Secretary Newland reflected on ongoing Bureau of Indian Affairs initiatives such as emphasizing indigenous knowledge, interagency collaboration, and the Indigenous Food Hub, consolidating food purchased predominantly by Native producers for four Bureau of Indian Affairs Schools.

Memorandum of Understanding. Deputy Bureau Director Blackhair confirmed ongoing collaboration to update the interagency Memorandum of Understanding between the Bureau of Indian Affairs and USDA.

Trainings. Where interagency collaborations occur on training, Committee member Scott affirmed that cooperators may be helpful additions to these conversations. Branch Chief Mendez acknowledged that a three-part training is in development for federal staff.

Agricultural Resource Management Plans. The Bureau of Indian Affairs issued a data call on the development and prevalence of Agricultural Resource Management Plans. While some plans are nearing expiration, the Rocky Mountain Region currently includes five approved plans. Bureau of Indian Affairs staff continue to identify where additional resourcing may be beneficial, including in training, technical assistance, and availability of templates.

Agriculture and Grazing Lease Regulations. These regulations are in clearance but may not be approved by the Office of Management and Budget's Office of Information and Regulatory Affairs before January 2025.

SUBCOMMITTEE REPORT OUTS CONTINUED

Education and Research Subcommittee. Subcommittee co-Chair Sawney presented information gathered by this Subcommittee. Through this discussion, Subcommittee Co-Chair Teves highlighted the urgency of community-driven research and extension.

Committee discussion raised interests around tribal food inspection curriculum, data sovereignty, the equity and accessibility of land-grant funding to Tribal Colleges and Universities, and the benefit of increased collaboration across Tribal Colleges and Bureau of Indian Affairs schools. While state land-grant institutions may receive upwards of \$28,000 per student, Principal Deputy Assistant Secretary Garriott acknowledged that BIA Tribal Colleges only receive approximately \$7,500 per student.

Farm Production and Conservation Subcommittee. Subcommittee Chair Scott provided the Committee with a report-out of information gathered by this Subcommittee. Vice Chair Baldy acknowledged that additional tribal planners and tribal liaisons may be beneficial to engage Tribes on USDA programs and support more coordinated access.

Food, Food Safety and Trade Subcommittee. Subcommittee Chair Baldy presented the Committee with information gathered by this Subcommittee. Committee member Barquin inquired whether amenable species should be expanded to include wild game and fish. Committee member Jacobs also questioned whether USDA should recognize State inspected non-amenable species sold intra-state. USDA staff affirmed that non-

amenable species fall under the jurisdiction of the U.S. Food and Drug Administration and may otherwise be considered amenable species under state law. Where USDA inspects these animals on a voluntary basis, the inspector must be present from the time the animal is slaughtered through harvest and processing.

President Gravelle questioned whether Chronic Wasting Disease falls under this Subcommittee. As Chronic Wasting Disease impacts farm animals, it would typically be covered under the Farm Production and Conservation subcommittee.

Committee members also discussed ongoing supply chain disruptions impacting the Food Distribution Program on Indian Reservations and the Commodity Supplemental Feeding Program. The Committee reflected that while USDA received seven bids for the request for proposals, only one bid qualified. Committee member Jacobs reflected that additional tribal flexibilities such as the expansion of 638 authority may be beneficial.

Forest and Public Land Management Subcommittee. Subcommittee Chair Barquin provided the report-out of information gathered by this Subcommittee. Committee members discussed potential recognition of tribal law enforcement as federal officers on National Forests and Grasslands through alternative authorities, enforcement of the 1872 Mining Law, fire planning, and tribal administration of U.S. Forest Service lands.

PUBLIC COMMENT PERIOD

The Designated Federal Officer opened the public comment period by acknowledging this period as an opportunity for the public to help inform Tribal Advisory Committee deliberations. Committee members may not engage commenters in discussion except through questions for clarification.

Faye Ewan, Ahtna, Inc. Traditional foods processed at home should be accessible by schools. Regulations should be clarified to ensure that community produced food can be accessible by anyone, including in public institutions. There are shortages in our food systems. More funding is necessary for the Farm to School program.

Leon LaSalle, Rancher, Chippewa Cree Tribe. Funding for conservation programs goes to the state where State conservationists hold on to the funding and set their own priorities. These priorities do not always align with tribal interests. While additional negotiations are needed, there needs to be a mechanism to go through the national office instead of state office.

Jade McPeak, Rancher. As a Cattle operator, the TAC should be mindful of the significant number of Native producers ranching. The TAC does not currently have any

part of their subcommittees involved in livestock and should incorporate livestock or the ranching industry into a TAC subcommittee.

TAC DELIBERATION

Committee members discussed the frequency of recommendations and how recommendations must be submitted. Upon review of the authorizing legislation, the Designated Federal Officer reflected that the Committee may submit more than one report each year to the Congressional Committees of jurisdiction and the Secretary.

The Committee considered and carried a number of recommendations; however, upon further consideration, the Committee reflected that additional information may be beneficial and subsequently rescinded motions reflecting the following topics:

- Expansion of P.L 93-638 Authority.
- Expansion of Freedom of Information Act Exemptions.
- Repeal of the 1872 Mining Law.

Committee members discussed and subsequently tabled recommendations reflected under docket 5.

The Committee deliberated on recommendations related to Food Distribution Program on Indian Reservations supply chain disruptions. Discussion raised inquiry on whether public comment would be necessary prior to the adoption of further recommendations, which the Designated Federal Officer confirmed was not necessary under the Federal Advisory Committee Act. A motion was made and carried to adopt the following recommendations:

- USDA should review the FDPIR RFP process on a biannual basis and update as necessary.
- USDA should provide financial assistance to ITOs that are in short supply to purchase needed items for their programs and allow purchases from any retailer.
- USDA Office of Tribal Relations should field a task force that receives comments from ITOs and tribes and provide that feedback to USDA-FNS and the TAC.
- USDA should conduct Tribal consultations in advance of RFP release.
- USDA should use a regional sourcing model to meet the needs of ITOs and tribal FDPIR programs.
- PL 93-638 pilot programs should be made statutory.
- Appropriate funding for FDPIR infrastructure development and expansion, allowing ITOs additional capacity for food storage.
- The Food and Nutrition Service (FNS) should stop contracting with the Bureau of Indian Affairs when negotiating PL 93-638 Food Distribution Programs on Indian Reservations pilot program and bring these negotiations in-house.

- More generally, USDA should build the internal capacity of USDA by designating a senior official in each mission area that is authorized to utilize PL 93-638 contracting to oversee contract negotiations, hire contracting staff, develop resources for best practices, and other activities required for successful implementation.
- USDA should form an Office of Self-Governance or direct the Office of Tribal Relations to play a role in establishing best practices for PL 93-638 implementation throughout the agency.
- Support efforts of Congress to make permanent the PL 93-638 pilot programs for FDPIR and the Tribal Forest Protection Act (TFPA) authorized by the Farm Bill.
 - On FDPIR, FNS should support expanding PL 93-638 to the entire FDPIR program beyond the procurement of food, having one budget line item for all FDPIR programs instead of a separate budget line item for PL 93-638 FDPIR contracts.
 - On TFPA, the Forest Service should support removing the “adjacency requirement, authorize appropriations for TFPA activities, and ensure the authority works for Alaska.
- USDA should furthermore support the expansion of PL 93-638 to Forest Service PSFAs beyond TFPA, to the Supplemental Nutrition Assistance Program (SNAP), the Commodity Supplemental Food Program (CSFP), and Food Safety and Inspection Service (FSIS) meat inspection.

While the TAC did not formally make a recommendation to this effect, Committee members voiced support for priorities and interests presented by the Native Farm Bill Coalition. Committee members reflected that more deliberation will take place to inform which recommendations should be incorporated into the TAC’s annual report(s), including through information gathered under subcommittee meetings.

ADJOURNMENT

The meeting adjourned at approximately 7:00P.M. Eastern Time

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

Trenton Kissee
Chair, Tribal Advisory Committee

These minutes will be formally considered by the Council at its next meeting, and any corrections or notations will be incorporated in the minutes of that meeting.