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Testimony before the House Natural Resources Subcommittee on Indian and Insular Affairs

Oversight Hearing on “Making Federal Economic Development Programs Work in Indian Country”

Introduction

Greetings Chairman Hurd, Ranking Member Leger Fernandez, Committee Chairman Westerman, and Members of the House Natural Resources Subcommittee on Indian and Insular Affairs. Thank you for the opportunity to testify today on behalf of NAFOA, founded as the Native American Finance Officers Association, on *Making Federal Economic Development Programs Work in Indian Country*.

For over 40 years, NAFOA has worked to grow Tribal economies and strengthen Tribal finance through advocacy, education, and policy development. Our member Tribes and Tribal enterprises represent the diversity of Indian Country's economic landscape, including Tribal gaming, energy projects, agricultural ventures, federal contracting, and more. As we enter the second session of the 119th Congress, this hearing is both timely and critical for understanding the unique issues facing Indian Country and how Federal programs can respond to them.

NAFOA's Contributions to GAO

Since 2021, NAFOA has worked in coordination with the Government Accountability Office (GAO) to better understand the issues Tribes face when accessing federal economic development and capital access programs. This work focused on transparency in federal funding information and on agencies' processes for incorporating Tribal input into their budget requests. It involved cataloguing various departments, agencies, and offices that included Tribal programs, so that information for Congress and Tribes would be in one place. As contributors to the work, NAFOA collected information about:

- The extent to which the OMB Native American Crosscut, a budget tool tracking federal funding serving Tribes and their members, provides useful information to decision-makers and Tribal stakeholders, and how it could be improved
- Agencies' processes for soliciting and incorporating tribal input into their budget requests, and what is working well versus what could be improved
- Agencies' processes for tracking and reporting funding for programs serving tribes and their members.

GAO's 2022 report, *Tribal Economic Development: Action is Needed to Better Understand the Extent of Federal Support*, confirmed what many Tribal governments had experienced firsthand. In response to COVID-19, Congress created numerous programs in Departments and Offices that had never previously worked with Tribal governments or administered to Tribal areas. The report confirmed that the Administration needed to undertake significant work to ensure fair and equal access to federal programs for Tribal members and governments.

Following this initial work, NAFOA worked with our Member Tribes nationwide and submitted detailed feedback on access barriers and recommended solutions to address them. In December 2024, GAO released *Tribal Issues: Barriers to Access to Federal Assistance*, which incorporated many of NAFOA's recommendations.

Key Issues Facing Tribal Programs

Through our work with GAO, consulting our Member Tribes and policy experts, NAFOA identified recurring barriers that prevent effective Tribal access to federal programs:

- **Lack of Agency Experience:** Most federal offices lack staff training and experience working with Tribes, resulting in misunderstanding of Tribal sovereignty, government-to-government relationships, and unique Tribal circumstances.
- **Delayed and Unclear Guidance:** Agencies often issue guidance extremely late in funding cycles, leaving Tribes without clear rules and expectations when preparing applications and meeting requirements.
- **Administrative Burdens:** Complex, non-standardized application processes disproportionately impact Tribes with limited staff capacity and create unnecessary obstacles to program participation.
- **Poor Communication:** Inadequate and untimely outreach to Tribal governments limits awareness and effective participation in federal programs.
- **Audit Concerns:** Uncertainty around compliance requirements and potential audit findings creates hesitancy among Tribal governments to pursue available funding.

Following the identification of these recurring challenges, NAFOA developed the following recommendations to strengthen Tribal access to federal economic development programs. These recommendations directly address the systemic issues identified and provide actionable pathways for improvement:

1. Design Programs with Tribes in Mind

Federal programs should be designed from the outset with meaningful Tribal consultation and with Tribal needs, governance structures, and capacity in mind—rather than adding Tribes as an afterthought to programs designed for other entities. This includes recognizing unique Tribal circumstances such as trust land status, sovereignty considerations, and the government-to-government relationship. Programs designed with Tribal participation as a core consideration are more likely to achieve their intended outcomes and maximize benefit to Indian Country.

2. Reduce Administrative Burdens

Departments and agencies should minimize administrative burdens on Tribes, especially smaller Tribal nations or those with limited staff capacity. This includes streamlining application processes, standardizing forms and contracts across programs where possible, eliminating duplicative requirements, and utilizing self-determination contracts and compacts under the Indian Self-Determination and Education Assistance Act. Reducing administrative complexity makes programs more accessible and allows Tribal staff to focus resources on program implementation rather than navigating bureaucratic processes.

3. Provide Comprehensive Training

Federal agencies must increase staff training on government-to-government consultation practices, treaty rights, trust responsibilities, and effective engagement with Tribal governments. This training should be mandatory for all staff working on Tribal programs and updated regularly to reflect current best practices. By building agency capacity and cultural competency, federal staff will be better equipped to understand Tribal needs, respond appropriately to inquiries, and design programs that respect Tribal sovereignty. This directly addresses the lack of agency experience that currently hinders effective program administration.

4. Improve Communication and Timeline Management

Agencies should establish and communicate reasonable timelines and deadlines well in advance of application periods, provide timely feedback to Tribal applicants to support their decision-making and planning processes, and conduct proactive outreach through Tribal news outlets, national Tribal organizations, and direct government-to-government communication channels. Improved communication practices address both the delayed guidance and poor outreach issues, ensuring Tribes have adequate time to prepare competitive applications and make informed decisions about program participation.

5. Provide Technical Assistance and Capacity Building

Where authorized, agencies should provide financial and technical assistance to help Tribes build internal capacity to apply for federal programs AND meet necessary requirements for reporting and implementation. This support may include dedicated Tribal liaisons, application assistance, training on compliance requirements, and resources for grant writing and program management. Technical assistance directly reduces administrative burdens and helps address concerns about audit findings by ensuring Tribes have the support needed to successfully manage federal programs.

6. Create Clear Information Resources

Each federal office that administers Tribal programs should create clearly defined resource hubs with comprehensive FAQs, program guides, and contact information. These resources should be designed so that both experienced grant professionals and those new to federal programs can understand which questions to ask, where to start the application process, program eligibility requirements, and what Tribes will need to do to access funds. Clear, accessible information reduces confusion, saves staff time, and ensures Tribes can make informed decisions about program fit and feasibility.

7. Collect and Utilize Tribal-Specific Data

Departments and agencies that administer Tribal programs must improve their data collection and reporting practices specific to Tribal participation and outcomes. This includes tracking Tribal application and award rates, identifying barriers to access, measuring program effectiveness in Tribal communities, and using this data to inform continuous program improvement. Better data collection enables agencies to identify and address disparities in program access and ensure that programs are meeting their objectives in Indian Country.

The Data Collection Problem

The data-collection gap deserves special emphasis, as it creates challenges when Tribes or Congress try to assess the success or failure of a program and the factors that contributed to that outcome. As the GAO's 2022 report documented:

GAO identified eight programs that are specifically for tribal entities and provided over \$930 million in grants and loan guarantees in fiscal years 2017–2021. An additional 14 programs have a wider range of eligible recipients, such as small businesses or local governments, as well as tribal entities. The total amount of assistance provided by these 14 programs to tribal entities is unknown because two agencies—SBA's Office of Capital Access and USDA's Farm Service Agency—do not analyze data to estimate obligations provided to tribal entities. Estimating and reporting the amount of program obligations provided to tribal communities would allow federal agencies and decision makers, such as Congress, to better understand the reach of these programs and identify areas where tribal entities may need additional support.¹

Without this basic data, we cannot identify where Tribal entities need additional support or which approaches work best. The GAO also identified the same issue with tax incentives, such as the successful New Market Tax Credit Program, which can drive economic development in Tribal communities, but lacks the data infrastructure to measure its impact.

Critical Success Factors for Tribal Programs: Flexibility and Staffing

Across our discussions, two factors consistently contribute to a program's success: **flexibility and adequate staffing**.

Programs that grant the Administration flexibility to address issues as they arise and respond to on-the-ground circumstances achieve far better outcomes than those with stricter implementation statutes. They also tend to better fulfill the intent of Congress. Conversely, programs with inflexible mandates, particularly around coordination with other federal programs, see limited Tribal participation. A clear example is the Department of Energy's Tribal Energy Loan Guarantee Program, within the Loan Program Office (LPO). One of the driving issues around LPO has been the inability of Tribes to "layer" other federal dollars with the LPO program, which has, unfortunately, led to little use of the program by Tribes.

Treasury Tribal Advisory Committee

The Department of the Treasury's Office of Tribal and Native Affairs (OTNA) and the Treasury Tribal Advisory Committee (TTAC) exemplify a successful program in staffing and implementation of the Tribal consultation process. Established in 2022, the OTNA is established to: (1) advise on Tribal policy and program implementation; (2) coordinate Tribal consultations; and (3) manage the Treasury Tribal Advisory Committee (TTAC). NAFOA has cultivated a strong relationship with the OTNA, and the partnership has proven essential in removing regulatory barriers that have hindered tribal economic development for decades.

Through TTAC, where NAFOA maintains active representation, we've worked with the Administration to correct fundamental problems: delayed guidance and ambiguous, overreaching regulations that have created uncertainty and stifled Tribal investment. For years, Tribes operated without clear IRS guidance on fundamental questions: the tax status of

¹ GAO, *Tribal Economic Development: Action is Needed to Better Understand the Extent of Federal Support*, 2022

Tribally-chartered corporations, access to tax incentives, and treatment of general welfare benefits. This ambiguity didn't just create compliance challenges; it actively deterred private investment in Indian Country.

In December 2025, TTAC celebrated two important victories as new rules and guidance were issued to address longstanding issues regarding the General Welfare Exclusion and Tribally Chartered Corporations. The new rules provide clarity to two issues Tribes have been requesting for years, or decades in the case of Chartered Corporations.

Treasury, OTNA, and TTAC should serve as a model of how federal offices should conduct meaningful consultation while respecting the unique sovereignty status of Tribes.

Tribal Tax and Investment Reform Act

Many of the issues facing Tribal nations stem from a lack of parity between Tribal governments with State and local governments. This inequality affects multiple areas of economic development and capital access for Indian Country.

Congress can most meaningfully protect Federal Trust and Treaty obligations by advancing the Tribal Tax and Investment Reform Act. Introduced last Congress by Congresswoman Gwen Moore (D-WI) and Congressman David Schweikert (R-AZ) as H.R. 8318, this critical legislation addresses longstanding disparities by treating Tribal governments under the same provisions as states for key tax purposes, including excise taxes, bond issuance, pension plans, general welfare benefits, and charitable organizations.

Unfortunately, in recent years, the disparity between states and Tribes has only increased. According to the Brookings Institution, from 2014 to 2020, “state governments issued \$47 billion annually in non-taxable municipal bonds, compared to a total of \$84 million by tribal governments. This equates to a 559-fold gap in using tax-exempt government bonds.”²

Finally, ending this discriminatory treatment of Tribal governments by providing them full parity with state and local governments in accessing tax-exempt bond financing will enhance job creation, generate sorely needed governmental revenue for social services, stimulate infrastructure and business development on tribal lands, and accelerate the diversification and strength of Tribal economies, particularly in their private sectors. NAFOA is eager for the reintroduction of H.R. 8318 in the House this Congress to go with its companion bill, S. 2022, introduced by Senator Cortez Masto (D-NV) and Senator Murkowski (R-AK).

Closing

Federal programs and tax policy represent critical tools for addressing historic economic disparities in Indian Country. But these tools are only effective when tribes can access them without navigating decades of regulatory neglect. NAFOA looks forward to continuing to work with Congress and the Administration to help ensure:

- Tribes have clear, timely regulatory guidance
- Federal coordination reduces the burden on tribal applicants
- Tax policy leverages rather than limits tribal economic potential
- Tribal finance professionals can deploy resources strategically

² Matthew Gregg, *Separate but unequal: How tribes, unlike states face major hurdles to access basic public finance tools*, 2021

Because when Tribes have both access to federal support and a regulatory environment designed with tribal sovereignty in mind, we build not just sustainable economies—we build thriving, self-determined communities that benefit entire regions.