

Department of the Treasury Progress Report to OMB on Tribal Consultation

This progress report responds to a Presidential Memorandum dated November 5, 2009, directing each department and agency to submit to the Director of the Office of Management and Budget, on an annual basis, a progress report on consultation and coordination with Indian tribal governments and any proposed updates to its plan to implement the policies and directives of Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) ([EO 13175](#)).¹ EO 13175 requires an agency to establish “an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.”² Policies with tribal implications are ones 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.

Treasury is committed to robust tribal consultation. Consistent with its tribal consultation plan of action, Treasury has engaged in careful and extensive consultation on policies with tribal implications during the past year.

The Treasury Tribal Consultation Process

The Department of the Treasury supports the Fundamental Principles set forth in Section 2 of EO 13175. Three additional principles inform Treasury’s implementation of its tribal consultation process and policies:

- Treasury is committed to establishing a comprehensive consultation process leading to meaningful dialogue with Indian tribes on Treasury policies that have implications for such tribes, and in particular those regulations and legislative proposals that have direct and identifiable economic impacts on Indian tribes or that preempt tribal law.
- Tribal consultation will assist Treasury’s development of policy, regulation, and legislative activities, as it will increase Treasury’s understanding of the potential impacts of these activities on tribes and American Indians and Alaskan Natives.
- Treasury is committed to efficiently developing and issuing regulations and guidance.

To further these goals, Treasury’s plan to implement EO 13175 provides that each bureau and office should maintain a well-defined set of procedures to achieve the following core objectives:

¹ Exec. Order No. 13,175, 65 Fed. Reg. 67,249 (Nov. 9, 2000), available at <http://www.gpo.gov/fdsys/pkg/FR-2000-11-09/pdf/00-29003.pdf>.

² EO 13175, § 5(a).

(1) timely identification of matters that may require tribal consultation; (2) a timely process for determining whether consultation is required; and (3) an ongoing, proactive tribal consultation processes. See Appendix A for additional details on Treasury's overall tribal consultation process.

Agency Point of Contact

The agency Point of Contact for Tribal Consultation is Elaine Buckberg, Deputy Assistant Secretary for Policy Coordination in the Office of Economic Policy (hereafter the Point of Contact for Tribal Consultation or POCTC). The POCTC relies on Treasury's Office of the General Counsel (OGC) and the Executive Secretariat (ES) to identify issues that may require consultation prior to the issuance of Treasury policies. In addition to these Department-wide efforts, and consistent with then-Deputy Secretary Neal Wolin's March 9, 2010 Memorandum for Office and Bureau Heads, each Treasury bureau and office should also undertake tribal consultation in accordance with EO 13175.

Consultation

Tribal leaders have raised the following key issues in consultations with the Treasury Department:

- Consistently, tribes stress the importance of tribal sovereignty. True tribal consultation is only possible when both parties understand that the relationship between tribes and the federal government is a government-to-government relationship based on mutual respect.
- Tribal leaders regularly express concerns about tax code matters affecting tribal governments, tribal corporations, and tribal members. Among several tax issues highlighted by tribal leaders, concerns about the general welfare doctrine have been foremost.
- Tribal leaders raise a number of concerns regarding access to capital for economic development. In particular, they underscore their interest in the structure and allocation of authority to issue tax-favored bonds under the Tribal Economic Development Bond (TEDB) program, and support for the well-regarded Community Development Financial Institutions Fund (CDFI Fund) Native Initiatives Program.

These points have been raised during consultation since early 2009, and the Treasury Department has taken them seriously. As sustained consultation continued, Treasury developed concrete responses to several of the tribal leaders' key concerns. Responses to several of these important issues have been realized during the past year, and are described below, under **Recent General Consultation Activities This Year**.

Tribal Sovereignty

During tribal consultation, exchanges between the federal government and tribal governments are conducted on a government-to-government basis, predicated on mutual understanding and respect for tribal sovereignty. A strong consultative process requires open lines of communication in both directions. Tribal leaders must be able to contact Treasury to request a meeting, ask about a specific program, or convey their views about a particular policy matter. Treasury must be able to communicate clearly, consistently, and transparently with tribal leaders, and to solicit tribal views on policy matters that have tribal implications.

To support these objectives, several institutional structures are now in place to facilitate government-to-government communication with tribal leaders:

- Treasury maintains an email address, Tribal.Consult@Treasury.gov, to which any tribal leader may send a tribal consultation request.
- Treasury has a dedicated [tribal consultation webpage](#) that is regularly updated with requests for information from tribal leaders and other interested parties, policy statements, reports on recent consultation activities, and reports to Congress.
- Treasury has engaged in multiple consultative processes over a wide variety of issues, including the general welfare doctrine, per capita distributions from particular settlements, and Tribal Economic Development Bond authority allocation mechanisms. In addition, Treasury continues to hold general consultations and listening sessions to solicit input from tribal leaders and enable tribal leaders to discuss matters directly with the appropriate Treasury officials.
- Treasury participates actively in the annual White House Tribal Nations Conference, in meetings of the White House Council on Native American Affairs and its subcommittees, and in inter-agency working groups that address tribal leaders' concerns.

Consultation takes place both in Washington, D.C. and in Indian Country. Some consultation is also conducted via audio or video conference.

General Consultation Activities this Year

On July 30, 2014, in response to an invitation from the Indian Health Service Tribal Self-Governance Advisory Committee (TSGAC), Deputy Assistant Secretary Elaine Buckberg, Treasury Point of Contact for Tribal Consultation; Kimberly Koch from the IRS Office of the Chief Counsel; and Jonathan Damm, Tax Law Specialist at the IRS Office of Indian Tribal Governments, attended the TSGAC's 2014 Quarterly Meeting. In this meeting, they discussed the Committee's request that individuals eligible for a hardship exemption from the Affordable Care Act's individual responsibility provision, based on their eligibility to receive services from

the Indian Health Service, be allowed to claim that exemption through the tax filing process. Allowing this exemption to be claimed on a tax return would be consistent with the current process for certain other exemptions, such as the tribal member exemption. Deputy Assistant Secretary Buckberg said that the Treasury Department and the IRS are actively working to determine whether the streamlined exemption process can be made available for both hardship exemptions. A brief conversation about the importance of this issue followed her remarks.

Deputy Assistant Secretary Buckberg hosted a general listening session for Native American tribal leaders at the Main Treasury Building on July 23, 2014. Thirty tribal leaders attended or sent representatives to this meeting to convey their concerns and priorities. Treasury personnel from the Office of Economic Policy; the Office of Tax Policy; the Office of Small Business, Community Development, and Housing Policy; the Native Initiatives of the CDFI Fund; and the Internal Revenue Service (IRS) Indian Tribal Governments (ITG) Office also attended the meeting.

On July 16, 2014, Richard Cote, Treasury's Historic Preservation Officer consulted with three Virginia tribes (Rappahannock, Nottoway, Nansemond) regarding their comments on an Environment Assessment for the proposed Virginia Public Safety Memorial in Richmond's Capitol Square. The memorial will be funded, in part, by equitable sharing funds received from the Office of Asset Forfeiture and made available through the sponsorship of Virginia's Office of the Attorney General. The tribal consultation was in compliance with Section 106 of the National Historic Preservation Act.

On June 25, 2014, Denis Nolan, Deputy Director of Treasury's CDFI Fund, testified before the Senate Committee on Indian Affairs on "Economic Development: Encouraging Investment in Indian Country." Deputy Director Nolan provided details on Treasury's outreach to Indian Country through the CDFI Fund's Native Initiatives, Bond Guarantee, and New Markets Tax Credit programs.³

On June 23, 2014, Treasury, the IRS and ITG released a new tribal economic development bond (TEDB) fact sheet. The fact sheet outlines the history and functions of TEDBs, explains the allocations of authority to issue TEDBs, and describes the TEDB application process.

On April 14, 2014, Lisa Zarlenga, Tax Legislative Counsel for the Office of Tax Policy, participated in two sessions at a conference of Native American Finance Officers Association (NAFOA), which included discussion of the general welfare exclusion, New Markets Tax Credits, and related issues.

³ These programs are described in greater detail below.

On March 11, 2014, Mark Mazur, Assistant Secretary for Tax Policy, spoke at the National Congress of American Indians (NCAI) 2014 Executive Winter Session. During the session, “Federal Tax Issues Impacting Indian Country,” Assistant Secretary Mazur focused on new interim guidance regarding per capita distributions, recent general welfare exclusion guidance, tax reform, and tribal economic development bonds. A brief listening session to solicit feedback from the Native American community followed his remarks.

On February 3, 2014, Deputy Assistant Secretary Buckberg held a listening session during the United South and Eastern Tribes (USET) Impact Week Meeting. While the session was held at the USET conference, tribal leaders nationally were invited to attend. Deputy Assistant Secretary Buckberg provided opening remarks and took questions. In her speech, she emphasized the Administration’s commitment to addressing the unique economic issues facing Indian Country, and discussed progress on revisions to the General Welfare Exclusion guidance and forthcoming guidance on per capita distributions made to Indian tribe members from trust accounts. Treasury tax experts from the Office of Tax Policy and the IRS ITG Office also participated in the listening session.

On January 22, 2014, Deputy Assistant Secretary Buckberg and Kimberly Koch from the IRS Office of the Chief Counsel attended the 2014 Quarterly Meeting of the Indian Health Service Tribal Self-Governance Advisory Committee (TSGAC). At this meeting, Deputy Assistant Secretary Buckberg delivered brief remarks on the process for claiming exemptions from the Affordable Care Act’s individual shared responsibility provision. Deputy Assistant Secretary Buckberg emphasized that Treasury and IRS understand TSGAC’s desire to streamline the exemption process for all Native Americans and their eligible family members and are looking into the issue. A conversation about the issue’s importance and potential solutions for the operational aspects followed her remarks. IRS staff from the ITG Office participated in this meeting.

During the November 12, 2013 White House Tribal Nations Conference, Vicky Tsilas, Attorney-Advisor in the Office of Tax Policy, and Amber Kuchar, Associate Program Manager for the CDFI Fund Native Initiatives program, represented Treasury in a breakout session entitled *Strengthening Tribal Economies: Economic Development in Indian Country*.

On September 10, 2013, Deputy Assistant Secretary Buckberg gave a presentation during NAFOA’s Fall Finance and Tribal Economies Conference. The conference brought together tribal leaders, financial professionals, and policy makers to discuss key economic issues facing the tribal community. In her speech, she emphasized Treasury’s commitment to tribal consultation, outlined the Agency’s recent initiatives, and described federal lending and bond

programs that can bring capital and credit to Indian Country to address issues ranging from tribal economic development to financing for small businesses.

Other Treasury officials have traveled across the country to conduct specific outreach efforts. In particular, the IRS ITG Office and the CDFI Fund's Native Initiatives program regularly hold regional tribal consultation sessions in a variety of venues. More details on their recent consultation activities, and the consultation activities of a wide range of Treasury offices and bureaus, appear below and in Appendix B.

Policy Responses to Tribal Consultation Activities

This section discusses specific issues addressed through consultation during the past year.

General Welfare Exclusion. Under the general welfare exclusion (GWE) from taxable income, certain payments made to or on behalf of individuals by governmental units under governmentally provided social benefit programs for the promotion of the general welfare are not included in a recipient's gross income. Tribal leaders repeatedly raised concerns over whether certain payments or benefits provided by the tribe to their members are excludable from taxable income under the general welfare exclusion.

On June 3, 2014, Treasury and the IRS issued final guidance (Rev. Proc. 2014-35) indicating that certain benefits and services provided by Indian tribal government programs to tribal members and certain non-members qualify for the general welfare exclusion. Program benefits excludable from taxable personal income include tribal programs for housing, education, cultural and religious purposes, the elderly and disabled, and emergency and other qualifying assistance. The guidance also provides that certain culturally significant items or nominal cash honoraria given to medicine men or women, shamans, or similar religious or spiritual officials to recognize their participation in cultural, religious, or social events will not be considered compensation for services. The final guidance superseded the preliminary guidance issued on December 5, 2012 (IRS Notice 2012-75), which had been effective since that date.

During consultation preceding the release of this final guidance, Treasury and the IRS received over 120 written comments, convened listening sessions, and participated in other formal and informal consultations to facilitate government-to-government dialogues between the U.S. and Indian tribal governments and to understand key tribal concerns. Reflecting the importance of this matter to Native American tribes, issuance of this guidance item was announced on June 3, 2014 during a mid-year USET meeting.

Per Capita Distributions of Funds Held in Trust by the Secretary of the Interior. In March 2014, Treasury and the IRS issued interim guidance regarding per capita distributions made to

members of Indian tribes from funds held in trust by the Secretary of the Interior. Responding to requests from tribal governments and organizations, Notice 2014-17 clarifies that, generally, certain per capita payments will not be subject to federal income tax. This notice was issued as interim guidance to allow Indian tribes time to review and provide feedback by September 17, 2014. Treasury will consider revisions, in response to tribal leaders' feedback, before issuing a final notice. To ensure consistency in the application of the interim guidance, any issues that may arise at the IRS field level involving per capita distributions will be centrally reviewed at the national level of the IRS Indian Tribal Governments Office.

Treasury and IRS hosted a phone consultation on January 27, 2014 to discuss the forthcoming tax guidance. Over 170 individuals participated in the call. Treasury and the IRS also consulted extensively with the Department of Interior when developing this guidance.

Voluntary Income Tax Withholding Arrangements. On November 27, 2013, Treasury released guidance that expands the permitted use of voluntary withholding agreements to dividends and other distributions made by an Alaska Native Corporation (ANC) to its shareholders. Earlier in the year, an ANC had requested guidance permitting it to withhold taxes from dividend payments at the request of tribal members. Treasury began consultation on this issue during the summer of 2013 to understand the potential impacts on other ANCs. Subsequently, on November 27, Treasury issued a notice that allows shareholders to elect to use the withholding regime, rather than the estimated tax payment process, to meet their tax payment obligations, subject to mutual consent by the ANC. Voluntary income tax withholding arrangements allow taxpayers to avoid potentially burdensome final tax payments at the end of the year. Treasury held a consultation call on December 9 to explain the new guidance and answer questions.

Qualified Retirement Plans Funded with Fishing Rights-Related Income. On November 15, 2013, Treasury issued preliminary guidance that enables Indian tribal members who earn compensation for services performed in fishing rights-related activities to contribute that compensation to qualified retirement plans. This guidance was a response to requests from Pacific Northwest tribes that the Treasury issue regulations allowing tax-exempt fishing rights-related income to be treated as compensation under IRS Code Sections 415 (b) and (c), so that the income may be contributed to a qualified retirement plan. The preliminary guidance was issued with reliance, meaning that it became effective when published. If the final guidance is more restrictive, it will not be applied retroactively. Treasury held a telephone consultation call on this issue on December 10.

Tax Policy Proposals Affecting the Taxable Income of Tribal Members

Business Tax Credits to Stimulate Employment among Native Americans and Alaska Natives. In its Fiscal Year 2015 Revenue Proposals, Treasury recommends making permanent the Work

Opportunity Tax Credit (WOTC) and the Indian Employment Credit (IEC). The proposal would also simplify the calculation of the IEC. Currently, both are expired. Congress has extended both credits numerous times, but often either retroactively or near the expiration date, and only for a few years. This pattern leads to uncertainty for employers regarding the availability of the credits and may limit their effectiveness.

- *Work Opportunity Tax Credits.* The WOTC employer business tax credit effectively reduces hiring costs. Though this program does not target Native Americans exclusively, it is important to Indian Country for two reasons:
 - Qualified veterans have been included among the targeted groups eligible for the WOTC, and the armed forces enlistment rate of Native Americans is the highest of all widely-recognized demographic groups in the United States.
 - The WOTC targeted the economically disadvantaged, and unemployment rates among Native American communities are high.

Under the WOTC program, an employer who submits the necessary form receives a business tax credit for qualified wages paid to a WOTC-eligible employee during the first year of employment, or for a longer period in some cases.⁴ The main objective of this program is to enable targeted employees to gradually achieve economic self-sufficiency, earning a steady income and becoming contributing taxpayers, while participating employers are partly compensated for employee hiring costs through reduction in their federal business income tax liability.⁵

- *Indian Employment Credit.* The IEC, a business income tax credit, has been available to employers who hire registered Native American Indians, and spouses of registered Native American Indians, if the credit-eligible employees live on or near an Indian reservation and work for their employer on that reservation. The credit was available to qualified workers earning \$45,000 or less annually and not employed in the gaming industry.

While both programs were in effect, employers could not take the WOTC and the IEC concurrently for the same employee.

⁴ Previously, employers could claim a credit of 50 percent of the first \$10,000 earned for retaining long-term family assistance recipients during a second year. See CRS Report RL30089 (2013), *The Work Opportunity Tax Credit (WOTC)*, p. 8.

⁵ See the [Department of Labor WOTC home page](#) for additional details on the WOTC.

Access to Capital

During consultation, tribal leaders stressed the importance of improved access to capital and credit in achieving economic growth in Indian Country. Treasury programs that facilitate access to capital and tribal consultation activities related to new initiatives are described below.

Native Initiatives. The CDFI Fund's Native Initiatives is well-regarded in Indian Country. The CDFI Fund's mission is to expand the capacity of financial institutions to provide credit, capital, and financial services to underserved populations and communities in the United States. Native Initiatives has two program components that focus exclusively on establishing and strengthening CDFIs in Native American, Alaskan Native, and Native Hawaiian communities: the Native American CDFI Assistance Program and the Capacity Building Initiative (CBI).

Native American CDFI Assistance Program (NACA Program). The NACA Program is a funding program that provides financial assistance and technical assistance awards to build and expand the capacity of Native CDFIs. The most recent funding round closed on December 23, 2013. The award announcements are expected later this summer.

- CDFIs are specialized financial institutions dedicated to serving low-income communities. There are several different types of CDFIs, including loan funds, community development banks, community development credit unions, and venture capital funds. To be certified as a Native CDFI, an organization must meet the CDFI eligibility requirements and direct more than 50 percent of its activities to Native communities and/or Native persons. As of June 2013, there were 68 certified Native CDFIs.
- Financial assistance awards, used primarily for financial capital, are available only to entities that have been certified as Native CDFIs. In contrast, technical assistance grants are available to certified Native CDFIs, emerging Native CDFIs, and Sponsoring Entities.
- Sponsoring Entities are unique to the NACA Program. Usually tribes or tribal entities, Sponsoring Entities create and support fledgling Native organizations as they move toward CDFI certification.
- Technical assistance grants are often used to acquire products or services including computer technology, staff training, and professional services such as a market study; and support for other general capacity-building activities.

The awards made under the NACA Program are typically announced in the late summer or early fall. Last year, the CDFI Fund received 65 NACA applications, of which 59 were deemed eligible to advance to the review process. Applicants requested more than \$24 million, and on September 19, 2013, the CDFI Fund announced almost \$12.5 million in awards. Eighteen Native CDFIs received financial assistance awards and 17 organizations received technical

assistance grants. The FY 2014 budget approved \$15 million for the CDFI Fund's Native Initiatives, an increase from \$12 million in FY 2013, which will be used for a new training series under the Capacity Building Initiative and awards. The President's FY 2015 Budget requests level funding at \$15 million, continuing support for the prior fiscal year's increase and demonstrating strong support for the CDFI Fund's Native Initiatives.

Since it was launched in 2001, the NACA Program has provided awards totaling more than \$93 million to help Native CDFIs deliver financial services and financial products to their communities. What started as just a few Native CDFIs ten years ago has now grown to 68 Native CDFIs headquartered in 21 states. This growth was facilitated by extra support when Congress waived the matching funds requirement for financial assistance awards from fiscal years 2009-2013.

Capacity-Building Initiative. The second major component of the Native Initiatives is a series of training programs that further support the development of Native CDFIs. For example, the CDFI Fund recently launched Part II of a training series called The Leadership Journey: Native CDFI Growth & Excellence. Part I of this highly successful program provided training to 16 experienced Native CDFIs. Part II builds upon that success, offering a new cohort of 13 Native CDFIs in-person training events, along with continuous customized technical assistance, executive coaching, and peer mentoring over two years. Between The Leadership Journey I and II, the CDFI Fund will provide over 2,000 hours of direct one-on-one capacity building assistance to Native CDFIs.

The CDFI Fund has also created an online resource bank that makes training curricula and reference materials used in a number of its training programs available to all Native CDFIs at no cost. Materials from Part II of The Leadership Journey series will be added to the resource bank, so even more Native CDFI leaders will have access to this outstanding training program.

The CDFI Fund will soon offer a third capacity building program for Native CDFIs. The contract should be in place this fall, with a public announcement before the end of the year. Through a two-year training and technical assistance effort, the CDFI Fund will enable Native CDFIs to increase their impact and improve their sustainability through individualized training.

CDFI Study on Access to Capital and Credit. The CDFI Fund is also having a study completed on Native communities' access to capital and credit, building upon its 2001 Native American Lending Study. Begun in 2013, the new study was designed to provide detailed analysis and quantitative research to support recommendations for improving access to capital and credit in Native communities. The CDFI Fund solicited comments from Indian Country to help direct the study; tribal consultation was an integral part of the process. The study is scheduled for completion by the end of the year, though the release date has not been finalized because it must

undergo review prior to release.

New Markets Tax Credit Program (NMTC Program): The NMTC Program provides incentives to taxpayers with Federal tax liabilities to invest in Community Development Entities (CDEs) that have been awarded allocations of New Markets Tax Credits (NMTCs). With the proceeds from these equity investments, CDEs make Qualified Low Income Community Investments such as loans, equity investments and financial counseling and related other services to Qualified Active Low Income Community Businesses located in Low-Income Communities. Through this mechanism, the NMTC Program provides incentives for investing in distressed and low-income communities (generally defined as those Census tracts with poverty rates of greater than 20 percent or with median family incomes of less than 80 percent of the area median family income).

The NMTC Program is responsive to its legislative mandate, the Tax Relief and Health Care Act of 2006, which required proportional allocation of NMTC authority to non-metropolitan communities. While current legislation does not include set-asides for minorities or indigenous peoples, the CDFI Fund has found that NMTC investments in Native lands are proportionate, reflecting the share of the U.S. population living on Native lands. From 2004 to 2012, NMTC Program investments in Native Communities have totaled almost \$600 million. The current authority for the NMTC Program expired at the end of 2013. The Administration's FY 2014 Budget proposes that it be permanently extended.

CDFI Bond Guarantee Program. Treasury's CDFI Bond Guarantee Program, enacted through the Small Business Jobs Act of 2010, can be a valuable source of credit and capital to Indian Country. It provides long-term capital (up to 30 years) at below-market rates to eligible CDFIs. All certified CDFIs may apply for the CDFI Bond Guarantee Program, regardless of their target market. The program is designed to operate at no cost to the taxpayer. All bonds issued must be secured by collateral and potential borrowers may be required to obtain additional credit enhancements. Treasury Senior Management and CDFI Bond Guarantee Program staff are working closely with representatives of the Native American Finance Officers' Association and the Native CDFI Network regarding sources of collateral tribes may use. A case study demonstrating some of the ways that Native CDFIs can participate in the program was presented at all outreach and training sessions during the FY 2014 application round, to highlight successful ways the CDFI Bond Guarantee Program can serve Native communities.

The period for the FY 2014 application round, the second round of the CDFI Bond Guarantee Program, closed in June 2014. The Qualified Issuer (QI) Application deadline was June 23, 2014, and the Guarantee Application deadline was June 30, 2014. Treasury will enter into FY 2014 agreements to guarantee by the end of September 2014. The QIs will issue bonds that will be purchased by the Federal Financing Bank. QIs will use bond proceeds to provide bond loans

to Eligible CDFIs, which will use the bond loan proceeds for community and economic development purposes. The Secretary of the Treasury, as the guarantor of the bonds, may guarantee bond issues having a minimum guarantee of \$100 million each up to an aggregate total of \$750 million. Contingent upon Congressional authorization for Treasury to issue guarantees in FY 2015, the Department will resume its outreach efforts next fiscal year to prepare Native communities and the CDFI industry at large for the FY 2015 application period of the CDFI Bond Guarantee Program.

The inaugural round of the CDFI Bond Guarantee Program was announced on September 30, 2013. As of August 14, 2014, Treasury will have provided guarantees for \$325 million in bonds with maturities up to 29.5 years, the proceeds of which will be used for community and economic development financing.

Tribal Economic Development Bonds. Treasury is also working with tribes to help improve their access to the tax-exempt bond market. Under current law’s “essential government function” standard for bonds issued by tribal governments, tribes have more limited authority to issue tax-exempt municipal debt than states and localities do, in general. Many tribal leaders have argued against this policy on multiple grounds, including that it inhibits economic development, hampers tribes’ access to the capital markets, and is unfair when compared to the broader authority granted to state and local governments. The American Recovery and Reinvestment Act of 2009 (Recovery Act) responded to these concerns by granting Treasury the authority to allocate \$2 billion of Tribal Economic Development Bonds (TEDBs) to tribal governments according to criteria more comparable to those applied to state and local government bonds. These allocations effectively grant tribes the authority to issue tax-exempt debt for a wide range of projects that previously would not have qualified for tax-exempt status. As of August 1, 2014, approximately \$1.5 billion in TEDB authority remains available, for a maximum allocation to a single tribe of approximately \$316 million.⁶

Treasury recommends, in Administration’s Fiscal Year 2015 Revenue Proposals, that standards similar to those authorized for TEDBs be adopted on a permanent basis. The Department’s [2011 Report to Congress on Tribal Economic Development Bonds](#) (Report) also proposed these changes.

The *2011 Report to Congress* identifies the following factors constraining tribes’ bond issuance: limited income and property tax bases, shared jurisdiction with states for sales tax revenues, tribes’ inability to offer land held in trust as collateral, transaction costs due to securities law

⁶ These volume caps are revised every two months. Updates are [posted](#) on the IRS web site.

registration requirements for public offerings, and limited historical issuances and performance.⁷ Credit market weakness during the recession exacerbated these problems. The Report includes four key recommendations. First, Treasury proposes adopting for tribal governments, on a permanent basis, the State or local government standard for tax-exempt governmental bonds. This is generally embodied in the limited authorization for TEDBs for purposes of Indian tribal governmental eligibility to issue tax-exempt governmental bonds, without a bond volume cap on such bonds. Second, it recommends allowing Indian tribal governments to issue tax-exempt private activity bonds for the same types of projects and activities as are allowed for State and local governments under a tailored national bond volume cap. Third, project location restrictions would be retained but they would be more flexible than under current law. Finally, TEDB gambling facility restrictions would be retained. The Report concludes that “for reasons of tax parity, fairness, flexibility, and administrability, the Department recommends that Congress adopt the State or local government standard for tax-exempt government bonds ... on a permanent basis for purposes of Indian Tribal government eligibility to issue tax-exempt governmental bonds, without a bond volume cap.”⁸

Consultation with tribal leaders preceded the development and announcement of these recommendations. Treasury’s objective is to help Indian tribes access these bonds to promote job and economic growth in Indian Country.

Insurance in Indian Country. The Federal Insurance Office’s (FIO) report, *How to Modernize and Improve the System of Insurance Regulation in the United States*, notes the unique challenges to obtaining access to a wide range of insurance products in Indian Country. Despite a generally competitive U.S. market for commercial and personal insurance, only a few insurers offer commercial insurance coverage to safeguard tribal government operations and commercial ventures from financial loss or offer personal property insurance. Some report that tribal and individual construction ventures do not qualify for the surety bonds needed to meet the requirements for public or private financing. Given the important role insurance plays in supporting inter- and intra-generational asset accumulation and economic development, and promoting broader community economic development objectives, FIO is engaging with other federal agencies and Tribal leaders to identify alternative ways to improve access to insurance on sovereign Tribal lands.

⁷ As noted in the Report, state and local governments are exempt from securities law registration requirements under Section 3(a)(2) of the Federal Securities Act of 1933. Indian tribal governments have no comparable exemption, so they must either register their securities with the Securities and Exchange Commission or raise funds in private placements. See Report to Congress on Tribal Economic Development Bonds, “Credit Challenges Facing Indian Tribal Governments,” pp. 14-15.

⁸ Report, p. 2.

Conclusion

Treasury monitors its tribal consultation process in order to fulfill the mandate of EO 13175, and will propose updates to its process as may be appropriate. Treasury's process seems to be working effectively to ensure meaningful consultation and collaboration with tribal officials in policies that have tribal implications.

Appendix A: The Treasury Department Tribal Consultation Process

Guiding Principles: [The White House Executive Memorandum on Tribal Consultation](#) (November 5, 2009) highlights the Administration's commitment to continued implementation of the policy directives in EO 13175.

Treasury supports the principles established in EO 13175. Three further principles, consistent with EO 13175, guide Treasury's consultation process:

- Treasury is committed to establishing a comprehensive consultation process that sustains ongoing, meaningful dialogue with Indian tribes on Treasury policies that have implications for such tribes, and in particular on those regulations and legislative proposals that have direct and identifiable economic impacts on Indian tribes or preempt tribal law.
- Tribal consultation will assist Treasury's development of policy, regulation, and legislative activities, as it will increase Treasury's understanding of the potential impacts of these activities on tribes and American Indians and Alaskan Natives.
- Treasury is committed to efficiently developing and issuing regulations and guidance when required [see equivalent bullet point on page 1].

Agency Point of Contact: The agency point of contact for tribal consultation (POCTC) is the Deputy Assistant Secretary for Policy Coordination in the Office of Economic Policy. The POCTC relies on Treasury's Office of the General Counsel (OGC) and Executive Secretariat (ES) to identify issues that could require consultation prior to issuance of Treasury policies. Each Treasury bureau and office should undertake tribal consultation in accordance with EO 13175.

Goals of Consultation: Consultation aims to strengthen relationships between the U.S. government and sovereign tribal governments, and to reduce the impact of unfunded mandates on tribal governments and tribal members to the extent practicable and permitted by law. Under EO 13175 new legislative proposals, regulations, and administrative practices, including changes to existing policies, require consultation to the extent that they explicitly target Native Americans or Alaskan Natives, exclusively affect tribal governments and/or tribal members, or

disproportionately affect tribal governments and/or tribal members relative to the majority of U.S. residents.⁹

Treasury-wide Policy on Tribal Consultation: Each bureau and office should maintain well-defined procedures to achieve the following core objectives:

- *Timely identification of matters that may require tribal consultation*, to include regulatory and legislative activities that fall within the span of bureau or office operations as well as direct program responsibilities.
- *Timely process for determining whether consultation is required*, to include timely notice to the POCTC of important non-routine issues regarding legislative activities, regulations, and administrative practices that may require tribal consultation. The POCTC is also available for advice on the consultation process as needed.
- *Ongoing, pro-active tribal consultation processes*, to include early outreach to solicit comments from tribal governments and members who may be substantially affected by changes in laws, regulations or policies under consideration, when the Treasury Department has determined that EO 13175 requires consultation. Outreach should incorporate an open process through which tribal governments may pro-actively consult with the Treasury bureau or office, on a government-to-government basis, on matters that involve tribal and federal law, regulations, and administrative practice.

The sections below discuss these core objectives in greater detail.

Timely Identification of Matters That May Require Tribal Consultation

Program and/or legislative staff in each Treasury bureau and office should identify pending legislation and regulations that may disproportionately affect tribal governments and members.

- Criteria that may be used to determine when tribal consultation is appropriate, consistent with the mandate of the bureau or office, should be developed and made clear to program and legislative staff, and to points of contact in the appropriate legal office.
- Bureaus and offices should develop indicators of disproportionate effects on tribal governments and members, unfunded mandates, and regulations that would preempt

⁹ Consistent with EO 13175, Treasury may not accommodate requests for consultation on certain matters, including those that are the subjects of anticipated or active litigation or enforcement actions.

tribal law, to assist program staff and legal counsel in identifying issues likely to require tribal consultation.

Treasury legislative proposals that have tribal implications should not be submitted to Congress prior to tribal consultation.

Timely Process for Determining Whether Consultation is Required

Each bureau and office should comply with EO 13175 and initiate consultation at the earliest stage possible, when consultation is indicated. In general, program or legislative staff in each Treasury bureau and office should promptly inform the POCTC about pending legislation, regulations, or administrative practices that may require tribal consultation. [OMB Memorandum M-10-33](#), “Guidance for Implementing E.O. 13175,” requires that (a) proposed legislation with tribal implications include a statement or certification that tribal consultation was conducted or is not required, and (b) proposed final regulations that would impose unfunded mandates on tribes or preempt tribal law include a “tribal summary impact statement.”¹⁰ Treasury offices and bureaus should include these elements in legislative proposals and proposed final regulations submitted for final Treasury clearance prior to submission to OMB.

The POCTC can help Treasury bureaus and offices identify proposed legislation, regulations, and administrative practices that require tribal consultation if the application of the EO 13175 requirements is questionable in the program staff’s view. In such cases, the POCTC should respond to the inquiry within 15 days. If the POCTC and the Treasury bureau or office determine that consultation is required, consultation should be initiated within 30 days. If the POCTC and the Treasury bureau or office disagree on the need for tribal consultation, the question should be referred to OGC for final determination.

As part of their regular review process for proposed legislation, regulations, or administrative practices, ES and OGC should ask each bureau or office, as soon as it becomes apparent that an activity may require consultation, if a consultation decision has been made. If the associated clearance documents do not indicate explicitly that tribal consultation is completed, planned, or under way, then whenever practicable OGC, ES, or Legislative Affairs should return the documents to program staff for clarification and alert the POCTC to the potential need for consultation. In some cases, time constraints may require a staged approach, in which a plan for

¹⁰ The required components of the tribal summary impact statement are specified on p. 6 of M-10-33.

more extensive tribal consultation is identified and a commitment is made to consult within a specified time frame.

Ongoing, Proactive Tribal Consultation Process

Target Audience: Treasury bureaus and offices should consult directly with tribes and tribal governing officials on matters that explicitly target Native Americans or Alaskan Natives, or affect such tribes and officials exclusively or in a significantly disproportionate manner relative to the majority of U.S. residents. When appropriate and useful, authorized intertribal organizations representing the interests of tribes in Indian Country also should be consulted. However, depending on the circumstances, reliance solely on discussions with intertribal organizations may not meet the goal of consulting on a government-to-government basis, consistent with the spirit of EO 13175.¹¹

Methods of Consultation: Each bureau and office may develop its own method of consultation, following the guiding principles above. Mandatory annual progress reports to OMB, compiled for submission in early August, provide descriptions of methods that have been used in the past. The POCTC is available to assist bureaus or offices in developing or revising their tribal consultation plan. Consultation methods may include, but are not limited to, the following:

- *Federal Register (FR) notices soliciting comments.* Bureaus and offices are required to document tribal consultation in the preamble to Federal Register notices regarding agency regulations that have tribal implications. This process alone may be sufficient, for example, when program staff deals exclusively with highly-complex and/or sophisticated financial matters affecting a small number of well-known constituent groups.¹² In other cases, bureaus and offices that work directly with a variety of tribal governments and tribal members have developed, in consultation with tribal governments and officials, detailed guidelines on tribal consultation practices, regular schedules for consultation meetings during regional conferences, and a dedicated staff.

¹¹ EO 13175 permits an agency to consult with “tribal officials” (as defined in § 1(d)), which includes “*authorized intertribal organizations*” (emphasis added). However, during initial tribal consultation during the spring of 2010, many tribal leaders stressed the importance of direct communication with elected or duly appointed officials, and argued explicitly that consultation with intertribal organizations is not sufficient. Treasury recommends direct outreach to elected or duly appointed officials of Indian tribal governments whenever practicable.

¹² For example, the Treasury Financial Crimes Enforcement Network (FinCEN) guidance to gaming organizations is highly specialized, and it directly targets a relatively small number of organizations. Therefore routine requests for comments and guidance that includes brief mention of Indian gaming activities is often sufficient to fulfill EO 13175. See, *e.g.*, FIN-2990-G004, “Frequently Asked Questions, Casino Recordkeeping, Reporting and Compliance Reporting Requirements,” September 30, 2009, available at http://www.fincen.gov/statutes_regs/guidance/html/Casino_FAQs_List.html.

FR notices requesting comments from tribal governments and officials regarding proposed changes in law or regulation should be published as soon as practicable after Treasury staff has determined that tribal consultation is necessary, and ideally within 30 days. The FR notice should specify a 60- to 120-day minimum comment period whenever practicable, to allow sufficient time for tribal leaders to consult with their members and legal counsel on any matters of particular concern, and to formulate a response to the notice. Links to FR notices requesting comments from tribal governments and members, together with brief descriptions of other tribal consultation activities, should be sent to the POCTC to become part of a comprehensive record of Treasury's activities in this regard.¹³

- *Meetings, conference calls, videoconferences, and workshops to encourage an exchange of views.* When Treasury policies explicitly target Native American and Alaskan Native governments, organizations, or members, or when the issue is complex with a disproportionate effect on tribes and tribal members, consultation should extend beyond FR notices to the extent practicable. Consultation may be conducted through email, regular mail, telephone calls, video conferences, and in-person meetings or conferences, as schedules and resources permit. Disparities in time zones and travel costs should be taken into account when scheduling phone calls and conferences, including the time zones of Alaskan Native tribes in the extreme west.
- *Targeted outreach.* Contact information for federally-recognized tribes is available on the Bureau of Indian Affairs web site.¹⁴ The POCTC also maintains a Treasury-specific list, including contact points for some inter-tribal organizations; this list is available to other Treasury bureaus and offices upon request. Tribal organizations often sponsor conferences attended by leaders and officials from many tribes. These conferences may, therefore, provide opportunities for agency listening sessions and/or presentations that are cost-effective from the perspective of tribal governments and the federal government.
- *Open process:* Tribal governments may proactively consult with each Treasury bureau or office, on a government-to-government basis, regarding matters that involve tribal and federal law regulations, and administrative practice.

¹³ This information will provide the basis for annual reports that the Treasury Department is required to submit to OMB under EO 13175.

¹⁴ The Bureau of Indian Affairs, Department of Interior, maintains a [Tribal Leaders Directory](#).

- Tribal.Consult@treasury.gov. Tribal governments may channel information or concerns to a dedicated Treasury Department email address, Tribal.Consult@treasury.gov, or to the POCTC directly. These points of contact may be used only for general information and concerns. Specific cases involving particular tribal governments and tribal members must be referred to the bureau(s) or office(s) with direct jurisdiction.
- *Meetings and workshops*. Intra- and inter-agency sponsorship of meetings to address areas of concern is encouraged to conserve resources and ensure comprehensive coverage.

Appendix B: List of Programs in Various Treasury Bureaus and Offices that are Actively Involved in Issues Affecting Tribal Governments and Members

Office of the Comptroller of the Currency

<http://www.occ.treas.gov/Cdd/Nativeam>

The Office of the Comptroller of the Currency (OCC) is reviewing its process independently.

Office of Financial Markets and Bureau of the Public Debt, Bureau of the Fiscal Service

<http://www.publicdebt.treas.gov/>

<http://www.treasurydirect.gov/govt/reports/tfmp/tfmp.htm>

<http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Financial-Markets.aspx>

Treasury is currently investing in four Indian tribal trust funds: the Cheyenne River Sioux and the Lower Brule Sioux Tribes' Terrestrial Wildlife Habitat Restoration Trust Funds (the "Title VI Funds"), and the Yankton Sioux and Santee Sioux Tribes' Tribal Development Trust Funds (the "Development Funds").

For the Title VI Funds, Treasury is required by statute to disburse amounts from the interest earned to the tribes involved as requested for certain statutorily-prescribed purposes. Treasury is also statutorily required to review at least annually the investment of the funds with the four tribes involved, and to provide monthly reports to the tribes on the investment activities of their funds.

On October 1, 2013, Treasury created the Development Funds and deposited in those Funds the principal amount as defined in statute plus, after consultation with the tribes, an amount of interest as if the Funds had actually been invested for the 10 years prior. Treasury is required to invest the funds, but Interior must disburse the interest to these tribes. After consultation with the tribes, Treasury entered into Investment Memoranda of Understanding (MOU) with Interior under which Interior would invest the Development Funds on behalf of Treasury. While Interior is investing the majority of the funds, Treasury is investing the sequestered amount of principal and interest for the Funds.

Treasury has also executed an MOU with Interior to invest the Lower Colorado River Basin Development Trust Fund, a tribally-related fund.

During the past year, the Office of Financial Markets (OFM) and Bureau of the Fiscal Service (BFS) have worked closely with other Treasury offices, Interior and OMB to address a number of investment and other issues involving the four aforementioned funds as well as several Indian

tribal funds that by statute Treasury is required to invest. One of the issues was the impact, if any, of sequestration on these funds. Gary Grippo, Office of Government Financial Policy DAS, explained how sequestration would affect the two Development Funds in letters to the tribes' Chairmen in September and November and followed-up with consultation calls with the tribes.

Community Development Financial Institutions Fund

http://cdfifund.gov/what_we_do/programs_id.asp?programID=3

Community Development Financial Institutions (CDFIs) are non-government financial entities whose primary mission is to promote community development, mainly by serving and being accountable to low-income communities, and by providing financing and development services. To be certified as a Native CDFI, an organization must meet the CDFI eligibility requirements and direct more than 50 percent of its activities to Native communities and/or Native persons.

The Native Initiatives serve economically distressed Native American, Alaska Native, and Native Hawaiian communities across the nation by providing funding to build the organizational capacity of Native CDFIs. As of June 25, 2014, there are 68 certified Native CDFIs.

The Native Initiatives provide support in two ways: through financial assistance and technical assistance awards provided through the Native American CDFI Assistance Program (NACA Program), and through training, technical assistance, and other resources provided by the Capacity Building Initiative (CBI).

- Financial assistance awards, used primarily for financial capital, are available only to entities that have been certified as Native CDFIs.
- Technical assistance grants are available to certified Native CDFIs, Emerging Native CDFIs, and Sponsoring Entities. Usually technical assistance grants are used to acquire products or services including computer technology, staff training, and professional services such as a market study; and support for other general capacity-building activities. Sponsoring Entities are unique to the NACA Program. They create and support fledgling Native organizations as they move toward CDFI certification.
- Through the CBI, CDFIs and Native CDFIs are provided trainings, webinars, and individual technical assistance on multiple topics, such as small business and microenterprise lending, healthy food financing, and Native-specific trainings. Free reference materials are available through the CBI's Resource Bank at <http://www.cdfifund.gov/cbi>.

Background. The CDFI Fund, established in September 1994 under the Riegle Community Development and Regulatory Improvement Act, sponsors the Native Initiatives which are designed to increase access to credit, capital, and financial services in Native communities. These initiatives create and expand CDFIs mainly active in Native communities. The CDFI Fund's authorizing statute mandated that the CDFI Fund conduct a study of lending and investment practices on Indian reservations and other lands held in trust by the United States. This study recognized barriers to private financing, identified the impact of such barriers on access to capital and to credit for Native peoples, and provided options to address these barriers.

Following the November 2001 release of the CDFI Fund's Native American Lending Study, the CDFI Fund formulated two chief strategies for overcoming barriers to credit, capital, and financial services in Native communities:

- Expanding Native Opportunities (ENO), training programs that develop new Native CDFIs, strengthen existing Native CDFIs, and help Native CDFIs create financial education and asset building programs in Native communities. ENO has evolved and has been incorporated into part of the larger CDFI Fund Capacity Building Initiative (CBI).
- The Native American CDFI Assistance Program (NACA Program), a funding program that aims to increase the number and capacity of existing or new Native CDFIs. Since its 2001 launch, the NACA Program has provided more than \$93 million in awards to help Native CDFIs deliver financial services and financial products to their communities.

New Developments. Building on the success Part I of its Leadership training program, the CDFI Fund launched The Leadership Journey II on October 30, 2013. Part II offers a new cohort of 13 Native CDFIs in-person training events, along with continuous customized technical assistance, executive coaching, and peer mentoring over two years. Through the Leadership Journeys I and II, the CDFI Fund will provide over 2,000 hours of direct one-on-one capacity building assistance. As noted above, a third capacity-building training initiative will be initiated this fall.

The CDFI Fund Native Initiatives website includes a link to the [2001 Native American Lending Study](#) (NALS) and the Native Initiatives Strategic Plan for Fiscal Years 2009-2014. The CDFI Fund is building upon NALS and researching the state of access to capital and credit in Native Communities. The research will provide policy-makers, tribal governments, tribal community organizations, and economic development practitioners with detailed analysis and quantitative research that can lead to actionable recommendations for improving access to capital and credit in Native Communities. The CDFI Fund expects to complete the report, titled *Access to Capital and Credit in Native Communities*, by the end of 2014.

For an example of CDFI Fund-initiated FR consultation, see the [November 30, 2012](#), request for comments on the new study on access to capital and credit in Indian Country.

Financial Crimes Enforcement Network

<http://www.fincen.gov>

The Financial Crimes Enforcement Network (FinCEN) deals with complex and/or sophisticated financial matters that affect a small number of well-known constituent groups. Casinos are in this category, since they are vulnerable to exploitation through money laundering activities. For this reason, FinCEN staff works closely with tribally-owned casinos. FinCEN is part of the inter-agency Indian Gaming Working Group, which also includes the National Indian Gaming Commission, the Department of Justice, the Federal Bureau of Investigation, the Internal Revenue Service, and the Bureau of Indian Affairs Law Enforcement Services.

Internal Revenue Service

<http://www.irs.gov/tribes>

Within the Internal Revenue Service (IRS), the Indian Tribal Governments Office (ITG) aims to use partnership opportunities with Indian tribal governments, including Alaska Native governments, tribal associations, and other federal agencies, to respectfully and cooperatively meet the tax administration needs of Indian tribal governments and the federal government.

- Five ITG field groups consisting of tribal government specialists work in locations near the seats of tribal governments.
- ITG specialists can address issues that relate to tribal governments as employers; distributions to tribal members; and the establishment of governmental programs, trusts, and businesses.

ITG has consulted extensively with tribal governments throughout the development of its programs, and continues to lead a review of IRS consultation policies to ensure ancecompliance with EO 13175.

As explained above, TEDBs are tax-exempt bonds that Indian tribal governments can issue to finance any project or activity for which state or local governments could issue tax-exempt bonds. TEDBs are not subject to the limits Indian tribal governments have in their use of tax-exempt bonds to the financing of “essential governmental function” activities that are customarily performed by state and local governments. Treasury, the Service, and ITG have created a tribal economic development bond (TEDB) fact sheet, released on June 23, 2014. The

fact sheet outlines the history and functions of TEDBs, explains the allocations of authority to issue TEDBs, and describes the TEDB application process.

Also, as explained in the body of the report, Treasury, the Service, and ITG released final tax guidance on June 3, 2014 specifying that a range of benefits and services provided by Indian tribal governments qualify for the general welfare exclusion from income. While developing this guidance, Treasury received over 120 written comments, convened listening sessions, and participated in other formal and informal consultations to facilitate government-to-government dialogues between the U.S. federal and Indian tribal governments and to understand key tribal concerns.

Working closely with the Treasury Department's Offices of Tax Policy and Economic Policy, ITG and the Service developed guidance on fishing rights-related income and voluntary income tax withholding arrangements. Treasury released preliminary guidance in November 2013 that permits Indian tribal members to contribute compensation for services performed in fishing rights-related activities to qualified retirement plans. Later that month, Treasury issued guidance that expands the permitted use of voluntary withholding agreements to dividends and other distributions made by an Alaska Native Corporation (ANC) to its shareholders. The guidance allows shareholders to use the withholding regime, rather than the estimated tax payment process, to meet their payment obligations, subject to mutual consent by the ANC.

The Service and ITG partner with tribal governments to establish Volunteer Income Tax Assistance (VITA) sites in their local communities. The VITA program has a three-pronged approach, including financial education and asset building, tax education, and tax preparation. The tax preparation aims to provide free tax preparation services for low- to moderate-income taxpayers. During 2014, the Service continued to expand partnerships with tribal organizations and coalitions of tribal governments that share knowledge and resources to prepare free tax returns in their local communities.

United States Mint

<https://www.usmint.gov>

http://www.usmint.gov/mint_programs/nativeamerican/

Since the beginning of the Native American \$1 Coin Program in 2009, the United States Mint (Mint) has actively consulted with Native American stakeholders to ensure that the Native American \$1 Coin themes and designs are appropriate, significant, and historically accurate. The Native American \$1 Coin Act (Act) (Pub. L. No. 110-82 (Sep. 20, 2007)), as codified at 31 U.S.C. § 5112(r), authorizes the Secretary of the Treasury to mint and issue circulating \$1 coins commemorating the important contributions made by Native American tribes and individual Native Americans to the United States. The Act mandates a reverse design with an image

emblematic of one important Native American person or Native American contribution each year. The obverse bears the image of Sacagawea, a design that first appeared on the Golden Dollar in 2000. The Mint develops design themes in consultation with the National Museum of the American Indian, the National Congress of the American Indian (NCAI), the U.S. Senate Committee on Indian Affairs (CIAS), the Congressional Native American Caucus (CNAC) of the U.S. House of Representatives, and the Citizens Coinage Advisory Committee (CCAC). In accordance with the Act, the Secretary of the Treasury selects reverse designs after consulting with the NCAI, CIAS, CNAC, CCAC, and the U.S. Commission of Fine Arts (CFA). While the Federal Reserve Banks do not order Native American \$1 Coins for circulation, the United States Mint offers these coins in various quantities, qualities, and packaging options through its numismatic program.

The 2014 Native American \$1 Coin commemorates the native hospitality that vitally helped the Lewis and Clark Expedition in the Pacific Northwest. Between 1804 and 1806, Lewis and Clark depended on the supplies and support of the Mandan, Hidatsa, and Clatsop tribes, especially during the winter months. The coin's reverse design displays a Native American man offering a pipe while his wife offers fish, corn, roots, and gourds. A stylized image of the face of William Clark's compass highlighting "NW," the area where the expedition occurred, appears in the background.

Additionally, the Mint has worked closely with 33 eligible Native American tribes to develop themes and designs for each tribe's Code Talkers Recognition Congressional Gold Medal. The Code Talkers Recognition Act of 2008, Public Law 110-420 (Oct. 15, 2008), requires the Secretary of the Treasury to strike Congressional Medals to recognize the dedication and valor of Native American Code Talkers to the United States Armed Services during World War I and World War II. On November 20, 2013, in a ceremony held in Emancipation Hall at the U.S. Capitol, 25 Native American tribes received Congressional Gold Medals honoring tribal members who served as code talkers. Attendees included members of Congress, tribal leaders, and Treasurer of the United States, Rosie Rios. The Mint struck a unique gold medal for each Native American tribe that had a member who served as a code talker. The bureau also struck silver duplicate medals presented to the specific code talkers, their next of kin, or other personal representatives; and bronze duplicates available for public sale. The obverse designs are dedicated to the military service of the Native American code talker, while the reverse designs highlight the unique culture and heritage of the code talker's tribe. The Code Talker program required 66 new coin designs; in 2013 the Mint completed production of more than 50 of these designs, approximately the same number of designs that the Mint produces in one full year for all its other coin programs combined. At present, seven tribes are in various stages of design development. Once the tribes have selected designs, those designs can be brought forward for final approval by the relevant stakeholders, the United States Mint and the Department of the Treasury. The Mint's design recommendations for the Code Talkers Recognition Congressional

Gold Medals, which the bureau presents to the Secretary of the Treasury for his approval, are determined based on consultation with the senior leaders from each eligible tribe, the CCAC, and the CFA.