

Department of the Treasury Progress Report to OMB on Tribal Consultation

Activities from August 2015 through August 2016

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) ([EO13175](#)).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.

The Department of the Treasury (Treasury) is committed to robust and meaningful 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 August 2015 through August 2016 time period.

The Treasury Tribal Consultation Process

Treasury supports the Fundamental Principles that recognize tribal sovereignty, self-governance, and self-determination, and the unique government to government relationships between the United States and Indian tribal governments, set forth in Section 2 of EO 13175.

Three principles guide Treasury’s 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 consultation policy 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).

- A timely identification of matters that may require tribal consultation.
- (2) A timely process for determining whether consultation is required.
- (3) An ongoing, proactive tribal consultation processes.

Agency Point of Contact

The agency Point of Contact for Tribal Consultation is Beverly Ortega Babers, Deputy Assistant Secretary for Management and Budget, (hereafter the Point of Contact for Tribal Consultation or POCTC). She has substantive expertise in key areas of importance to tribal leaders and is well positioned within the Treasury organization to connect tribes to the information they need, and will bring high-level continuity to the role of POCTC.

Ms. Babers has served as the Chief Administrative Officer for the United States Mint, where she oversaw the office that consults with Indian Tribes regarding their depiction on coins and medals, and thereby gained a deeper understanding and appreciation for the sovereignty and individuality of tribal nations. In this role, she specifically oversaw the Congressional Gold Medal program that honored the World War I and World War II Native American Code Talkers which involved 33 Native American Tribes.

Ms. Babers also previously served as Internal Revenue Service (IRS) Chief of Staff and has the technical and organizational knowledge to partner with the Treasury Office of Tax Policy and Treasury's new Treasury Tribal Advisory Committee (TTAC). She understands what is required to develop training and guidance on the General Welfare Exclusion doctrine codified by the Tribal General Welfare Exclusion Act of 2013 and to discuss its application with IRS field agents and Native American finance officers. In the past she has worked with the Office of Tax Policy on regulations regarding individual, small business, large business, and international matters on behalf of the IRS Commissioner, and she oversaw the administrative appeals process for individuals and small businesses.

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.

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 internal revenue code matters affecting tribal governments, tribal corporations, and tribal members.
- 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 the issues 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 provided during the past year, and are described in this document.

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 consultation 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.
- Over the past year, Treasury's consultation with tribal leaders had come to fruition with final decisions or guidance on several key issues: the Treasury Secretary's appointment of three tribal leaders to the Treasury Tribal Advisory Committee (TTAC), which was newly chartered in 2015 in compliance with the [Tribal General Welfare Exclusion Act of 2014](#); final Treasury/IRS guidance on per capita distributions from [tribal trust account funds](#); new guidance authorizing more flexibility in the structure of Tribal Economic Development Bonds; and the CDFI Fund released a major new [study](#), *Access to Capital and Credit in Native Communities*.
- In addition, Treasury continues to hold general consultations and listening sessions to solicit input from tribal leaders on matters of concern to them, and to enable tribal leaders to discuss these 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.

Treasury Tribal Advisory Committee

On September 26, 2014, the President signed into law the Tribal General Welfare Exclusion Act of 2014 (TGWEA). Treasury began to implement this legislation promptly, consulting with tribal leaders through multiple channels. Among other provisions, the TGWEA requires that the Treasury Department establish a Tribal Advisory Committee (TTAC). TTAC committee

members will advise the Treasury Secretary on the taxation of Indians, the training of Internal Revenue Service field agents, and instruction on the General Welfare Exclusion for Native American finance officers. The TTAC Charter was filed in February 2015. Tom West, Tax Legislative Counsel, serves as its Designated Federal Official (DFO).

On December 21, 2015 the Secretary announced the appointment of three tribal representatives to the TTAC:

- W. Ron Allen, Chairman and Chief Executive Officer of the Jamestown S’Klallam Tribe. Mr. Allen has served as Tribal Chairman since 1977 and as CEO since 1982. Under his leadership the Jamestown S’Klallam Tribe transitioned from a landless reservation base to a land base of over 1200 acres, and established several business enterprises. Mr. Allen was President of the National Congress of American Indians from 1995-1999.
- Lacey Horn, Treasurer of the Cherokee Nation. Ms. Horn has served as the top financial executive of the Cherokee Nation since 2011. In 2014 the Native American Financial Officers’ Association named Ms. Horn its Tribal Executive Officer of the Year. She previously worked at KPMG as a Senior Audit Associate in Financial Services, and in the Internal Audit and Tax Departments of Hunt Oil.
- Marilynn “Lynn” Malerba, Lifetime Chief of the Mohegan Tribe. Ms. Malerba was appointed the traditional leader of the Mohegan Tribe in 2010. She is a member of several federal advisory committees, including the Indian Health Service Tribal Self Governance Advisory Committee. Ms. Malerba has also served as Mohegan Tribal Council Chairwoman and as a Member of the Board of Directors for the Mohegan Sun and Pocono Downs Casinos.
- On December 21, 2015, House Ways and Means Committee Ranking Member Sander Levin (D-MI) recommended Mr. Eugene Magnuson to serve as a member of the TTAC. Mr. Magnuson serves as Treasurer for the Pokagon Band of Potawatomi Indians in Michigan. He has also served as Chairman of the Mno-Bmadsen Economic Development Board for the Pokagon Tribe since 2009.

The Treasury Department is confident that these talented and committed individuals will work diligently, as they have in the past, to represent the interests and concerns of Indian Country before the Treasury Department and Internal Revenue Service.

These appointees will be joined on the committee by four individuals to be appointed by the Chairs and Ranking Members of the Senate Finance Committee, and the House Ways and Means Committee. Each committee chair or ranking member will appoint one member.

Tribal Consultation Activities This Year

Consultation on Tax Matters

- On September 17, 2015, Elaine Buckberg, then Treasury Deputy Assistant Secretary for Policy Planning and POCTC, served as a panelist for a session titled *IRS and Treasury*

Updates. The panel was part of the 17th Annual Tax Conference of the National Intertribal Tax Alliance at the Seneca Niagara Resort and Casino, in Niagara Falls NY. The panel discussed two Treasury announcements made in response to concerns raised by tribal leaders, and following tribal consultation on each topic: recently-released guidance on the tax status of per capita distributions of income from tribal land held in trust by the Secretary of the Interior, and Treasury's tribal consultation policy.

- On October 7, 2015, Treasury officials attended the (Indian Health Service (his) Tribal Self-Governance Advisory Committee (TSGAC) Quarterly Meeting to discuss tribal leaders' concerns regarding the application of the employer shared responsibility provisions of the Code to tribal employers.
- On December 1, 2015, Treasury and the IRS held a tribal consultation conference call with tribal leaders regarding the application of the Affordable Care Act's employer shared responsibility provisions to tribal employers. Prior to the call, tribal leaders were invited to send their specific questions on the ACA, including on the employer shared responsibility provisions, to the Treasury mailbox, Tribal.Consult@treasury.gov. These questions were then referred to subject matter specialists in the Office of Benefits Tax Counsel and the IRS, with several discussed on the call.
- On January 19, 2016, Tom West, Tax Legislative Counsel in the Office of Tax Policy and TTAC Designated Federal Official, met with tribal leaders who were in Washington for the 2016 Winter Legislative Summit of the National Indian Gaming Association. The discussion centered on the appointments to the TTAC; the role of the TTAC, including its budget and outreach to Indian Country; and the excise tax on high cost employer-sponsored health coverage.
- On January 20, 2016, Robert Neis, Benefits Tax Counsel, Kathryn Johnson, Attorney Advisor in the Office of Tax Policy, and Nicole Elliott, then IRS Director for Operations, Affordable Care Act, Office of the Commissioner, participated in a session of the Board of Directors of the National Indian Health Board (NIHB) titled *Employer Mandate Update*. The discussion focused on the application of the employer shared responsibility provisions to tribal employers. The NIHB represents all 566 federally recognized Tribes; the members of the Board of Directors are elected representatives from the twelve Indian Health Service areas.
- On February 8, 2016, Tom West met with the Board of Directors of the United South and Eastern Tribes to discuss several tax-related matters, including the TTAC.
- On March 31, 2016, Tom West and Kathryn Johnson participated in the TSGAC Quarterly Meeting to discuss the application of the employer shared responsibility provisions to tribal employers and the excise tax on high-cost employer sponsored health coverage, as well as other tax-related matters.
- On May 9, 2016, Robert Neis, as well as other Treasury officials, met with members of the

IHS TSGAC to discuss the application of the employer shared responsibility provisions to tribal employers and IHS TSGAC proposals for administrative relief to address their concerns.

- On May 13, 2016, in response to various requests, Robert Neis chaired a tribal consultation conference call following up from the December 1, 2015 tribal consultation to discuss the application of the employer shared responsibility provisions to tribal employers. Tribal leaders were invited to send their specific questions about ACA, including on the employer shared responsibility provisions, to the Treasury mailbox, Tribal.Consult@treasury.gov. These questions were referred to subject matter specialists in the Office of Benefits Tax Counsel and the IRS, and discussed on the call.
- On June 2, 2016, Tom West and Kathryn Johnson participated in the IHS Direct Services Tribes Advisory Committee Quarterly Meeting to discuss the application of the employer shared responsibility provisions to tribal employers, as well as other tax-related matters.
- On July 27, 2016, Robert Neis, Beverly Ortega Babers (POCTC), and other Treasury officials met with members of the IHS TSGAC to discuss the application of the employer shared responsibility provisions to tribal employers and IHS TSGAC proposals for administrative relief to address their concerns.
- Throughout the year, Treasury and IRS officials reviewed and considered correspondence from tribal officials, members of their staff, and other representatives regarding various provisions of the ACA, including the employer shared responsibility provisions and the excise tax on high-cost employer sponsored health coverage. In an April 11, 2016 letter, the IHS TSGAC requested a consultation on the excise tax on high-cost employer sponsored health plans before proposed regulations are issued if Treasury and IRS interpret the tax as applicable to tribal government health plans.

[White House Tribal Nations Conference of 2015](#)

On November 4 and 5, 2015, Treasury Department officials participated in the following WHTNC breakout sessions:

- Annie Donovan, Director of the Community Development Financial Institutions Fund, participated in the breakout sessions titled *Strengthening Tribal Economies: Jobs, Energy, Housing and Infrastructure*.
- Robert Neis participated in the breakout session titled *Access to Healthcare and the Affordable Care Act*.
- Elaine Buckberg and Christie Jacobs, Director of the IRS Indian Tribal Governments Office, participated in the breakout session titled *Advancing the Nation-to-Nation Relations: Tribal Sovereignty, Self-Governance, and Self Determination*.

- Robert Neis participated in a breakout session titled *Resilience: Prevention, Intervention, and Wellness*, which addressed wellness and mental health issues, healthcare and the ACA, and issues involving the National Institutes of Health, veterans, and native youth resilience.

Treasury officials have traveled across the country to conduct specific outreach efforts. In particular, the IRS Office of Indian Tribal Governments 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

On September 18, 2015, the Department of the Treasury and IRS issued [final guidance](#) (Notice 2015-67) regarding per capita distributions made to members of Indian tribes from funds held in trust by the Secretary of the Interior. The final guidance clarifies that, generally, these per capita payments will not be subject to federal income tax. The final guidance does not cover taxable income that is mischaracterized as nontaxable income such as mischaracterized compensation to tribal members for their services, mischaracterized distributions of business profits, or mischaracterized gaming revenues. This final guidance brought to fruition a three-year consultation process on per capita distributions from tribal trust funds. Consultation began in 2012, in response to feedback and concerns from tribal nations about specific Indian tribal trust settlements. The more general case was subsequently addressed in interim guidance, again after extended consultation with tribal leaders. We expect that tribes will benefit substantially from the clarity provided by this final guidance.

On September 23, 2015, the Treasury Department published a [Notice of Tribal Consultation Policy](#) in the Federal Register (80 FR 57434). The consultation policy outlines guiding principles for all Treasury bureaus and offices engaged with Tribal Governments on matters with Tribal implications. Following the November 5, 2009 Presidential Memorandum on Tribal Consultation, tribal leaders frequently urged agencies to institutionalize their tribal consultation process through the articulation of a formal tribal consultation policy. In response to these requests, on December 3, 2014, Treasury released an interim tribal consultation policy outlining guiding principles for all Treasury bureaus and offices engaging with Tribal Governments on matters with tribal implications ("Tribal Consultation Policy; Notice of Interim Tribal Policy," 79 FR 71816). At that time, comments were solicited from tribal leaders and their representatives. The concerns expressed by tribal leaders through written comments and additional consultations were addressed in the final Notice. The policy will be updated periodically and refined as needed to reflect ongoing engagement and collaboration with Tribal partners.

Tax Policies Affecting Tribal Member Employment

Business Tax Credits to Stimulate Employment among Native Americans and Alaska Natives. In its Fiscal Year 2017 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. 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.³

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 Currently, the WOTC does not apply to an individual who begins work after December 31, 2019.

Indian Employment Credit. The IEC, a business income tax credit, is available to employers who hire enrolled members of Indian tribes, and spouses of enrolled tribal members, if the credit-eligible employees live on or near an Indian reservation and work for their employer on that reservation. Currently, the Indian employment credit does not apply for tax years beginning after December 31, 2016. The credit is available to qualified workers earning \$45,000 or less annually and not employed in the gaming industry.

Employers may not take the WOTC and the IEC concurrently for the same employee.

³ See pages 39-41 of the Treasury Department's General Explanations of the Administration's Fiscal Year 2017 Revenue Proposals, also known as the [Treasury Green Book](#), for more complete discussions of the WOTC and IEC. As noted in the Green Book, current WOTC targeted groups include qualified: (1) recipients of Temporary Assistance for Needy Families; (2) veterans; (3) ex-felons; (4) residents of an empowerment zone or a rural renewal community who are at least 18 but not yet 40 years old; (5) referrals from state-sponsored vocational rehabilitation programs for the mentally and physically disabled; (6) summer youth employees who are 16 or 17 years old residing in an empowerment zone; (7) Supplemental Nutrition Assistance Program benefits recipients at least 18 years old but not yet 40 years old; (8) Supplemental Security Income recipients; (9) long-term family assistance recipients; and (10) long-term unemployment recipients. .

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.

Financing Tribal Government Investments

Treasury and the IRS have released new guidance that allows Indian tribal governments increased flexibility in the use of Tribal Economic Development Bonds (TEDBs). Tribes may now finance their investments through “draw-down” loans, in which bonds are issued in phases over time. Indian tribal governments have up to three years to use the full bond volume cap allocations if they issue at least 10% of the total allocated authority within the first six months, and 50% of the total amount within two years. This new guidance, Notice 2015-83, was issued on December 4, 2015.

On December 1, 2015, before this guidance was issued, the total outstanding TEDB authority available to tribal governments was \$1.4 billion, or 70 percent of the \$2 billion originally allocated under the American Recovery and Reinvestment Act of 2009 (ARRA). By August 1, 2016 the total available TEDB authority was roughly \$958 million. That is, \$440 million in unused TEDB authority, over thirty percent of the outstanding total, has been allocated to tribal governments during the eight-month period between December 1, 2015 and August 1, 2016.

It is too soon to tell whether these more recent allocations will increase the rate of successful bond issuance by tribal governments. But we believe this new approach may be helpful to smaller tribes, as it has been for smaller municipalities, as the economy continues to strengthen while interest rates remain low.

Complementing this new guidance, the Office of the Comptroller of the Currency issued a new report, titled *Commercial Lending in Indian Country: Potential Opportunities in a Growing Market*, which details factors that can make commercial lending in Indian Country attractive to banks. This report also identifies federal programs that can help lenders manage risks associated with financing business developments on Indian reservations.

Programs Promoting 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 are 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 Native CDFI training series under 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. Award announcements for the FY 2016 funding round are expected in late September.

- 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 2016, there were 72 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 financial institutions 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.

Since it was launched in 2001, the NACA Program has provided awards totaling more than \$119 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 72 Native CDFIs headquartered in 21 states.

The awards made under the NACA Program are typically announced in early fall. For the FY 2015 award round, the CDFI Fund received 54 NACA applications, requesting more than \$33.8 million and in September 2015, the CDFI Fund announced almost \$9.6 million in awards. Native CDFIs received 29 Financial Assistance awards and 14 organizations received Technical Assistance grants. Congress appropriated \$15.5 million for the CDFI Fund's Native Initiatives, level in FY 2016, up slightly from FY 2015 and FY 2014 and an increase from \$12 million in FY 2013. The President's FY 2017 Budget requests level funding at \$15.5 million, continuing support for the prior fiscal year's increase and demonstrating strong support for the CDFI Fund's Native Initiatives.

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. *The Leadership Journey: Native CDFI Growth & Excellence: Part I and Part II* of this highly successful program provided training to 29 experienced Native CDFIs with 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 provided over 3,000 hours of direct one-on-one capacity building assistance to Native CDFIs.

Building Native CDFIs' Sustainability and Impact. a third capacity building program for Native CDFIs (October 2014 – August 2016), enabled Native CDFIs to increase their impact and improve their sustainability through individualized training. The program provided capacity building support to 57 Native CDFIs, training 205 staff at seven on-site training events; developing Capacity Building Plans for 39 Native CDFIs; providing 2,359 hours of direct technical assistance and coaching; training 123 staff through webinar engagements; completing three organizational assessments; and creating a virtual Resource Bank, including four case

studies highlighting best practices in the Native CDFI industry.

The CDFI Fund added to the 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, which includes material from Part II of The Leadership Journey series.

[CDFI Study on Access to Capital and Credit](#). In May 2016, Native Nations Institute published the *Access to Capital and Credit in Native Communities Report* (the Report), commissioned by the CDFI Fund, examined recent successes in the effort to improve access to capital and credit in Native Communities as well as what can be done to build on that success. The CDFI Fund commissioned the Report as a follow-up to its 2001 Native American Lending Study, which analyzed access to capital and financial services in Native Communities, identified barriers to access, and provided options to address the barriers.

One of the successes examined in the Report is the critical role of Native CDFIs, and how, thanks to the growth and reach of Native CDFIs, many Native Community residents who want to buy a home, start a business, or take control of their finances have better options today than they did when the CDFI Fund first examined the issue in 2001. It also discusses the role of the CDFI Fund's programs for Native CDFIs, which have been a critical source of technical assistance and training in addition to capital.

The Report also examines: the growth and success in financial education programs, especially with Native-specific curriculums; the need to expand Native entrepreneurship to help Native Communities' economies flourish; the current housing situation in Native Communities, the flow of housing finance and other systemic factors; the need for capital and credit for tribal governments and tribal enterprises for development of basic infrastructure and other community amenities such as health care centers; the impact tribal legal infrastructure has on business and economic development in Native Communities; and strategies Native Communities can adopt to improve access to capital and credit.

Link to the report: [Access to Capital and Credit in Native Communities Report](#)

[New Markets Tax Credit Program](#) (NMTC Program): The CDFI Fund's 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). The proceeds from these equity investments are used to make investments such as loans, equity investments and financial counseling and other related services to 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). All Native CDFIs are eligible to be certified as CDEs.

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 2014, NMTC

Program investments in Native lands totaled \$878 million. In the most recent award round announced in June of 2015, the Chickasaw Nation Community Development Endeavor LLC received an allocation of NMTCs.

The NMTC Program operates on a calendar year basis. The current award round is expected to be announced by the end of CY 2016. The next award round is scheduled to be opened in the spring with awards announced in the winter of CY 2016 pending NMTC reauthorization from Congress. The Administration's FY 2016 Budget proposes that the NMTC Program be permanently extended, and modified to permit offsets against alternative minimum tax liabilities.

CDFI Bond Guarantee Program. Treasury's CDFI Fund 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 low interest 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. As a result, 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 have worked closely with representatives of NAFOA and the Native CDFI network to identify sources of collateral tribes may use, recognizing that tribal land held in trust cannot be used as collateral.

A case study demonstrating some of the ways that Native CDFIs can participate in the CDFI Bond Guarantee Program was presented at all outreach and training sessions during the FY 2015 and FY 2016 funding rounds, as well as at 2015 NAFOA's annual conference, to highlight successful ways the CDFI Bond Guarantee Program can serve Native communities. Further, in 2015 the Bond Guarantee Program obtained OMB approval to add leasehold mortgages as an eligible form of secondary loan collateral, which is critical to expanding the program to Native Communities.

The application period for the FY 2016 round, the fourth round of the CDFI Bond Guarantee Program, closed in March 2016. The Qualified Issuer (QI) application deadline was March 11, 2016, and the bond guarantee application deadline was March 18, 2016. Treasury will announce FY 2016 awards in September 2016. 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 in turn 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. Under the statute, the total of all bonds cannot exceed \$1 billion per year. Contingent upon Congressional authorization for Treasury to issue guarantees in FY 2017, the Department will resume its outreach efforts next fiscal year to prepare Native communities and the CDFI industry at large for the 2017 application period of the CDFI Bond Guarantee Program.

To date, Treasury has closed over \$1 billion in bond issues for 16 Eligible CDFIs, including the first Native CDFI to participate in the Program, with maturities up to 29.5 years for community and economic development financing in underserved urban, rural and Native American areas. As of July 31, 2016, over \$290 million has been disbursed. The disbursement includes a secondary loan, in the Commercial Real Estate Asset Class, to a Native community in Nevada and

California. The CDFI Fund has thus far selected five QIs to issue the bonds and make bond loans to eligible CDFIs for investments in low-income and distressed communities across the country.

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 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 noted above, as of August 1, 2015, approximately \$958 million in TEDB authority remains available, for a maximum allocation to a single tribe of approximately \$191.5 million.⁶

In the Administration’s Fiscal Year 2016 Revenue Proposals, Treasury recommends 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 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

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

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.

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. Recognizing the important role insurance plays in supporting asset protection, inter-generational transfer of wealth, retirement security, and economic development in communities and regions, the Federal Insurance Office (FIO) has engaged with Tribal leaders, the National Association of Insurance Commissioners (NAIC), and other federal agencies to identify any challenges with respect to access to insurance and alternative ways to improve access to insurance (except health insurance) on sovereign Tribal lands. FIO continues to monitor the insurance industry and access to insurance products for all lines of insurance (except health) on Tribal lands.

FIO Deputy Director Chester McPherson attended the NAIC/American Indian and Alaska Native Liaison Committee meeting on April 4, 2016 during the national meeting of the National Association of Insurance Commissioners in New Orleans, Louisiana.

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.

⁸ Report, p. 2.

Appendix A: Treasury Department Tribal Consultation Policy

In furtherance of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” 65 FR 67249, issued by President Clinton on November 6, 2000, and the Presidential Memorandum for the Heads of Executive Departments and Agencies on Tribal Consultation, 74 FR 57881, signed by President Obama on November 5, 2009, the U.S. Department of the Treasury (Treasury) establishes this Tribal Consultation Policy (Policy). The Policy outlines the guiding principles for all Treasury bureaus and offices engaging with Tribal Governments on matters with Tribal Implications.

I. Definitions

A. “Indian Tribe” refers to an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

B. “Tribal Government” refers to the governing body of an Indian Tribe.

C. “Tribal Consultation” (or “Consultation”) involves the direct, timely, and interactive process of receiving input from Indian Tribes regarding proposed Treasury actions on Policies that have Tribal Implications.

D. “Policies that have Tribal Implications” has the same meaning as used in Executive Order 13175, and refers to Treasury regulations, published guidance, or other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes. It does not include policy matters of general applicability that may have an impact on Indian Tribes or their members; however, Treasury may consider Consultation on such matters under the circumstances described in Section III.A.

Show citation box

E. “Tribal Official” refers to an elected, appointed, or designated official or employee of the governing body of an Indian Tribe, or an authorized inter-tribal organization.

II. Guiding Principles

A. The United States recognizes the right of Indian Tribes to self-government, and their inherent sovereign powers over their members and territories. The principle of consultation has its roots in the unique relationship between the federal government and the governments of Indian Tribes. This government-to-government relationship has a more than 200-year history, and is built on the foundation of the U.S. Constitution, treaties, legislation, executive action, and judicial rulings. Most recently, consultation was recognized in Executive Order 13175 and in the November 5, 2009 Presidential Memorandum on Tribal Consultation.

B. Treasury is committed to strengthening the government-to-government relationships between the United States and Indian Tribes. Treasury recognizes that agency policies, programs, and services may affect Indian Tribes and is committed to consulting with Tribal Officials with regard to Treasury Policies that have Tribal Implications. This policy will complement, not supersede, any existing laws, rules, or regulations that guide existing consultation processes with Indian Tribes.

C. Tribal Consultation will inform Treasury's development of regulations, published guidance, and other policy statements or actions, as it will enhance Treasury's understanding of the potential impacts of these activities on Indian Tribes.

D. Treasury is committed to developing and issuing regulations and guidance in a timely manner.

III. Consultation Policy

A. Statement of Policy

Treasury will consult with Tribal Officials prior to implementing Policies that have Tribal Implications. While not required by this Policy or EO 13175, when specifically requested, Treasury also may consult with Tribal Officials regarding policy matters of general applicability that may have an impact on Indian Tribes or their members. Treasury may also conduct listening sessions, meetings with individual Tribes, and informal discussions with Tribal Officials on matters of concern.

The Tribal Consultation process should achieve the following core objectives: (1) Timely identification of policy matters that may warrant Tribal Consultation; (2) implementation of a process that is accessible and convenient to Tribal participants; and (3) development of meaningful, transparent, and accountable dialogue involving the appropriate participants.

Consistent with EO 13175, Tribal Consultation is not required for actions to enforce requirements administered by the agency or actions to penalize violations of these requirements, even if the actions impact multiple Indian Tribes or members of multiple Indian Tribes. Actions that do not require Tribal Consultation include, but are not limited to:

- Administrative orders or practices involving penalties or equitable or similar relief to ameliorate the effects of prior violations or ensure compliance;
- Administrative orders that impose specialized requirements of limited duration;
- Audits, examinations, collections, litigation, or investigations; and
- Internal agency guidelines with respect to such matters.

B. Role of the POCTC

The POCTC is available to assist Treasury bureaus and offices in the identification of policy matters that may be appropriate for Tribal Consultation. OGC is also available to assist in resolving internal questions related to Tribal Consultation matters.

C. Procedures for Evaluating and Initiating Consultation

1. Treasury bureaus and offices should conduct Tribal Consultation with respect to Policies that have Tribal Implications, including early outreach to solicit comments from appropriate Tribal Officials who may be substantially affected by changes in Treasury regulations, published guidance, or other policies under consideration. Program staff and legal counsel should assist in the identification of policy matters that are likely to require Tribal Consultation. Generally, every effort should be made to provide sufficient notice prior to scheduling Consultation, and the POCTC or Treasury office or bureau conducting a Consultation should inform Tribal Officials as soon as practicable if exceptional circumstances, such as legislative or regulatory deadlines or other factors beyond Treasury's control, warrant an abbreviated period of advance notice.
2. Tribal Consultation will be conducted by Treasury officials who are knowledgeable about the matters at hand and authorized to speak for the Department.
3. A phased approach to Tribal Consultation may be appropriate in some matters, in which a plan for more extensive Tribal Consultation is identified and a commitment is made to consult within a specified time frame.
4. Treasury bureaus and offices should notify the POCTC in advance of final actions on policies that may have Tribal Implications. The POCTC may advise on the potential need for Tribal Consultation with respect to such matters.
5. With respect to regulations and published guidance on matters that have Tribal Implications, to the extent practicable and permitted by law, Treasury will consult with Tribal Officials early in the process of developing such regulations or guidance. These Consultations should seek comment on compliance costs as appropriate to the nature of the regulation or guidance under development. The timing, nature, detail, and extent of Consultation will depend on the regulation or guidance involved.

D. Methods of Consultation

Tribal Consultation may include, but is not limited to, one or more of the following:

- Federal Register (FR) notices or other published guidance soliciting comments. Tribal Consultation opportunities may be announced in FR notices and other published guidance, including guidance published in the Internal Revenue Bulletin. FR notices and other published guidance requesting comments from Tribal Officials should be published as soon as practicable after Treasury determines that Tribal Consultation is appropriate. When practicable, a comment period of 60 to 120 days will be provided, to allow sufficient time for Tribal Officials to consult with their members and legal counsel on any matters of concern.

- Meetings, written correspondence, conference calls, videoconferences, and workshops to encourage an exchange of views. Tribal Consultation may also be conducted through email, regular mail, telephone calls (including conference calls), video conferences, and in-person meetings or conferences, as schedules and resources permit. Where appropriate, intra- and inter-agency meetings also may be utilized to address areas of concern, conserve resources, and ensure comprehensive coverage of an issue. Disparities in time zones and travel costs, including those of Alaskan Native tribes, will be taken into account when scheduling phone calls and conferences.
- Targeted outreach. Treasury officials or the POCTC may also directly contact Tribal Officials to discuss Policies that have Tribal Implications. In addition, as resources and schedules permit, Treasury officials may attend conferences sponsored by inter-tribal organizations to participate in agency listening sessions and/or to present on issues of concern to Indian Tribes.

E. Process for Tribal Officials to Request Consultation

Tribal Officials are encouraged to contact directly the appropriate Treasury officials, on a government-to-government basis, to seek Consultation on Policies that have Tribal Implications. Consultation requests may also be addressed to the POCTC, who may direct the matter to additional Treasury officials, as appropriate. Consultation requests to the POCTC will be acknowledged within a reasonable period. The POCTC also may be contacted with general concerns or requests for information, and may refer specific policy matters to the Treasury bureaus or offices with direct jurisdiction, as appropriate. The POCTC can be reached at Tribal.Consult@treasury.gov.

IV. Judicial Review

This Policy is intended only to improve the internal management of Treasury, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against Treasury or any person.

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. 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. All sequestration issues have been resolved, and all sequestered funds were deposited in the funds at the beginning of FY 2015.

Community Development Financial Institutions Fund

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

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.

Native Initiatives

The Native Initiatives program serves 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 30, 2016, there are 72 certified Native CDFIs. 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 provide support in two ways: through financial assistance and technical assistance awards provided by the NACA Program, and through training, technical assistance, and other resources provided by the 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 capacity building initiative, 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 Native Initiatives 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 CBI.
- The 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 \$100 million in awards to help Native CDFIs deliver financial services and financial products to their communities.

New Developments. In May 2016, Native Nations Institute published the Access to Capital and Credit in Native Communities Report, commissioned by CDFI Fund, which examines recent successes in the effort to improve access to capital and credit in Native Communities as well as what can be done to build on that success. The CDFI Fund commissioned the Report as a follow-up to its 2001 Native American Lending Study, which analyzed access to capital and financial services in Native Communities, identified barriers to access, and provided options to address the barriers. Link: [Access to Capital and Credit in Native Communities Report](#)

The CDFI Fund also finished *Building Native CDFIs' Sustainability and Impact (BNCSI)*.the series provided specialized training and technical assistance to Native CDFIs in order to foster their growth and sustainability, and to enhance their ability to deliver financial services and financial products to Native Communities. BNCSI provide capacity building support to 57 Native CDFIs, training 205 staff at seven on-site training events; developing Capacity Building Plans for 39 Native CDFIs; providing 2,359 hours of direct technical assistance and coaching; and training 123 staff through webinar engagements.

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.

Internal Revenue Service

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

Within the IRS, the Indian Tribal Governments Office (ITG) uses 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 procedures to ensure compliance with EO 13175 and the new interim Treasury Consultation Policy. During FY15, ITG participated in numerous conferences to provide information and get feedback from tribes on the impact of various tax related topics. In addition to those summarized at the beginning of this report, the ITG Director and senior staff participated in breakout sessions at NIGA, NAFOA and NITA to discuss topics including the employer shared responsibility provisions, general welfare exclusion, gaming reporting regulations, and the per capita act. Senior staff also participated jointly with HHS and IHS in outreach sessions held across Indian Country on ACA provisions.

ITG staff also provided significant training opportunities to tribes, with an increased emphasis on virtual products to allow tribal staff to access the materials when needed and at no cost. Web based sessions were held on the ACA, year-end tax reporting, tip agreements, travel expenses, and the proper reporting of tribal council pay. In addition, local ITG staff provided in-person training sessions on reconciling year-end tax reporting and Title 31 compliance.

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. The ITG web site has posted a TEDB fact sheet and a phone forum webinar on their web site that is permanently available for replay.

The IRS 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 the past year 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/

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

http://www.usmint.gov/mint_programs/native-american-coins-medals/

Since the beginning implementation 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), and the United States Senate Committee on Indian Affairs the United States House of Representatives Congressional Native American Caucus and these themes are reviewed by the Citizens Coinage Advisory Committee (CCAC). In accordance with the Act, the Secretary of the Treasury selects reverse designs after the Mint consulting with the respective Congressional entities, NCAI, 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 through its numismatic Program, in various quantities, qualities, and packaging options, through its numismatic program.

The 2016 Native American \$1 Coin commemorates the contributions of the Native American Code Talkers in World War I and World War II. The obverse design continues to bear the image of Sacagawea. The reverse design features two U.S. helmets—one in the shape of the U.S. helmets used in World War I and the other in the shape of and World War II helmet. Next to them are the inscriptions “WWI” and “WWII.” Behind the helmets are two feathers that form a “V,” symbolizing victory, and unity to represent and the important role that the code talkers played in both world wars. Additional inscriptions are “UNITED STATES OF AMERICA,” “\$1” and “CODE TALKERS.”

The Mint continues to work closely with eligible Native American tribes to develop themes and designs for each tribe. 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. The Code Talker program required consultation with 33 Tribes, which will result in about 66 new coin designs; the Mint has now completed production of more than 58 62 of these designs, approximately the same number of designs that the Mint produces in one full year for all its other coin programs combined. The Mint’s design recommendations for the Code Talkers Recognition Congressional Gold Medal Programs, which the bureau presents to the Secretary of the Treasury for his approval selection, are determined based on consultation with the senior leaders from each eligible tribe, the CCAC, and the CFA.