

**Remarks by Dr. Elaine Buckberg, Treasury Point of Contact for Tribal Consultation and Deputy Assistant Secretary for Policy Coordination in the Office of Economic Policy, on “Federal Loan Programs and Tax-Exempt Bond Options for Indian Country”**

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*As Prepared for Delivery*

Good morning. My name is Elaine Buckberg, and I recently became the Treasury’s Point of Contact for Tribal Consultation. I also serve as Deputy Assistant Secretary for Policy Coordination in the Office of Economic Policy.

I want to thank NAFOA and Executive Director Dante Desiderio for inviting me to speak to the 2013 Fall Finance and Tribal Economies Conference. It is a pleasure to be here.

Dante and VaRene Martin also generously spent the day with me on Saturday, and we visited the Puyallup, Squaxin Island, and Jamestown S’Kallam Tribes. It was a fascinating day. I want to thank Dante and VaRene, Puyallup Councilman David Bean, Squaxin Island Councilman Ray Peters, Jamestown S’Kallam Chairman Ron Allen and their colleagues for taking time from their Saturdays to talk with me about their tribes’ economies, financing needs, benefits to tribal members, and policy concerns.

I want to emphasize, at the outset, how much Treasury respects and values the sovereign-to-sovereign relationship between your Tribal governments and the Federal Government.

Treasury is committed to tribal consultation as part of the Nation to Nation dialogue between the Federal Government and tribes, as domestic sovereign nations. The tribal consultation process allows us to better understand your concerns, your needs, and your circumstances—and to better address them.

We recognize the many challenges facing tribal nations today. We thank you for your willingness to work with us to find ways to make our governments more responsive and effective.

We know sequestration has caused new frustration and disappointment. Fiscal year 2014 begins on October 1, and we continue to hope that Congress acts to replace the across-the-board cuts with a sensible, balanced plan similar to President Obama’s budget.

Today I will discuss:

- Recent Treasury initiatives in the areas of sovereignty, economic development, and access to credit, and
- Federal lending and bond programs that can bring capital and credit to Indian Country for purposes ranging from tribal economic development and infrastructure to small businesses and veterans seeking to buy a home for their family.

Let me begin with Treasury's recent and current work affecting tribes.

The CDFI Native Initiatives Program is launching a new study of Native Communities Access to Capital and Credit this fall. The project will provide detailed analysis and quantitative research that can lead to actionable recommendations for improving access to capital and credit in Native Communities. The CDFI Fund is conducting a focus group to discuss these themes in depth right here in Seattle tomorrow and Thursday. I hope many of you will stay to participate.

On the General Welfare Exclusion, in December of last year, the IRS issued preliminary guidance on Indian Tribal government benefits covered by the exclusion. We received a number of thoughtful comments from tribes and are currently considering those comments in preparing to issue final guidance.

We have received a number of requests to consider extending the guidance on per capita distribution of settlements to per capita distributions more broadly. We are actively considering that request.

We have consulted and intend to issue guidance in the coming months on a number of other issues tribes have raised. Tribes in this region have asked that tax-exempt fishing-rights related income be eligible to be treated as compensation under Section 415, so that the income may be contributed to a qualified retirement plan. We are approaching completion of guidance on this issue.

An Alaska Native Corporation wanted to withhold taxes from dividend payments on the request of tribal members—which is convenient for those tribal members and facilitates tax compliance. This summer we began consultation on this issue, to understand the potential impact on other ANCs.

We thank Jackie Pata of NCAI for proposing that the IRS's Indian Tribal Governments program have regular dialogue with tribal representatives about how to sensitively and effectively work with tribes. Jackie and Christie Jacobs are working together on developing such a program, which would supplement the Indian Tribal Government group's existing Advisory Board.

The President's FY 2014 budget contains a number of new tax and bond initiatives that will benefit tribes. In particular, Treasury has proposed making permanent the Indian Employment Credit and the Returning Heroes and Wounded Warriors Work Opportunity Tax Credits. Both credits have been extended numerous times, but often either retroactively or near the expiration date, and only for a few years each time. This irregular renewal pattern has led to uncertainty for employers regarding the availability of the credits and may limit their effectiveness. We think both credits should be made permanent.

I understand some tribes were interested in and issued Build America Bonds. The Administration proposes to create a new and permanent option for municipal direct pay bonds, called America Fast Forward bonds; as with Build America Bonds, tribes could be made eligible.

America Fast Forward bonds would supplement traditional tax-exempt issuance and enable issuing governments to fund more infrastructure or services via the bond markets by reducing their net interest costs.

One key benefit to municipal issuers of taxable bonds is the opportunity to attract capital from a broader base of investors, including pension funds and foreign investors that do not receive a tax benefit from traditional tax-exempt debt. The federal government would then pay direct subsidies to issuers, generally 28% of the coupon interest. We know this works.

By broadening the investor base, Build America Bonds brought down interest costs by about 80 basis points on 30-year debt. That means issuing governments can raise more, invest more, and create more jobs. Let me add that America Fast Forward bonds would be approximately revenue neutral for the federal budget, relative to traditional tax-exempt municipal bonds.

At a recent meeting on the subject of access to capital for Indian Country, someone said to me, “What we need is to be able to borrow directly from the Treasury.” The Federal Government currently has 30 programs that tribes, non-profits serving tribal members, small businesses, and individual tribal members can access for a wide range of purposes.

A few of these fall directly under the Treasury, notably the CDFI Fund, but more fall under sister agencies including the USDA, Small Business Administration, HUD, the Interior Department and Department of Veteran’s Affairs. Many of these programs offer below market interest rates and long loan maturities; some offer loans of up to \$25 million.

It’s not enough to create credit programs that can benefit tribes, however. They are only valuable if used, and they can only be used if the tribes, businesses and individuals who should benefit from them know that they exist and how to access them. That’s why, last year, Federal Government staff working with tribes across lending agencies got together and compiled all the information into a single document, which is now available on the Department of Interior’s Indian Affairs website.

Today I want to talk about those programs and make sure that you, the financial leaders of your tribes, know about all the facilities that are available, so you and the members of your tribes can access them to promote economic development. I will also address the bond programs available to tribes with larger credit needs and the assistance Treasury and the IRS can provide in guiding tribes to the right bond program.

I have heard a number of questions about financing infrastructure investment, which happens to be another major focus of my work at Treasury. Two programs, both offered by the USDA, support infrastructure investment in energy and water.

USDA’s Water and Waste Disposal program provides grants, loans and loan guarantees for construction, land acquisition, equipment and other costs and fees involved in building new water and waste disposal infrastructure. Terms may be up to 40 years and there is no fixed maximum amount, although grants may not exceed 75% of project cost.

Under the Rural Energy for America, or REAP program, loan guarantees to small businesses and agricultural producers support investment in renewable energy systems and energy efficiency improvements to non-residential buildings and facilities. The loans can be as large as \$25 million, support up to 75% of project costs, and be for terms as long as 30 years.

Seven programs lend for economic and community development, with loans up to \$2 million and loan guarantees of up to \$10 million. For example, under the USDA Business and Industry Guaranteed Loan Program, tribes, cooperatives, businesses and individuals can obtain loan guarantees on loans up to \$10 million, with exceptions up to \$25 million (and above).

Loan guarantee programs can be similarly valuable to tribes as loans. I know tribes face different challenges than state or local governments in accessing capital in that their land is held in trust and many lack a steady stream of tax revenues, which makes it difficult for many tribes to pledge collateral against a loan.

To a private lender, a federal guarantee offers better security than collateral: there are no assets to be sold, with uncertain timing or value, nor potential delays in collecting pledged revenue. A federal guarantee should greatly improve private lenders' willingness to lend, by resolving the collateral issue, and bring down interest rates to reflect the reduced risk. Federal guarantees are not free, but I would expect the interest rate reduction to be more than the guarantee fee.

I also know that quality housing is a chronic issue in Indian Country. HUD, USDA and the Department of Veterans' Affairs together offer 10 housing loan and loan guarantee programs that can help finance housing construction and home purchases. Tribes can access three different housing finance programs; nine programs serve tribal members.

Another nine programs provide financing to small businesses with loans of up to \$5.5 million; seven loan directly to businesses; tribes and tribal non-profits can access another three programs, and then use those funds to provide financing to small businesses.

Let me focus on a Treasury program, run by the Community Development Financial Institutions Fund, or CDFI Fund. Amber Kuchar of the Native CDFI program will be moderating a session on CDFIs later this afternoon, and I visited a native CDFI, the Chehalis Tribal Loan Fund, with her yesterday. I want to also thank them for the time they spent with us yesterday.

The new CDFI Bond Guarantee Program can be a valuable source of credit and capital to Indian Country, as it provides long-term capital, up to 30 years, at below-market rates to eligible CDFIs. Tribes can partner with CDFIs that participate in the program to obtain federally guaranteed financing for projects.

These could be native CDFIs or other CDFIs active in Indian Country. If a tribe or related entity has strong community and economic development projects, the CDFI can frame their application around them—and strengthen their application and the probability of winning financing. The FY2013 round is complete, but the Administration is advocating for continued funding of the program by Congress in FY2014.

Last, let me discuss bond issuance options for tribes. Tribes can issue bonds under three programs: tax-exempt bonds, Tribal Economic Development Bonds, and so-called New Clean Renewable Energy Bonds (New CREBs) to finance renewable energy projects.

Tribes have long been able to issue tax-exempt bonds for essential government functions. That remains true today. As I mentioned, the Administration also wants to offer America Fast Forward bonds as a permanent taxable alternative with a subsidy directly paid by the Federal Government to the issuer.

Tribal Economic Development Bonds are another way to increase investments in Indian Country and enable Tribal governments to issue bonds without the essential government function requirement. There remains over \$1.5 billion in Tribal Economic Development Bond authority. The maximum allocation available to any one tribe is currently just under \$300 million. This per-tribe ceiling will decline as the total authority is used.

A number of tribes have energy resources; others have land suitable for renewable energy development such as wind farms. Tribes are eligible to issue New Clean Renewable Energy Bonds or New CREBs. Some of the \$2.4 billion in initial allocations made by Treasury and the IRS in 2009 were not used and have and reverted back to the IRS.

That unused volume will soon be available for re-allocation, and Treasury and the IRS currently are working on guidance for that re-allocation process. New CREBs can be issued as either qualified tax credit bonds or issuers may choose to issue New CREBs as direct pay bonds.

Staff at Treasury and the IRS are happy to consult with tribes to discuss whether a particular bond option is suitable for your needs. Consulting with us is absolutely free, and there is no reason not to take advantage of it if you are considering a bond issue. It can help point you in the right direction early in your planning process. There is also a wealth of information available on the IRS website.

I am heartened when I hear success stories of tribes overcoming the special challenges they face in bond issuance and obtaining bank loans. Some have involved creative approaches. One leader told me that his tribe closed the deal on loans by agreeing to be subject to state law in the event of default, addressing concerns about sovereign immunity.

I urge tribes to share your successes and gather and document best practices. Making such best practices available to other tribes, bond counsel, banks and underwriters will help facilitate future borrowing and bond issuance.

I will be here all day, and tomorrow morning at the CDFI Fund's Tribal Focus Group on Accessing Capital and Credit in Native Communities. I hope to talk with many of you about your views and concerns, especially on economic development and access to credit and capital. If you see me, please stop and introduce yourself.

Thank you. I would be happy to take a few questions.