

## **U.S. Department of the Treasury**

### **State Small Business Credit Initiative**

#### **Summary of May 27, 2021 Tribal Consultation**

##### **Overview**

The American Rescue Plan Act of 2021 (ARPA) reauthorizes and amends the Small Business Jobs Act of 2010 (SBJA), which established the State Small Business Credit Initiative (SSBCI) Program. ARPA provides a \$500 million SSBCI capital allocation for Tribal governments to help address the economic fallout of the pandemic and lay the foundation for a strong and equitable recovery by providing direct support to Tribal governments for programs that increase access to credit for small businesses.

The addition of Tribal governments represents a significant expansion of the number of eligible jurisdictions to receive SSBCI funds. Tribal governments are expected to use their allocated funds to facilitate capital access programs, provide collateral support, facilitate loan participations, or enable credit guarantee or other credit support programs to support small business lending and investment. In accordance with Treasury's Tribal consultation policy, Treasury solicited letters and held an information session on May 13, 2021, and a consultation on May 27, 2021, to gather perspectives from Tribal leaders on allocation methodologies, and whether tribally owned businesses would be eligible for the program. More than 200 attendees from all regions of the country joined the consultation.

Tribal nations in the United States operate as sovereign nations with vastly different structures, economies, and populations. The feedback delivered by 20 Tribal leaders during these consultations, alongside nine letters from Indian Country, reflect this diversity. Treasury appreciates the many perspectives brought to the consultation.

##### **Feedback from Tribal Leaders**

###### *Allocation Methodology*

Several commenters requested minimum allocations to make sure that Tribes could have sufficient allocations to operate an SSBCI capital program. Several requested both \$250,000 and \$500,000 minimum allocations. Additionally, some commenters expressed concerns about the funding tranches, especially given how small some of the Tribal allocations could be.

Tribes strongly supported use of enrollment as a factor in an allocation methodology. Some Tribes also cautioned against use of employment and explained that it did not necessarily correlate with small business need as Tribes with a strong small business economy may have limited Tribal enterprise employment.

Several commenters asked for reallocations of unclaimed funds after the Notice of Intent to Apply deadline and after the December 11, 2021, program application deadline.

## *Use of Funds*

Commenters emphasized the importance of SSBCI program eligibility for tribally chartered and tribally owned businesses, both as eligible borrowers/investees and potential SSBCI program administrators. Tribal leaders highlighted that they would have difficulty adopting the program without this flexibility and explained that Tribal enterprises benefit not only Tribal members, but broader communities and non-members. Most Tribal leaders expressed interest in supporting both businesses owned by the Tribe and businesses owned by Tribal members. Commenters asked that businesses with organizational ties to gaming not be excluded from SSBCI investments if they engage in non-gaming business because Tribal small businesses are typically affiliated with a gaming enterprise.

Commenters also requested that SSBCI include Tribal flexibilities in other federal programs, including the Small Business Administration 8(a) businesses and federally guaranteed loan programs. Support for Tribal development of 8(a) businesses was also highlighted as a goal of some Tribes.

On the question of geographic eligibility for Tribal SSBCI, commenters expressed a range of interests. Some Tribes wanted to focus primarily on Tribal lands. However, others noted that there are different definitions of Tribal lands and requested that Treasury adopt the broadest version if Tribal lands were to be used in any allocation methodology. Other Tribes, highlighted, however, that many Tribes lack land bases for any number of historical reasons and explained that SSBCI would not be a workable program if they were restricted to Tribal lands that did not exist. These Tribes expressed interest in using funds to support members and non-members both on and off Tribal lands.

Commenters expressed concern about the private leverage ratio requirements and highlighted that many private sector lenders may exclude Tribes from their lending portfolios. Tribes requested that they be able to use federal funds or Tribal funds for this match. Tribes also highlighted that the 10:1 leverage ratio was particularly challenging for Tribes due to severe access to capital constraints, particularly for rural Tribes.

Some commenters requested that real estate purchases that add to the general welfare of a Tribe, as well as construction, be eligible uses for SSBCI funds because many Indian Country businesses lack storefronts.

Commenters requested that Tribes and Tribal members should be presumed to be socially and economically disadvantaged for purposes of the SSBCI program.

Commenters also pointed out that strict conflict of interest policies would be challenging in small Tribal communities that have small workforces and where individuals may take on multiple roles in Tribal governments and economies. Commenters also noted that SSBCI guidance should reflect the fact that many Tribal communities have informal economies and unregistered businesses, including Tribes with treaty fishing rights.

Commenters requested that Tribes be able to combine their allocations through joint applications and consortia, but highlighted that guidance was needed on obtaining the appropriate approvals from participating Tribes.

### *Administrative Costs*

Commentators also requested that administrative requirements be minimized and explained that Tribal staff have been stretched not only by the pandemic but also by the large number of federal programs rolled out in response to the pandemic. Commenters said that the statutory administrative allowance would be a challenge for Tribes because it is relatively low. In general, commenters asked that Treasury keep certification and reporting requirements as simple as possible with respect to determination that an organization has sufficient commercial lending experience, financial and managerial capacity, and operational skills for SSBCI programs.

### *Technical Assistance*

Commenters asked for flexibility in the use of technical assistance and for Tribal government eligibility for technical assistance. Commenters expect Indian Country businesses, Tribal governments, and lenders that lack Indian Country experience to need technical assistance for successful SSBCI implementation, pointing out that lack of lender knowledge and comfort with Tribal economies is a contributing factor in access to capital barriers for Tribes and individual Native Americans. Commenters advised that a wide variety of technical assistance is needed for businesses, including assistance with internet services and information technology, grant applications, business plans, legal issues, security, vendors, marketing, budgeting, pricing and product competitiveness, hiring, software purchases, accounting, inventory, stocking, financial data, filing systems, and business education.