

FRAMING PAPER: FARMING, RANCHING, AND CONSERVATION

USDA TRIBAL CONSULTATIONS ON EQUITY/BARRIERS/EQUITY: ANNUAL PROGRESS REPORT & FEEDBACK FOR NEXT STEPS

Thursday April 14, 2022

USDA has a wide variety of programs and services to support farmers and ranchers including loans, risk management tools, commodity programs, conservation assistance, and technical assistance for land and resource management.

- Farm Service Agency (FSA)
- Natural Resource Conservation Service (NRCS)
- Risk Management Agency (RMA)
- Agricultural Marketing Service (AMS)

1. Eligibility Issues: Land, Leases, & Farms/Misalignment with BIA Agricultural Leases.

What we heard from Tribes in 2021 Consultation: Inconsistent coordination between BIA and USDA has resulted in BIA agricultural leases and deadlines inconsistent with and sometimes contradictory to USDA's rules and requirements. This lack of alignment has caused significant lost opportunities and sometimes actual financial losses for Native producers.

Examples of Progress Made to Date:

- **Trust Lands Definition** – FSA developed a tribal action plan and working group to address the identified tribal barrier priorities. Through this work, FSA is inventorying program handbook policies involving tribal/federal land eligibility to identify areas where OGC determination is needed. In Feb. 2022, USDA Office of General Counsel issued a Legal Opinion specific to *Trust Land Eligibility under Section 1113(d) of the Agricultural Act of 2014 and Section 8102 of the Agriculture Improvement Act of 2018*. USDA will provide clear application of determinations in policy and training.
- **BIA/Tribal Trust Land Program Eligibility** – FSA is identifying policies with stricter requirements on tribal trust land vs. non-tribal land affecting program participation. Initial programs identified include the: Agricultural Risk Coverage/Price Loss Coverage program, Livestock Forage Disaster Program, Conservation Reserve Program, Noninsured Crop Disaster Assistance Program (NAP) and Emergency Conservation Program. USDA will coordinate with the Bureau of Indian Affairs (BIA) to develop recommendations and solutions to improve access and participation in USDA programs. We prioritized the implementation of the BIA MOU with FSA/NRCS and the need to solve BIA leasing problems.
- **Conservation Program Access** - Land control eligibility issues exist with the Grassland Conservation Reserve Program (CRP) and BIA Grazing Permits. FSA is working with both the BIA and Tribes to address the unique barriers that Tribal producers face in accessing CRP, including Conservation Reserve Enhancement Program (CREP) agreements under CRP.

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Potential Next Steps:

- Any additional conservation barriers, priorities, and recommendations on tribal lands?
- How can FSA partner through CREP to get conservation on tribal lands?

2. Indian Country Lack of Access to USDA Agricultural/Land Financing

What we heard from Tribes in 2021 Consultation: USDA policies on eligibility of trust lands and ownership rules, eligibility of tribal governments/subsidiaries, credit access issues and unfavorable tribal buy-back terms, make capital for operations, farming/ranching, and land challenging. Tribes request that USDA adapt more climate-smart agricultural production practices.

Examples of Progress Made to Date:

- **Tribal Disaster Designations** – Secretarial disaster designation notifications are now being sent to Tribal Leaders concurrently with Governors.
- **Agricultural Credit on Reservations** – USDA recognizes that credit deserts exist in Indian Country and the importance of the FSA Farm Loan Programs to tribal producers. FSA leadership held a listening session at the 2021 IAC Conference to gather tribal feedback on the delivery of the Highly Fractionated Indian Land Loan Program to help better serve tribal producers. Several loan making and servicing policies promote Native American farming and ranching operations and agricultural production in Indian Country, including targeted loan funds, increased loan guarantee levels, favorable term limit determinations and increased flexibilities and expanded timelines for certain servicing actions. Promotion of FSA lending opportunities has contributed to an increase in lending to Native American producers, resulting in a substantial increase of the FSA loan portfolio.
- **Climate-Smart Agriculture** – FSA’s Farm Loan Programs has established a task force to consider options to promote climate-smart practices and policies under existing statutory and budgetary farm loan provisions. Funding of the direct Conservation Loan program may be warranted to promote these projects, particularly if certain statutory criteria were changed to further incentivize adoption of these practices. The NRCS created dedicated EQIP funding. RMA is also analyzing current farming practices, planting dates, conservation practices, and policy provisions to make sure the crop insurance program is adaptive to climate-smart agriculture to make it easier for producers to secure financing.

Potential Next Steps:

- **USDA seeks feedback on FSA’s tribal-specific Highly Fractionated Indian Land Loan Program and Indian Tribal Land Acquisition Loan Program.** USDA has limited participation in these loan programs. What specific issues been experienced and what solutions do you have to improve access?
- **Tribal Historic Preservation** - Explore options for USDA assistance for Tribes and Tribal Historic Preservation Office for project and program reviews in support of tribal producer participation in conservation and financing programs.

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3. Expand Support for Traditional Foods/Food Ways

What we heard in the 2021 Consultation: Indigenous foods and indigenous foods ways (indigenous permaculture, subsistence hunting and fishing, wild food gathering and propagation) are not incorporated well into FPAC programs including conservation, loans, risk management and disaster programs.

Example of Progress Made to Date:

- **NRCS: Use Alternative Funding Arrangements (AFA) to improve EQIP Financial Incentive on Tribal Projects.** NRCS developed AFA policy to allow states and Tribal Nations flexibility to determine how financial/technical assistance will be provided to Tribal Nations through Programmatic Agreements.
- **NRCS: Use the Payment Schedule Application Process to improve EQIP Financial Incentive on Tribal Projects.** In many states, the NRCS coordinated with Tribal Nations and tribal organizations to revise payment rates through the annual Payment Schedule Application process.
- **NRCS: Use Alternative Funding Arrangements (AFA) to incorporate Indigenous Tribal Ecological Knowledge into the EQIP Program to better meet the needs of Tribal Nations and tribal members.** The NRCS developed policy to make it possible for the NRCS to enter AFAs with Federally Recognized Tribes which allow additional flexibilities to learn from Tribal Nations and incorporate ITEK into NRCS programs.
- **NRCS: Incorporated Indigenous Tribal Ecological Knowledge into the EQIP Program through the annual payment schedule application process (PSA).** Regionally, NRCS developed new payment scenarios based on tribal concerns and knowledge.
- **NRCS: Develop better EQIP technical and financial assistance for the development of Bison grazing systems.** The NRCS took initial steps develop a more uniform standard of technical and financial assistance to existing and beginning bison producers.
- **FSA: Bison M. Bovis LIP Inclusion** - FSA expanded the Livestock Indemnity Program on January 18, 2022, to include bison losses related to Mycoplasma Bovis for 2021 losses and subsequent years. Coordinated with USDA OTR on Tribal Outreach.
- **FSA: Inclusion of Equine/Working Horses in Livestock Disaster Programs (ELAP, LFP, LIP).** The FSA is pursuing discretionary changes to ELAP, LFP, and LIP to amend the definition of eligible livestock. Currently, animals maintained for pleasure, roping, pets, or show are ineligible under ELAP, LFP, and LIP. FSA recognizes that animals maintained in a commercial operation for these purposes have value and could be available for marketing from the farm.

Potential Next Steps:

- **Incorporating traditional foods into FSA's NAP and Farm Loan Program & RMA Crop Insurance** such as Wild Rice added to NAP in Wisconsin. USDA requests tribal input to identify indigenous foods and/or food ways on your lands that USDA should prioritize and input on value/pricing, record keeping and data collection.

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- **NRCS: Increasing EQIP Financial Incentive on Tribal Projects.** NRCS will coordinate with Tribes and tribal organizations to determine means to increase payment rates on tribal EQIP practices using AFAs and the annual Payment Schedule Application process.
- **NRCS: Incorporate Indigenous Traditional Ecological Knowledge (ITEK) based conservation solutions into the EQIP program to better meet the needs of Tribal nations and tribal members.** The NRCS staff will work with Tribal environmental staff to, where appropriate, develop new conservation practice methods based on ITEK and incorporate these practices into the EQIP program.
- **NRCS: Develop better EQIP technical and financial assistance for the development of Bison grazing systems.** The NRCS will need assistance of Tribal Nations staff to develop a higher/uniform standard of assistance to existing and beginning bison producers.

4. Value Add/Shared Supply Chain Resources Targeted for Indian Country

What we heard in 2021 Consultation: Expanding opportunities for marketing and value-added crops is important to tribal economies, including education, training, and infrastructure for meat processing, value added crops, food aggregates and farmers markets can expand marketing opportunities and enhance the income produced within the tribal boundaries. Specific support is needed to assist with getting buffalo to market at a price point that is affordable to support buffalo returning to the regular diet.

Progress Made to Date:

- **AMS: Meat and Poultry Technical Assistance Agreements** - AMS has established agreements with a handful of non-profit organizations, including the Flower Hill Institute and the Intertribal Agriculture Council to administer and provide a wide range of technical assistance (TA) to businesses, including targeted support from tribal entities, seeking to expand meat and poultry processing capacity and market share, in support of USDA's Meat and Poultry Supply Chain Initiatives.
- **Partnerships to Reduce Barriers in Grant Programs** - AMS has partnered with Florida A&M University and University of Maryland Eastern Shore to evaluate barriers to AMS grant opportunities for socially disadvantaged communities, invest in building trust and confidence between these communities and the USDA, and take action to rectify inequalities in program access through targeted outreach, training, and technical assistance. UMES and FAMU are conducting outreach on current grant opportunities and providing technical assistance to project participants. Technical assistance thus far has centered on creating SAM and DUNs numbers as well as tips on crafting a project narrative. Recordings of the technical assistance sessions will be posted on the [Project Website](#).
- **Domestic Marketing Technical Assistance** – USDA entered into an agreement with the Intertribal Agriculture Council, Inc. to provide technical assistance and evaluation on domestic marketing opportunities. This agreement is not limited to a specific product type. An agricultural specialist will help increase diversified market opportunities and potential for agricultural products made and produced by American Indians.

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- **USDA Tribal Specific Marketing** - Collaborating with AMS, FSA, RD, and IAC-ITAN on specific resources that share cross-USDA programs that support value-added products by tribal producers, and work with SFAC and IAC-ITAN to promote and conduct outreach and technical assistance.

Potential Next Steps:

- How can USDA better partner with tribes and tribal organizations to develop education, training, and infrastructure resources to increase capacity to leverage meat processing, value added crops, food aggregates and farmers markets to expand marketing opportunities and enhance the income produced within the tribal boundaries? USDA values any feedback.

5. Increase Field Office Tribal Knowledge

What we heard from Tribes in 2021 Consultation: While many FPAC offices are in or near Indian Country, staff are often not fully trained in tribal complexities.

Example of Progress Made to Date:

- **FSA: Tribal Customer Service Project** – Since 2021, FSA Outreach and the FPAC-BC Customer Experience Innovation Lab have engaged 100+ FSA employees, Tribal producers and stakeholders asking what needs to change to improve the relationship between FSA and Native American farmers, ranchers, and foresters. The goal of this project is to provide field staff with comprehensive training, tools, and resources to improve the customer service experience for tribal producers nationwide.
- **OTR** released four new tribal training modules available to USDA employees nationwide.

Potential Next Steps:

- Provide recommendations to USDA on ways to improve the tribal customer experience and to partner with Tribes on this project. If you could design any tool or resource to improve tribal customer service within USDA, what would it look like? We value all feedback.

6. Increase Tribal Representation and Voice within USDA

What we heard from Tribes in 2021 Consultation: Need to increase tribal representation and voice at USDA through recruitment, hiring, state and county committees.

Examples of Progress Made to Date:

- **USDA Recruitment/Hiring** - USDA's 1994 Tribal Colleges and Internships progress & opportunities.
- **FSA and NRCS** are using direct hiring authorities to recruit more Tribal staff.
- **More Tribal Representation on FSA County Committees** – Secretarial actions have been made to increase SDA representation. FSA is reviewing Secretarial Authority for additional representation. To improve tribal participation, in 2021, USDA issued national policy and marketing to promote *Tribal Agricultural Landowner Voting*

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Eligibility in FSA County Committee elections. We want to build active tribal participation in FSA elections through direct outreach with tribes and stakeholders.

- **AMS Research and Promotion & Marketing Orders Boards and Federal Advisory Committees** – The AMS Research and Promotion (R&P) and Marketing Order Boards and Federal Advisory Committees see the pursuit of diversity as an opportunity to embrace new ideas and growth that will enable boards and committees to better serve their respective industries and stakeholders. AMS is actively working with partners to develop strategies to ensure boards and committees reflect the diversity of their industries.

Potential Next Steps:

- Input to increase tribal representation and FSA State/County Committees, NRCS State Technical Committees, Tribal Conservation Advisory Committees, Tribal Conservation Districts & other USDA boards/committees.
- Feedback to help USDA increase the tribal voice within USDA to recruit and hire Tribal members.