



## Tribal Leaders Consultation Work Group (TLCWG) on FDPIR

**Date: Friday, February 16, 2024**

**Time: 9:00 a.m. Eastern Time – 5:00 p.m. Eastern Time**

**Location: U.S. Department of Agriculture**

**In-Person and Virtual Meeting**

### I. Opening Prayer

### II. Welcome and Opening Remarks

- Chairman Mark Woommavovah, Chair, Tribal Leaders Consultation Work Group, Comanche Nation
- Deputy Under Secretary Stacy Dean, USDA Food, Nutrition, and Consumer Services

### III. Introductions – Welcome and Recognize Tribal Leaders and USDA Leadership

- Chairman Woommavovah
- Deputy Under Secretary Dean

### IV. Previous Business & Agenda-setting

#### Summary of Agenda Topics Discussed

### V. Executive Order 14112, on Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination

- USDA's Office of Tribal Relations (OTR) opened by highlighting successes and the challenges of the Bison Pilot Project, including with the local procurement of bison. OTR also highlighted other recent achievements such as inclusion of Tribal trust lands and Tribal economic development corporations, improved recognition of Tribal jurisdiction in infrastructure projects, and improving Tribal expertise of USDA staff.
- OTR provided a brief overview of Executive Order 14112 and its primary objective of Tribal self-determination. OTR highlighted the existence of the Budget Task Force and the Policy Task Force and their associated tasks:
  - Budget Task Force
    - Provide the White House with information on Indian Country's current unmet budgetary needs in the food and nutrition space.
  - Policy Task Force
    - Inform the White House about which laws need to change in order to achieve greater Tribal self-determination, including but not limited to expansion of 638 pilot.

- Tribal Leaders shared the assembly of their own task force at the recent Tribal Summit to discuss their needs to meet this task.
- Tribal Leaders asked how FNS will pursue program independence as directed by the Executive Order.
  - FNS responded that it does not have a pre-formed vision of how this should take place.
- Tribal Leaders asked if USDA has determined when it will hold FNS-specific consultations on the Executive Order, which must be held before August 2024.
  - FNS confirmed that these consultations have not yet been scheduled.

#### VI. FDPIR Characteristic and Self-determination Demonstration Study

- FNS provided updates on the study, including the forthcoming formation of a technical working group (TWG) that will meet at the end of February 2024 and will review a few instruments and Tribal engagement and outreach plan for the FDPIR Characteristic and Self-determination Demonstration Study. Upon approval of the planning documents, initial data collection will begin.
- Tribal Leaders expressed concerns about the scope of data requests. Specifically, they inquired about how FNS will limit data extraction and ensure Tribal data sovereignty.
  - FNS committed to pulling as much data as they could from existing FNS data systems for demographic data.
  - FNS highlighted the work of the TWG, stating that it will inform the data needs and how the data will be pulled. The TWG's Tribal engagement plan will work in consultation with Tribes to ensure that only the necessary data is collected and that it is collected in a manner that minimizes the burden for the Tribes.
- Tribal Leaders asked when the agenda for the TWG would be sent out.
  - FNS responded that it would be sent out on February 20.
- A Sygnal representative explained that the data is the property of each Tribe. They explained that there is an obligation to the Tribe to ensure that data is routed through the Tribe. In all cases, the Tribes will need to give consent to provide the data.
- Tribal Leaders also commented the urgent need for data sharing for the purposes of dual participation verification between FDPIR and the Supplemental Nutrition Assistance Program (SNAP), which has been a long-standing challenge.

#### VII. Improving Access and Parity Proposed Rule

- FNS provided an overview of the proposed Improving Access and Parity rule, which was published in August 2023.
- FNS solicited additional feedback regarding the implementation of the rule, including the implementation timeline and the technical assistance resources required to implement the rule.

- Tribal Leaders explained that Tribes are diverse and flexibility in the implementation of the rule may be necessary.
  - FNS highlighted the inclusion of a waiver provision in the rule to better align FDPIR with SNAP’s waiver authority, which will allow for better accommodation of more Tribes and the particular needs that they may have.
- Tribal Leaders expressed concerns that the rule would impose additional costs to the Tribes.
  - FNS explained that the rule does not come at an additional cost to Tribes beyond the burden of implementing the changes.

### VIII. Cultural Competency Training Update

- FNS provided an update on the ongoing creation of a series of cultural awareness trainings that are being developed by Tribal Tech, an indigenous-owned company. The trainings are intended for all FNS staff, with more specialized training for Tribal-facing staff, including external partners. Additionally, six e-courses are being created, which will be available to all FNS staff. The first round of trainings and e-courses will be delivered in the Spring of 2024.
- Tribal Leaders asked for the process to provide feedback on the training.
  - FNS highlighted that the initial training framework plan was shared with NAFDPIR Board members in December 2023 and January 2024. Feedback on that framework plan has already been integrated.
  - FNS explained that it is working with Tribal Tech to develop a plan to collect input from Tribal leaders on the training curriculum. More details about the curriculum will be provided to the TLCWG, and FNS will continue to receive feedback from the working group and FNS staff on an ongoing basis.
  - Tribal Leaders from the Southwest region invited the FNS leads on this training to participate in the region’s quarterly meeting to share more information about the training at their Southwest regional FDPIR directors meeting.
- Tribal Leaders asked about what the procurement process had been for the Cultural Competency Training contract.
  - FNS explained that the contract was awarded as a sole-source bid. FNS received a training from Tribal Tech in the prior fiscal year.
  - FNS explained that the Tribal Tech contract is a three-year contract, but two of the three years are option years, allowing for future flexibility.
- Tribal Leaders expressed a desire for training to not be limited to online, stating that there have been past incidents of working with Tribal Affairs Specialists who had been undertrained and unprepared to meet with Tribal Leaders. Tribal Leaders expressed a desire for Tribal Affairs Specialists be included in operations calls, Tribal consultations, and NAFDPIR quarterly board meetings so that they better understand Tribal issues and get to know the Tribal leaders personally. They also expressed a desire for training to explain the historical and legal basis of consultations.

- FNS explained that the training will include online recorded training, live online training, and in-person training opportunities that will be located within Tribal communities.
- FNS provided a Tribal Affairs Specialists update on recent engagement efforts:
  - FNS participated in Tribal visits and listening sessions in the Western Region, including in Alaska, Oregon, and Washington, resulting in support for food sovereignty programs including the launch of the Alaska Meals to You demonstration project, which will begin Summer 2024.
  - FNS highlighted engagement in the Mountain Plains Region to share information about Summer EBT, Farm to School, WIC, and other programs.
  - FNS highlighted 35 events in the Midwest, including a Tribal Nations sharing meeting and engagement with the State Department of Human Services.
  - FNS highlighted efforts in the Southwest Regional Office including the sponsorship of the National Indigenous and Native American WIC Conference with the Chickasaw Nation.
  - FNS highlighted efforts in the Southeast Region to fortify relationships with Tribes and conduct outreach to additional Tribes to encourage participation in FNS programs, leading to the Mississippi Band of Choctaw Indians' participation in Summer EBT in 2025.

#### IX. 638 Self-Determination Contracting

- FNS provided an update on the self-determination demonstration project. There are currently eight Round One Tribes that are in the third year of a three-year self-determination contract, which will run through September 2024. FNS has been working with the Round One Tribes over the past two months to assess their varying budgets. Some have funds that will run out this year while others will have funds into next year.
- There is currently \$1.3 million dollars available from Fiscal Year 2023 funds to support demonstration activities. These funds can be used for two-year extensions for Round One Tribes.
  - Tribal Leaders voiced support for the two-year extensions.
- There are also eight tribes in Round Two. FNS plans to do budget assessments of Round Two Tribes in FY 2025 after one year of food distribution.
- Tribal Leaders provided history and overview of their FDPIR programs within the Cherokee Nation and their positive experience with the self-determination project.
- Tribal Leaders voiced support for 638 funding but highlighted the need for long-term funding to support food sovereignty. They highlighted that some elements of food sovereignty, like growing bison and other foods, require time and long-term planning.
- FNS also voiced its support for the further use of 638 authority.

## X. USDA DoD Fresh Fruit and Vegetable Program (“USDA DoD Fresh”)

- FNS provided an update on DoD Fresh, highlighting the regularly held meetings to discuss program updates and concerns.
  - During the January 2024 meeting, FNS demonstrated a new functionality in its produce ordering system, known as FFAVORS, that will assist with the complaints process.
  - This update includes an interim incident tracker to improve produce quality, product availability, and vendor accountability. The update also created an automated tool so that vendors, FNS, and FNS’ partner in produce procurement, the Defense Logistics Agency (DLA), are notified when there is an issue reported.
  - FNS is scheduling live demos in the coming weeks to demonstrate the new functionality and provide feedback. The update is scheduled to go live in April 2024.
- FNS provided an update on the FDPIR Fresh Vegetable List. DLA had conducted a vendor survey to capture produce availability, seasonality, and package sizes. Those survey results will be shared with FDPIR partners shortly.
- DoD provided an overview of DLA and DoD Fresh. DoD Fresh is supported out of Philadelphia. It consists of twelve field representatives and sixty account managers. DLA is continuing to hire field representatives.
- DoD shared their six lines of effort for DoD Fresh:
  1. Incident Report Tracking
  2. Vendor Visits, Process Changes, Contract Renewals and modifications
  3. DLA and USDA Joint Delivery Instruction Review (Complete)
  4. Increase Participation in Regional Stakeholder and Consultation Work Group Meetings (Complete)
  5. Initial USDA/DLA Tribal Cultural Competency Training
    - Initial training (complete)
    - Institutionalization of training to DLA’s and USDA’s learning management systems (2Q FY24)
  6. DLA and USDA Joint Update to 2016 Inter-Agency Agreement (new ECD 2Q FY24)
- Tribal Leaders asked when the changes to the interagency agreement will take effect.
  - DLA expressed that the new interagency agreement still needs to be signed and it will likely take more than 30 days.
- Tribal Leaders asked what FNS and ITOs will have to address quality issues with produce.
  - FNS explained that the contract language has changed to document the efforts that are already taking place. FNS requested that the ITOs who are the first to receive the service under the new contract language provide feedback.
- Tribal Leaders asked for more detail regarding the complaint tracking process.
  - FNS explained that the new complaint process will be automated and FNS, DLA, and the vendor will be automatically notified when a complaint takes place. FNS ensured that they will notify the ITOs upon receipt of a complaint and to follow up to ensure that complaints are addressed.
- Tribal Leaders asked if ITOs would have the opportunity to review contracts.

- FNS explained that the solicitation is publicly available. ITOs will be able to provide feedback on an ongoing basis.
- Tribal Leaders suggested that Tribal Affairs Specialists would be looped into the process of adopting the new contract. They also asked if all the North Dakota and South Dakota tribes would be able to provide feedback on the contracts.
  - FNS proposed that the DoD working group be used as a platform to provide feedback on the contract.

## XI. USDA Foods

- FNS provided an update on the availability of food at its national warehouses. Currently, there are available foods at both warehouses that service FDPIR in each category to make a full food package. However, there have been recent outages of specific items and just-in-time deliveries of others.
  - Outages have often been the result of late deliveries by vendors. This is documented and considered for future procurement decisions.
  - Some recent shortages have been the result of continuing resolutions to the federal budget. When USDA doesn't receive its full appropriation, it may cause delays in its ability to purchase foods. Typically, foods are purchased a quarter ahead of time and multiple programs are listed on a solicitation, so the effects of a continuing resolutions are not always immediate.
  - FNS stated that if a food is not available for order, ITOs should call regional offices to see if it can be added to their order.
- FNS provided an overview of the existing multi-food warehouse contracts and the transition to the use of Paris Brothers as the sole warehouse provider, which will take place on April 1, 2024.
  - Tribal Leaders expressed that the warehouse consolidation has already had negative impacts on Tribes. The Tribal Leaders advocated for a regional sourcing model. There was not sufficient time to make the transition and the warehouses are already facing goods shortages that impact tribes.
    - FNS explained that food shortages have not been a result of the warehousing transition, but rather delays from vendors. FNS instructed that ITOs make larger orders in February to prepare for the transition. FNS said that it will attempt to add to orders as necessary. Based on FNS projections, a shortage of foods is not projected, as Paris Brothers is on contract to start delivering the increased amount of food starting in April 2024.
  - Tribal Leaders expressed concern that some ITOs had already ordered without understanding that they would need to order food for multiple months, while others will over order beyond the recommended time period, causing food shortages. Tribal Leaders expressed concern that delivery dates may change under the new contract and that the new contract will lead to conflict between vendors and ITOs.

- FNS suggested that this item be added as an agenda item on the next consultation.
- Tribal Leaders asked that there be oversight during this transition.
- FNS ensured that there would be oversight.

## XII. Nutrition Symposium

- FNS provided an update on planning for its first FDPIR Nutrition Education Symposium. The symposium is intended to provide an opportunity to discuss the current state of FDPIR nutrition education and establish pathways for sharing and collaborating to support the four million dollars in nutrition education administrative funds that started to be disseminated last year. The goal is for Tribes to learn from one another and share practices and innovative ideas.
- The symposium has a planning committee comprised of FNS national and regional staff, SNAP-Ed staff, and nutritionists from the FDPIR community, members of the Native Food and Nutrition Resource Alliance (NFNRA), and nutritionists from the FDPIR food package work group. The committee is setting the agenda and symposium activities.
- Tribal leaders look forward to collaborating at the symposium and urge the symposium to center indigenous perspectives and experiences throughout. Tribal leaders expressed a hope that more people join the planning committee, including individuals who work face-to-face with individuals that FDPIR serves.
  - FNS confirmed that members can be added to the planning committee.

## XIII. State SNAP-Ed Consultations

- FNS provided an overview of the recent efforts that the SNAP Nutrition Education Branch has undertaken to improve clarity regarding FNS expectations for SNAP-Ed Tribal consultations and to improve FNS oversight of State actions. Specifically, FNS clarified consultation requirements and expectations in the FY 2024 SNAP-Ed Guidance and added more robust criteria and procedures detailing FNS requirements for monitoring of State efforts in the revised Management Evaluation Guide. FNS also ensured that the new National Program Evaluation and Reporting System (N-PEARS) for SNAP-Ed allows for more systematic data collection on State and implementing agencies' plans for Tribal consultations and completed actions.
- FNS has been reviewing information on consultation plans reported in N-PEARS and has identified areas where more guidance and clarity regarding instructions are needed to ensure FNS receives consistent and reliable data. FNS is currently working to clarify States' plans for FY 2024 and hopes to share some information in March 2024.
- Tribal Leaders expressed concern about the lack of meaningful Tribal consultations by States. FNS previously has asked Tribal Leaders to share when Tribal consultations do not occur, placing the burden on Tribal Leaders rather than on FNS.
  - FNS expressed that the first step toward establishing more meaningful consultations between States and Tribes was to set the legal expectation that

the meaningful consultations occur and clarifying the requirements and expectations of the States. FNS is now in the second phase, which involves monitoring and ensuring that States follow through. FNS hopes to increase support to ensure that meaningful consultations happen. FNS also explained that there is also enforcement action that could be taken, if needed, to achieve this end.

- In addition to what was discussed at Consultation, FNS would like to add that in Fiscal Year 2024, all seven FNS Regional Offices share an agency priority goal to evaluate the effectiveness of State-Tribal SNAP Consultations, including SNAP-Ed and to work with their States and Tribes on improving the SNAP Consultation process overall.
- Tribal Leaders emphasized that many States do not understand the consultation process. Tribal Leaders expressed that Tribes should be the ones identifying when technical assistance is needed and when improvements to Tribal consultations are needed. Tribal leaders shared that they have guidance aimed to improve Tribal consultations and nation-to-nation relations, such as the guidance provided by the Indigenous Food and Agriculture Initiative. Tribal leaders shared feedback on the recent SNAP-Ed webinar on tribal consultation best practices, highlighting the Washington State example as an impressive approach to Tribal consultation.
- Tribal Leaders asked about the expected frequency and timeframe of consultations.
  - FNS asks States to work with Tribes before submitting their annual State plans, which are due each August. FNS noted that they expect States to consult with States much earlier in the year, potentially as part of their SNAP-Ed needs assessments, which inform their plans. The expectation is that States consult with every Tribe that is open to consultation.

#### XIV. State SNAP Call Centers

- FNS explained that SNAP and FDPIR are working together to create guidance for States and program operators to improve collaboration and information sharing across the programs with the goal of improving customer service. FNS acknowledged that ensuring compliance with duplicate participation and comparable disqualification rules is challenging. The new guidance will include suggested approaches for improving information sharing.
- Tribal Leaders suggested that State agencies be trained on FDPIR, what ITOs do, and how they disenroll participants.
- Tribal Leaders expressed that there are participants who have been cut off from SNAP benefits because their work waiver was not recognized and they struggled to transition to FDPIR. They explained that the practice of calling a State agency's call center line is not practical as there are often long wait times. Tribal Leaders suggested potentially staffing a local person in the local SNAP office to support coordination, or cost-sharing a worker to ensure that disenrollment can smoothly occur.



- Tribal Leaders expressed that the relationship with the State should be such that they are able to quickly verify whether someone is receiving or disqualified from SNAP or FDPIR. They would like to improve their relationships with their States to expedite these processes. They explained that the burden of cross-checking between SNAP and FDPIR has fallen disproportionately on FDPIR. Tribal Leaders expressed that county workers are doing their part but are short-staffed. They expressed that counties may not know about FDPIR. They often call FDPIR and are counting that as a Tribal consultation when they have not spoken with the right Tribe. Tribal Leaders are seeking to avoid the potential hardship that may occur for those who end up accidentally participating in both programs simultaneously.
- Tribal Leaders explained that local SNAP agencies often do not have SNAP EBT cards on site and customers need to obtain the card from the State office. The State sends the cards by mail, which may not work for Tribal recipients. Some recipients have been certified for SNAP but have not had cards for two to three months, meaning that they cannot access benefits for that amount of time. Local offices need to be able to provide participants with replacement cards to address this issue.
- FNS expressed that the call-center wait times are unacceptable, and information to support compliance with both programs' requirements should be available to FDPIR program administrators.
- Members from the American Public Human Services Administration (APHSA) introduced themselves and shared more information about their membership organization that supports State agencies that administer of human services programs, including SNAP. APHSA suggested including Tribal Leaders and a session about either Tribal consultation or call centers and dual participation during their annual Economic Mobility and Wellbeing Conference. The conference will be Aug. 25-28, 2024, in Portland, Oregon.

#### XV. Integrated Financial Management System (IFMS) and Alternative Computer Systems

- Tribal Leaders thanked the Tribal Leaders Consultation Work Group and USDA for allowing the use of alternative computer systems for FDPIR programs. Tribal leaders encouraged FNS to encourage regional offices to listen to ITOs who choose systems that meet their specific technology needs.
  - FNS acknowledged some miscommunication between regional offices and ITOs that are expressing a desire to transition to an alternative system. FNS sent guidance to regional offices clarifying that funding to switch to Sygnal could be obtained outside of the regular budget process. Regional offices were instructed to convey that information when an ITO expresses a desire to switch.
- Tribal Leaders asked for a breakdown of how many ITOs use FNS' Integrated Food Management System (IFMS), the Automated Inventory System (AIS), and Sygnal, expressing that the numbers provided in the meeting briefing materials were incomplete, as there are more than 30 ITOs seeking to switch to Sygnal.
- Tribal leaders expressed that guidance explaining what is needed for an ITO to switch to Sygnal would be helpful. They also mentioned that the 20% match requirement for a

transfer to Sygnal can be challenging for some ITOs who are not able to make mid-year budget adjustments.

#### XVI. Veterans Service Connect Disability Compensation

- Tribal Leaders explained that Native Americans serve at a high rate in the military and that Native American veterans are more likely to be in need of food assistance than veterans of other races.
- Tribal Leaders expressed a desire to exclude veterans service and connected disability compensation from income calculations in determining FDPIR eligibility. They explained that there are incidents in which income derived from veterans' disability compensation makes some individuals be slightly over income for FDPIR eligibility.
- FNS confirmed that for FDPIR, this could be achieved through a regulatory adjustment, as opposed to SNAP which is required by statute to include veterans' disability compensation as income for eligibility determinations.
- FNS asked Tribal Leaders to consider whether the desired end state could be achieved by increasing the gross income limits for FDPIR eligibility rather than excluding veterans' disability payments from income calculations.
- FNS explained that in order to create a veterans disability compensation income exclusion, FNS would have to pursue a new rule because it was not proposed as a part of the Food Distribution Programs: Improving Access and Parity proposed rule. FNS further explained the process for initiating new rulemakings. Every quarter the OMB office of Information and Regulatory Affairs (OIRA) puts out the regulatory agenda. If the Secretary and OMB director determine that this should be part of the regulatory agenda, FNS would include it in its public workplan. FNS suggested that this be discussed further at a future consultation.

#### XVII. Scheduling Next Consultation

- June 4-8, 2024, in Cherokee, North Carolina during the National Congress of American Indians (NCAI) Conference. Specific date TBD.

#### XVIII. Follow-Up Items

1. Tribal Leaders requested for Consultation on Executive Order 14112 to collect feedback before the August 2024 deadline. **[USDA OTR – FOLLOW-UP TO BE PROVIDED]**
2. Tribal Leaders requested opportunities to review cultural competency training that is currently being created by FNS contractor (Tribal Tech, Inc.) **[IN-PROGRESS]**
3. Tribal Leaders requested for FNS Tribal Affairs Specialists to be included in FNS monthly warehouse calls. **[COMPLETED]**
4. Tribal Leaders expressed interest in rulemaking to address exclusion of Veteran Disability and/or Pension payments from FDPIR eligibility and will follow-up in future consultation meetings to discuss income exclusions vs. income limits. **[TLCWG]**