



U.S. DEPARTMENT OF AGRICULTURE

**US DEPARTMENT OF AGRICULTURE (USDA):**  
**TRIBAL CONSULTATION ON SELF-DETERMINATION IN FOOD**  
*JUNE 5, 2024*

**Hybrid Virtual and In-Person Consultation**

**FRAMING PAPER**

**Time and Place:**

Wednesday, June 5, 2024

1:00 - 4:00 p.m. Eastern Daylight Time

[National Congress of American Indians Midyear Convention](#)

Room 112

**Registration link:**

[Please register HERE](#) Select Virtual (Zoom) or In-Person Attendance

**USDA Consulting Officials**

*Stacy Dean*, Deputy Undersecretary, Food, Nutrition, and Consumer Services (FNCS)

**White House attendees (virtually or in person)**

*Rose Petoskey*, Director of Tribal Affairs for the Office of Intergovernmental Affairs

*Morgan Rodman*, Senior Policy Advisor for Native Affairs, Domestic Policy Council

*Elizabeth Molle-Carr*, Tribal Advisor to the Director of the Office of Management and Budget

**Background.** Pursuant to the President's [Executive Order on Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination](#) (December 6, 2023) and USDA's previously announced commitment to expand [USDA's Tribal self-determination policies](#) (November 15, 2021), USDA is hosting a series of consultations during the week of June 2, 2024, to further explore opportunities to expand and advance Tribal self-determination policies in USDA programs. USDA has been leaning into supporting Tribal self-determination policies within its current legislative framework, which is clearly reflected in USDA's recent [Tribal Progress Reports](#). We welcome your input at this Consultation on what additional flexibilities you think we could be leaning into to support Tribal self-determination policies with our current statutory authority.

We also appreciate that further dialogue regarding the expansion of our current statutory authorities supporting self-determination/self-governance policies is of interest and we look forward to discussing those as well. We hope these consultations create space for open and creative conversations.

Executive Branch agencies are subject to statutory and other restrictions regarding proposed legislation. Executive Order 14112, nevertheless, encourages agencies to consult to identify any statutory and regulatory changes that are necessary or may be helpful to ensure that Federal funding and support programs effectively address the needs of Tribal Nations, and recommend

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legislative changes, where appropriate. USDA welcomes this opportunity to do so, while still respecting the legislative process. The information presented in these upcoming consultations does not reflect official Administration positions, nor is USDA allowed to advocate for any specific positions with Congress without going through established processes governing formal Administration positions on policy. The topics in these framing papers are concepts and ideas presented for nation-to-nation discussion in Tribal Consultation to facilitate better understanding.

The goal of this series of consultation is to be transparent with each other about our thoughts and ideas, and to all leave with a better understanding for progress in furthering Tribal self-determination together.

### **Tribal Self-Determination: Food**

This framing paper focuses on opportunities to expand Tribal self-determination/Self-Governance in USDA's food programs, specifically, the **Food Distribution Program on Indian Reservations (FDPIR)** and **The Emergency Assistance Food Program (TEFAP)**. The paper also briefly explores USDA's challenges in responding to requests for further Tribal self-determination in the **Supplemental Nutrition Assistance Program (SNAP)** at this time. Lastly, this paper introduces the topic of exploring the newly authorized Pilot Projects for Tribal organizations to operate **Child Nutrition Programs** as a State agency.

APPENDIX A:

FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS (FDPIR)/“COMMODS”

**FDPIR Background:** FDPIR, commonly referred to as “commods” in Indian Country, is directly administered by 106 Federally Recognized Indian Tribes or Tribal organizations and three State agencies, serving approximately 280 Federally Recognized Indian Tribes nationwide. Historically, USDA has purchased all of the foods provided in FDPIR.

**Expanding Self Determination: FDPIR.** The 2018 Farm Bill authorized the FDPIR Self-Determination Demonstration Project for USDA to establish a demonstration project for one or more FDPIR Tribal organizations to enter into modified self-determination contracts for the Tribal organizations to directly purchase some of the foods for the food package. This included supplanting existing USDA Foods purchased by USDA with local indigenous foods. More than \$10 million has been awarded to 16 Tribal nations to purchase foods for their FDPIR food packages. For example, the Lummi Nation uses the program to purchase foods like local prawns rather than some of the fish in the USDA food package. FNS has been able to fund all requested projects to date.

**Goals.** FDPIR is one of the few programs at USDA which is specifically developed and operated for Tribes. It fits better into the Title I of the Indian Self-Determination and Education Assistance Act (“638”) model than almost any other program at USDA. USDA supports full incorporation of self-determination authority into FDPIR as described below.

**Make Permanent and Fully Expand Current FDPIR Self-Determination Demonstration Project to any Tribe in FDPIR and any Foods.**

***FDPIR Demonstration Expansion.*** A powerful step would be to expand purchasing to all Tribes who wish to procure any foods in FDPIR. This would empower increased Tribal control and choice. Tribes could still use and leverage USDA’s national buying power where they choose, and also choose local purchases from Tribal producers, incorporating traditional food items.

***The Current Demonstration Project:***

- The demonstration project has received \$15.0 million in appropriated funding as of FY 2024. USDA has awarded \$12.0 million of that available funding.
- This model also has Tribes competing for a pool of money. While USDA has funded all of the requested projects so far, there is no guarantee of that in the future.
- Demonstration projects are, inherently, meant to test alternate models of program operations. This demonstration project has proven a resounding success, so expansion seems the next logical step.
- To support Tribal leaders' request to evaluate existing self-determination contracts, projects, and procurement under the FDPIR Self-Determination Demonstration Project, FNS awarded a contract to an American Indian-owned small business to perform an extensive evaluation of the demonstration project to inform future self-determination models.

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***Potential Purchasing Expansion:***

*USDA seeks feedback on the following avenues for making the pilot a permanent feature within the program, available to all interested tribes:*

- Convert the demonstration project into a permanent feature of the program.
- Expand and execute self-determination contracts to additional Tribes participating in FDPIR subject to USDA capacity.
- Expand the authorization to integrate such an option as an allowable use of FDPIR food funds rather than limiting it to appropriated funds specified for the demonstration project.
- Expand to allow Tribes to substitute any FDPIR foods with foods they select and purchase.
- Allow Tribes to supplement FDPIR foods with items of their choice such as traditional foods, herbs, spices, etc.

**Question: “Buy Indian” Preference for USDA purchases for FDPIR and Child Nutrition Programs?**

We have heard in Tribal consultations, particularly FNS related consultations, from Tribal leaders that Buy Indian or Tribal purchasing preferences are an important part of increasing Tribal self-determination through empowerment of Tribal producers.

USDA does not currently have a legislative procurement preference for Tribal producers, including within FDPIR, which solely serves Tribal communities or Child Nutrition Programs exclusively serving Tribal nations and communities.

We have heard input on a few different ways Tribes might be interested in expanding a Tribal procurement preference to USDA and would like to hear more about those that are of most interest. Are there other ideas we should consider?

**A: Full Expansion of the Buy Indian Act to All of USDA?** We have heard from Tribal leaders that they support the expansion of the Buy Indian Act to all of USDA (“Buy Indian Act” [25 U.S.C. 47](#)).

**Question:**

- How would you envision this working? Is the intent that such an expansion would operate like Buy Indian at DOI and HHS where it applies to all purchases by the entire agency with additional goals for tribal specific serving offices or agencies (like BIA and IHS) or are there other models to consider?

**B: Buy Indian Act Expanded to Food Procurement?** Another option that Tribal leaders have raised with USDA during consultations is the expansion of the Buy Indian Act or a Tribal purchasing preference to just USDA funded federal nutrition program food purchases.

**Questions:**

- Should Tribal procurement preferences be expanded beyond USDA direct purchases?

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- If so, what would the eligible institutions be? For example, federal nutrition institutions a) on Indian reservations, and/or b) institutions serving majority Native populations (such as urban public schools with large Native populations), and/or c) institutions or offices “[on or near Indian Reservations](#)”?

**C: Locality Preferences?** We have heard from Tribal leaders in several consultations that one of the reasons the Buy Indian or a Tribal purchasing preference is important because they want to see their own local and Tribal foods being fed to their community members in the federal nutrition programs.

**Question:**

- Is a locality preference something that Tribal leaders are interested in?

APPENDIX B:

THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP): TRIBES AND “FOOD BANK” FOODS

**Background:** TEFAP supplements the diets of people with low income by providing them with access to foods at no cost. USDA provides food purchased by USDA to State agencies, called “USDA Foods,” which the State agency then distributes to local entities like food banks, food pantries, soup kitchens, shelters, and other types of feeding organizations serving low-income households and individuals.<sup>1</sup> The local entities receiving federal foods from the state governments, are called “Eligible Recipient Agencies” or (“ERAs”).

TEFAP is highly centralized in its procurement and distribution of federally purchased foods. It is a shared federal government and state government program. Most ERAs receive both USDA Foods through the state administered TEFAP program, plus donated food from large donors.

Tribes and Tribal organizations are eligible to be ERAs and receive federal foods from the State, or to partner with ERAs and receive the foods from the ERAs but are not statutorily eligible to directly administer TEFAP as State governments. FNS estimates that 2-13% ERAs are Tribally affiliated. This includes both Tribes that operate through a direct agreement with the State (as ERAs) and Tribes that operate under another ERA.

**Barriers to Increased Tribal Participation and Self-Determination.** There is a lack of knowledge about and participation in this program by Tribes despite the high food insecurity in Indian Country. USDA has identified several barriers to Tribal government participation:

- 1) **Tribes must work either through the State governments or through recipient ERAs.** Tribes must receive federal TEFAP food allocations through State governments. Some Tribes and States do not have strong working relationships. And, if there is already an ERA serving the area, states may not wish to disrupt that organizations’ efforts even though it is not a Tribal entity.
- 2) **Tribes cannot directly administer TEFAP.** Unlike State governments, who directly receive TEFAP program foods from USDA and redistribute the foods to eligible recipient agencies within the state, Tribes are not statutorily authorized to do the same since they do not have parity with States and cannot directly administer TEFAP.
- 3) **ERAs do not contribute foods to Tribes because of lack of tax incentives.** Most ERAs comele the USDA Foods through the state administered TEFAP with foods they purchase on their own as well as donated foods from large food donors. Large donors desire a tax incentive that is not available when the food is donated to a Tribe.

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<sup>1</sup> The Congressional Research Service recently released a report that outlines the various components of the program: [“The Emergency Food Assistance Program \(TEFAP\): Background and Funding”](https://crsreports.congress.gov/product/pdf/R/R45408) (Updated December 29, 2023) <https://crsreports.congress.gov/product/pdf/R/R45408>.

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## Potential Solutions to Increase Tribal Self-Determination in TEFAP

### Goals:

- Ensure that, at a minimum, Tribal governments have parity with State governments.
- Ensure Tribes have the infrastructure and resources to fully participate. Incorporate Tribal perspectives into the federal foods being ordered by state TEFAP agencies.
- Facilitate more connections between States and potential Tribal ERAs.

### Balancing/Limiting Parameters:

- USDA does not have federal infrastructure within TEFAP, other than procurement, that could be turned over to Tribal operation in a statutory scheme similar to the Department of Interior's authorities under Title I of the Indian Self-Determination and Education Assistance Act, P.L. 93-638. TEFAP is administered by the state governments.
- The current Congressional budget and formula for distribution are insufficient to cover the current State requests for TEFAP foods. Ideally, the budget should be augmented with increased appropriations, and the formula redesigned to ensure equity for Tribes. Funds to support necessary infrastructure investments for Tribes would also be important for this effort.

### OPTION A: Increase Tribal Participation as ERAs Under States with the Current Statute

With better outreach and increased awareness, more Tribal entities could become ERAs. Using American Rescue Plan Act funds, FNS has provided grants to state agencies to examine their reach to underserved communities, including Tribes, as part of the TEFAP Reach and Resiliency initiative. FNS has been working directly and in partnership with other emergency feeding organizations to gain a better understanding of the role that Tribal governments and organizations play in the emergency feeding network. Results of these studies are anticipated in 2024.

**Regulatory Changes:** FNS has proposed language in the *Improving Access and Parity in Food Distribution Programs* [proposed rule](#) that, if finalized, would encourage state agencies and eligible recipient agencies to implement or expand TEFAP distributions in rural, remote, and Tribal areas.<sup>2</sup> If finalized, the rule also would require TEFAP state agencies to annually post a list of all eligible recipient agencies on a public webpage, providing more transparency on the Tribal role in the program, and to help the public understand where they may receive USDA Foods through TEFAP.<sup>3</sup>

As Tribal nations have commented that encouraging states to work with them has not produced sufficient results in the past, USDA would be interested in hearing about other rulemaking proposals that would achieve the goal of better empowering Tribes to be the primary organization that service Tribal lands.

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<sup>2</sup> Food Distribution Programs: Improving Access and Parity, 88 FR 54908 (August 14, 2023) (amending 7 C.F.R. Part 247), [www.federalregister.gov/d/2023-17467/p-52](https://www.federalregister.gov/d/2023-17467/p-52).

<sup>3</sup> Food Distribution Programs: Improving Access and Parity, 88 FR 54908 (August 14, 2023) (amending 7 C.F.R. Part 247), <https://www.federalregister.gov/d/2023-17467/p-51>.

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**OPTION B: Amending the TEFAP Statute to Allow Tribes Parity with States.**

Congress could amend the TEFAP statute to allow Tribes to operate TEFAP consistent with state agencies. To help ensure Tribal success in TEFAP, USDA would require sufficient funds to assist Tribes that do not currently have necessary food storage and cold storage facilities as TEFAP food deliveries operate in very large volumes.

Distribution of TEFAP resources to States is determined by a formula. The amount of food each State receives out of the total amount of food provided is based on the number of unemployed persons and the number of people with incomes below the poverty level in the state. Adding Tribal nations to the funding distribution would require Congress to set aside funds to reflect the increased participation by Tribes, or to create a new formula for redistributing existing funds to Tribes. It would also require a means to allocate the funds if existing data sources do not include the number people unemployed and below the poverty line for a given Tribe or a new formula.

It is important to underscore that federal TEFAP funds are supplemental in nature to a pre-existing food distribution system within a state. TEFAP funds do not fully support administrative operations in state emergency feeding systems, and Tribes would be faced with the challenge of contributing the administrative resources to successfully operate the program. TEFAP also is not the primary source of food flowing to local food banks and supplemental food programs. State agencies and local non-profits that distribute the foods contribute their own resources to ensure an adequate supply and diversity of foods.

**For Awareness ONLY: Potential Barrier: Federal Tax Incentives for Food Donations Does Not Extend to Tribal Governments**

**Background.** USDA is sharing only for awareness. TEFAP federal foods in food banks are significantly augmented by private food donations. One of the significant incentives for private food donations to food banks is the Internal Revenue Code (IRC) 170(e) “enhanced tax deduction” for donated foods. Most ERAs are 501(c)3 non-profit organizations, and food donations to them are eligible for this enhanced tax deduction. Once these privately donated foods are received by the ERAs/food banks, they are usually comingled with TEFAP/federally provided USDA foods.

However, IRC 170(e) does not extend to Tribal governments ([only to Tribal 501\(c\)\(3\)s](#)). As such, USDA has received feedback that food banks are disincentivized to provide foods to Tribal nations because those (comingled) foods are not eligible for the enhanced tax deduction. This means most food banks will not distribute food directly to Tribal governments but instead only to 501(c)(3) organizations. This tax structure has led to the creation of a food distribution system on reservations that utilizes non-profits operating on Tribal lands.

If this barrier to receiving privately donated foods to augment federal foods provided in the TEFAP program is of importance to Tribal leaders, it is the Office of Tribal Relations understanding that a statutory change would be required to address this issue by adding Tribal Governments as eligible entities for the enhanced tax deduction for food donations to the federal tax code under 26 U.S.C §170(e).



**APPENDIX C:**

**THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)**

**SNAP Background:** SNAP provides food benefits to low-income families to supplement their grocery budget so they can afford the nutritious food essential to health and well-being. The program is administered through States, but is available to American Indians/Alaska Natives, including those who do and do not live on Tribal lands, as long as they are not taking part in FDPIR in the same month they receive SNAP benefits. Approximately 542,000 American Indians/Alaska Natives participate in SNAP, representing 1.5 percent of SNAP participants overall.

**Current Efforts at Increased Tribal Incorporation.** Under the Food and Nutrition Act of 2008, as amended (Farm Bill), State agencies must consult with Federally Recognized Indian Tribes prior to submitting to FNS their SNAP State Plans of Operation—including relative to their nutrition education and employment and training programs—if they will be serving members of Federally Recognized Indian Tribes who live on Tribal reservations. Further, States are supposed to implement their SNAP State Plans of Operation in a manner responsive to the needs of the Federally Recognized Indian Tribes, as determined by ongoing consultation.

The federal SNAP statute does include some special programmatic features for Tribal members, such as a richer Federal match for State activities related to serving Tribes and a recognition that cross-border Tribal members may not have U.S. citizenship and should not be subject to immigrant eligibility restrictions. The statute also includes a provision that allows for Tribes to take over implementation of the full SNAP program from the State and serve their members directly if the State is found to be incapable of serving the Tribe's members. This provision has never been utilized.

**SNAP Self-Determination Pilots: State Case Studies.** Washington, Minnesota, and Wisconsin partner with Tribes to allow Tribal employees to conduct SNAP certification functions like the interview and eligibility determinations. Minnesota and Wisconsin are county-administered SNAP programs and allow certain Tribal offices to operate like county offices. Tribal employees in Minnesota and Wisconsin are recognized by the States as merit system employees. The State agencies ensure the Tribal employees meet the State's merit system requirements.

**Minnesota.** The Minnesota Department of Human Services (DHS) partners with the White Earth Nation (WEN) and the Red Lake Nation. FNS has worked with WEN and the State of Minnesota since 2013, when the State legislation authorized the transfer of Minnesota DHS programs to the White Earth Nation. At first, the SNAP office located at WEN employed Tribal members as Minnesota State personnel. Several years later, WEN and Minnesota worked together to convert current State employees at WEN to Tribal employees by ensuring that the Tribal employees would meet the State's and federal requirements. Minnesota has also worked with Red Lake Nation to allow Tribal eligibility staff to provide assistance. Minnesota remains fully responsible for monitoring and providing oversight for SNAP.

**Wisconsin.** The Wisconsin Department of Health Services (DHS) partners with nine Tribes, known as income maintenance support agencies (Tribal IM), to provide eligibility determination services to their tribal members for SNAP. Tribal IM agencies enter into annual contracts with Wisconsin DHS to continue administering SNAP.

**Washington.** Washington is a State-administered SNAP program and, since 2009, has operated a demonstration project to allow Tribal employees to perform certain SNAP functions in lieu of state employees. These Tribal projects operate like local SNAP offices by taking applications, conducting interviews, determining eligibility and benefit levels, and issuing EBT cards. The tribes receive significant support from state agency staff.

Originally a partnership solely between the State of Washington and the Port Gamble S'Klallam Tribe, FNS recently extended and approved an expansion of this demonstration to include five additional Tribes who will begin implementing SNAP certification functions over the next several years.

**SNAP Study.** FNS completed a feasibility study of Tribal Administration of Federal Nutrition Assistance Programs, including SNAP, in 2016. This research examined the basic requirements of administering SNAP, as well as the services, functions, and activities associated with administration. Researchers engaged with representatives of Federally recognized Tribes and Alaska Native villages to accomplish two goals: 1) to understand their interest in administering SNAP, and 2) to learn about Tribes' existing administrative resources, as well as the challenges and needs they anticipate based on their experience with other Federal programs.

The thoughts and concerns expressed by Tribes fell into the following themes:

- A general interest in the purpose of the research and in participating in the research. Individuals viewed this research as an opportunity to positively affect policy.
- A need to understand the previous efforts of Tribes to administer nutrition assistance programs, including unsuccessful efforts that resulted in frustration and mistrust.
- The legal requirement to demonstrate State agency failure in administering SNAP is a barrier to Tribal administration.
- Tribes have concerns regarding States' willingness to share leadership, responsibilities, information, and funding.
- Tribal boundaries that cross State lines pose unique challenges.
- Roles and opportunities differ for small Tribal governments, large Tribal governments, and ITOs.
- The availability of Tribal infrastructure and human resources to meet extensive Federal requirements for administering programs may be a challenge.

Tribes that participated in this research expressed some interest in administering SNAP. Large and medium Tribes showed more interest in SNAP than their smaller counterparts.

For Tribes, the potential of administering SNAP represents further recognition, implementation, and expression of their sovereignty. Tribal leaders and staff repeatedly reiterated the importance of Tribes being recognized as independent and unique nations with the authority to oversee,

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administer, and operate their programs and services as best meets the cultural and community needs of their members. They also explained that failure to recognize sovereignty had been an impediment to negotiating program administration in the past.

**Logistical Challenges with Expanding SNAP to Tribes via the Federal Government at this time.** There are logistical and funding challenges to expanding SNAP that any new legislative authorities will want to take into consideration. Logistically, SNAP is currently operated by States and is significantly more administratively complex and costly to operate than other FNS programs. There is also a high barrier to entry in SNAP, including computer systems, integration with other federal programs like WIC, robust financial management systems, benefit payment services like EBT, legal capacity, and staff training.

USDA would need funding for staff and resources to support Tribes. In addition, new resources would be necessary to assist Tribes to purchase systems and the operational infrastructure. Currently the law mandates that State agencies cover these costs and then receive USDA reimbursement for 50 percent of their expenses.

A strong relationship between the State and the Tribes will be critical for successful transfer of administration of SNAP, including transfer of operational knowledge and resources. USDA does not have experience directly operating the program or the resources and assets associated with directly administering the program. State expertise in SNAP operations would be critical to supporting a knowledge transfer. In States without strong Tribal relationships, a successful transfer of administration could be challenging.

SNAP law and state responsibilities are highly interconnected with other programs and systems. It is unclear if USDA could negotiate a full self-determination model without input from agencies like the IRS, HHS/ACF, HHS/CMS, Education, SSA, FCC, etc.

To help build strong relationships between the State and the Tribes, FNS is working to increase meaningful engagement. Meaningful consultation is needed to promote Tribal input, understanding of the SNAP program, and to work toward increased Tribal interaction and independence in the program.

**Moving Forward.** Because of these complex operational issues and need for a major investment of funding and staffing, USDA believes it would be challenging to undertake a self-determination Title I option within SNAP right now. USDA strongly supports continuing to work together towards increased Tribal self-determination policies and transfer of knowledge and infrastructure. USDA would welcome more tribal demonstration projects whereby tribal governments take a role in the eligibility and enrollment process (as described above) which is one of the areas of most Tribal interest and concern. This would advance our efforts and help to build greater understanding for what is required for a more comprehensive approach in SNAP in the future.

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FNS envisions an increased engagement with states, emphasizing the critical importance of Tribal Nation relationships with the program, by sharing best practices, the development of toolkits, and engaging with partners like APHSA to support states in this effort.

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**APPENDIX D:**

**NEW AUTHORIZATION FOR PILOT PROJECT:  
TRIBAL ORGANIZATIONS TO OPERATE CHILD NUTRITION PROGRAMS AS A STATE AGENCY**

**Background:** The Child Nutrition Programs help to ensure that children and adult participants have access to nutritious meals and snacks in schools, summer programs, child and adult care institutions, and afterschool programs. The programs are administered by State agencies, per statute ([Richard B. Russell National School Lunch Act](#)). Section 758 of the [Consolidated Appropriations Act, 2024](#), P.L. 118-42 provides \$2 million for pilot projects to Tribal organizations to operate Child Nutrition Programs as a State agency. The Act authorized a maximum of 10 pilot projects, for up to two years, in Bureau of Indian Education-funded schools, schools on or near Indian reservations, or in early childcare and education facilities. Grants from \$10,000-\$100,000 per school year are authorized.

As part of the Consolidated Appropriations Act, 2024, Congress authorized the following:

Sec. 758. (a) For an additional amount for the Office of the Secretary, \$2,000,000, to remain available until expended, for the Secretary of Agriculture to carry out no more than 10 pilot projects, under the terms and conditions determined by the Secretary for a period not to exceed 2 years, that award grants to an Indian tribe; a tribal organization approved by an Indian tribe; a tribal educational agency; a consortium of Indian tribes; or a partnership between an Indian tribe and either a State educational agency, a local educational agency, a tribal educational agency, or the Bureau of Indian Education to operate and implement the school lunch program as authorized by the Richard B. Russell National School Lunch Act ([42 U.S.C. 1769](#)), the summer food service program as established under section 13 of the Richard B. Russell National School Lunch Act, the child and adult care food program as established by section 17 of the Richard B. Russell National School Lunch Act, or the school breakfast program established by the Child Nutrition Act of 1966 ([42 U.S.C. 1773](#)) in either a Bureau-funded school (as defined in section 1141 of the Education Amendments of 1978 ([25 U.S.C. 2021](#))); a school (as defined in section 12(d) of the Richard B. Russell National School Lunch Act ([42 U.S.C. 1760](#) (d)) on or near an Indian reservation; or an early child care and education facility: Provided, That to carry out this pilot program each grant awarded shall be no less than \$10,000 and no more than \$100,000 for each school year and shall not increase state administrative costs or the amount of benefits provided in any program: Provided further, That the term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 5304](#)).

(b) Notwithstanding any other provision of law, a pilot project grant recipient shall be reimbursed for meals served under the school lunch program, the summer food service program, and the child and adult care food program as if the recipient were a

State under the Richard B. Russell National School Lunch Act; and under the school breakfast program as if the recipient were a State educational agency.

(c) Not later than 1 year after the conclusion of the pilot program, the Secretary shall submit to Congress a report on the outcomes of the pilot program.

In summary, Congress authorized \$2 million for USDA to carry out up to 10 pilot projects exploring Tribal organizations operating as State agencies to administer one or more Child Nutrition Programs (National School Lunch Program; Summer Food Service Program; Child and Adult Care Food Program; and/or School Breakfast Program). Under the pilot, grantees may receive \$10,000-\$100,000 per year. Projects may last up to two years and must administer the Program(s) in either a Bureau-funded school, a school on or near an Indian reservation, or an early childcare and education facility.

Grant recipients may be:

- Indian Tribes.
- Tribal organizations approved by an Indian Tribe.
- Tribal educational agencies.
- A Consortium of Indian Tribes.
- Partnerships between an Indian Tribe and either a:
  - State educational agency.
  - Local educational agency.
  - Tribal educational agency.
  - The Bureau of Indian Education.

State agency responsibilities for administering Child Nutrition Programs are detailed in the following regulations:

- National School Lunch Program: [7 CFR 210](#) and [245](#).
- Summer Food Service Program: [7 CFR 225](#).
- School Breakfast Program: [7 CFR 220](#) and [245](#).
- Child and Adult Care Food Program: [7 CFR 226](#).

USDA is forming a multi-disciplinary workgroup to develop a project plan and establish a framework for the pilot projects, which will include soliciting Tribal input.

Some initial considerations, however, include:

- We need to think carefully about the scale and scope of the pilot, given the relatively small amount of funding (\$2 million).
- It may be more feasible to focus on only one Child Nutrition program, rather than multiple programs.
- Similarly, it may be more effective to focus on a smaller number of Tribes, rather than many.

**Proposed Discussion Questions:**

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FNS is committed to working with Tribal leaders to reimagine federal food and agriculture programs from an Indigenous perspective. To inform the development of the pilot projects, below are key questions we would like feedback on.

1. What considerations should be top of mind for USDA as we establish a framework for the pilot projects?
  - a. How would Tribal organizations benefit from the pilot projects?
2. Congress appropriated a total of \$2 million to be used for up to 10 pilot projects.
  - a. Projects are authorized for up to two years. It will take USDA some time to establish the pilots, and it will take grantees some time to prepare to operate as a state agency. What are your thoughts about operating one- versus two-year pilot projects?
  - b. What are the benefits/drawbacks for a Tribe to choose to pilot administering all of the Child Nutrition Programs (National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program) versus administering just one of them?
3. State agency responsibilities for administering the Child Nutrition Programs include, but are not limited to, establishing agreements with local operators to administer Child Nutrition Programs locally, training, and technical assistance, processing claims for reimbursement, and monitoring compliance with Program requirements.
  - a. What resources do Tribes need to administer Child Nutrition Programs as a State agency?
  - b. Given the funding available (maximum of \$200,000 for a 2-year pilot), which State agency responsibilities would be feasible for a Tribal organization to assume?