



# 2018 Farm Bill Implementation USDA Tribal Consultation Talking Points

June 26 - 27, 2019, Reno, NV Consultation

Updated: June 20, 2019

Tribal Forestry Provisions	
<i>Self-Determination &amp; Tribal Management</i>	
Background	Implementation Talking Points
<b>Section 8703 – 638 Forestry Demonstration Project:</b> <ul style="list-style-type: none"> <li>USDA and DOI can enter into 638 self-determination agreements with Tribes allowing for Tribal management of adjacent Forest Service (FS) or Bureau of Land Management lands (BLM) under the Tribal Forest Protection Act (TFPA).</li> <li>FS and BLM lands must be adjacent to Indian forest land or rangeland under Tribal jurisdiction.</li> <li>Secretaries retain authority for approvals required by federal environmental laws.</li> </ul>	<b>Section 8703 – 638 Forestry Demonstration Project:</b> <ul style="list-style-type: none"> <li>The U.S. Forest Service must leverage its existing programs and resources – such as cooperative management agreement authority and work closely with Tribes and Tribal organizations to guide its efforts in developing a 638 framework.</li> <li>Throughout implementing this program, the Forest Service should also consult with Tribes to determine ways in which the 638 authority can most effectively be tailored for Tribal management of federal lands.</li> </ul>
<b>Section 8624 – Good Neighbor Authority:</b> <ul style="list-style-type: none"> <li>The Good Neighbor Authority allows the U.S. Forest Service to enter into cooperative agreements or contracts with the States and Puerto Rico and now Tribes to perform watershed restoration and forest management services on National Forest System lands.</li> </ul>	<b>Section 8624 – Good Neighbor Authority:</b> <ul style="list-style-type: none"> <li>The USDA Forest Service must continue outreach efforts and program implementation to ensure that Tribes can start entering into Good Neighbor Agreements as soon as possible since Tribes were excluded for 5 years of the program.</li> </ul>

<ul style="list-style-type: none"> <li>• 2018 Farm Bill makes Tribal governments eligible to exercise Good Neighbor Authority for forestry management agreements with states and USDA.</li> </ul>	<ul style="list-style-type: none"> <li>• Forest Service must support the necessary technical fix for Tribes to be reimbursed directly for timber sales, and seek an opinion from USDA that allows Tribes to receive reimbursement immediately so they are not excluded from the benefits of Good Neighbor Authority while waiting for this fix.</li> </ul>
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## Tribal Conservation Provisions

### *Tribal Equity in Conservation Authorities*

Background	Implementation Talking Points
<p><b>Section 2503(c) – Alternative Funding Arrangements to Support Tribal Access to Conservation Programs:</b></p> <ul style="list-style-type: none"> <li>• Requires USDA to work with Tribal producers and provide alternative funding arrangements for two essential conservation programs: Environmental Quality Incentives Program (EQIP) and Conservation Stewardship Program (CSP).</li> <li>• This change is important as it requires the Secretary to provide Tribal producers full access to EQIP and CSP programs while working within effective and traditional Tribal agriculture structures and systems of cooperation.</li> </ul>	<p><b>Section 2503(c) – Alternative Funding Arrangements to Support Tribal Access to Conservation Programs:</b></p> <ul style="list-style-type: none"> <li>• The USDA Natural Resources Conservation Service must build off the successful existing Tribal alternative funding arrangements and through direct engagement and consultation with Tribes.</li> <li>• Determine ways to best facilitate Tribal access to CSP and EQIP through the new AFA authority, specifically discussing the unique conservation practices utilized by Tribal producers.</li> <li>• This should include providing technical assistance for Tribes interested in AFAs.</li> </ul>
<p><b>Section 2202 – Conservation Reserve Enhancement Program</b></p> <ul style="list-style-type: none"> <li>• Previously a subset of the Conservation Reserve Program (CRP), the 2018 Farm Bill statutorily authorizes Conservation Reserve Enhancement Program (CREP) as a</li> </ul>	<p><b>Section 2202 – Conservation Reserve Enhancement Program</b></p> <ul style="list-style-type: none"> <li>• The USDA Farm Service Agency must consult with Tribes to establish guidelines allowing the Secretary to</li> </ul>

<p>standalone program allowing the Secretary of Agriculture to enter into cost-share agreements with Tribes, States, and non-governmental partners to address high-priority conservation programs.</p> <ul style="list-style-type: none"> <li>○ Portion of Tribal and/or State in cost-share arrangement with USDA is determined through negotiations with the Secretary</li> <li>○ Portion of non-governmental partner cost-share arrangement with USDA is a minimum of 30%.</li> </ul>	<p>consider economic hardships of individual Tribes when setting Tribal CREP cost-share rates.</p> <ul style="list-style-type: none"> <li>• The USDA must examine historical CRP data and establish a policy mandating that the Tribal portion of future CREP arrangements does not exceed that of past State shares.</li> </ul>
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Tribal Nutrition Provisions	
<i>Self-Gov., Self-Deter., and Parity</i>	
Background	Implementation Talking Points
<p><b>Sections 4003(a)-(b) – Food Distribution Program on Indian Reservations</b></p> <ul style="list-style-type: none"> <li>• New “638” Tribal self-determination contracts demonstration project allowing Indian Tribal Organizations (ITOs) to purchase food for the Food Distribution Program on Indian Reservations (FDPIR) – still requires \$5 million direct appropriation.</li> <li>• Lowers Tribal match to 20 percent (previously 25 percent); waiver of match and full USDA funding required for tribes with economic hardships; and ability to use other federal funding to reach the match requirement.</li> <li>• Allows for two-year carryover funding for FDPIR.</li> <li>• Adds “regionally-grown” to the traditional foods provision purchase provision for FDPIR.</li> </ul>	<p><b>Sections 4003(a)-(b) – Food Distribution Program on Indian Reservations</b></p> <ul style="list-style-type: none"> <li>• The USDA- Food and Nutrition Service (FNS) should continue to work closely with the Food Package Review Group to determine which traditional foods should be added to the FDPIR food package and can be procured cost-effectively.</li> <li>• Throughout the implementation of the 638 provision, the USDA-FNS should continually consult with Tribal leaders and the National Association of FDPIR (NAFDPIR) Board to determine how this new authority can best be tailored to allow ITOs to better serve Tribal citizens. Moreover, the USDA-FNS should work closely with the Department of Interior Office of Self Governance to determine best practices in implementation.</li> </ul>

<ul style="list-style-type: none"> <li>Requires the Secretary to purchase traditional foods that can be procured “cost-effectively.”</li> </ul>	<ul style="list-style-type: none"> <li>USDA-FNS must look at funding multiple 638 FDPIR pilot projects in various areas throughout Indian Country to provide important information on how the program will work in various regions as the “one-size fits all” models do not reflect the unique challenges and opportunities of each region and ITO.</li> <li>USDA-FNS should focus on providing opportunities for ITOs utilizing this provision to procure fresh fruits and vegetables and traditional foods for the food package.</li> <li>Tribes selected to participate in this 638 demonstration project should be able fully control the procurement process for their own selected vendors, including utilizing their own procurement regulations, packaging and other standards, and contracting provisions. USDA-FNS should work not only with Tribes familiar with 638 and the Department of the Interior Office of Self-Governance to determine best practices, but should also be reaching out now to USDA Department of Defense partners in the DoD Fresh Program to educate these partners about this new provision and ensure a successful demo project launch.</li> <li>The Farm Bill authorizes appropriations of \$5,000,000 until expended for the 638 demonstration program, but it provides no funding for the program. The USDA must request funding for this program in the President’s Budget.</li> <li>The USDA-FNS must continue to conduct monthly Farm Bill Implementation phone calls with the Tribal Leaders Consultation Working Group on FDPIR and the National Association of FDPIR Board throughout the implementation process for all Farm Bill provisions related to FDPIR.</li> </ul>
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<b>Section 4205 – Gus Schumacher Food Insecurity Nutrition Incentive Program</b> <ul style="list-style-type: none"> <li>Tribal agencies can use other federal resources and funds (including Indian Health Service funding) to meet the Food Insecurity Nutrition Incentive Program matching requirement.</li> </ul>	<b>Section 4205 – Gus Schumacher Food Insecurity Nutrition Incentive Program</b> <ul style="list-style-type: none"> <li>USDA-FNS, in partnership with the Office of Tribal Relations, must consult with Tribes to ensure that any regulation or program changes that are necessary to implement the new matching authority are executed expeditiously.</li> </ul>
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<b>Tribal Hemp Provisions</b>
<i>Tribal Plans Implementation</i>
<b>Background</b>
<b>Sections 10113 &amp; 10114 – Hemp</b> <ul style="list-style-type: none"> <li>Legalizes industrial hemp farming and authorizes new Tribal and State plans to self-regulate, develop, and expand hemp production.</li> <li>Provides technical assistance to Tribes.</li> <li>Requires that states permit a Tribe to transport hemp across state lines provided the hemp is lawfully produced under the Farm Bill provisions.</li> </ul>
<b>Implementation Talking Points</b>
<b>Sections 10113 &amp; 10114 – Hemp</b> <ul style="list-style-type: none"> <li>Until the regulations implementing the 2018 Farm Bill are finalized, Tribes and States looking to engage in hemp production must continue to rely on the pilot program authority under 2014 Farm Bill. This puts Tribes at a systematic market disadvantage when compared to States because the hemp provisions in the 2014 Farm Bill lacked the Tribal parity contained in the 2018 Farm Bill.</li> <li>The USDA-Agriculture Marketing Service (AMS) must continue soliciting Tribal input throughout the implementation process to determine Tribal needs in developing hemp plans so that technical assistance offered can effectively be tailored once regulations are finalized.</li> </ul>

- The Farm Bill authorizes appropriations “as necessary” to implement the industrial hemp program but provides no direct funding. USDA must request full funding for this program in the President’s Budget.
- The USDA-AMS must conduct further and extensive consultation with Tribes throughout the entire regulatory process of implementing the Farm Bill hemp provisions to address the complexities surrounding Tribal and State jurisdiction. This should be done not only as part of the 2018 Farm Bill Tribal consultations, but also on an agency-specific level to more fully engage Tribal voices on this emerging policy area.
- The USDA-AMS has previously assured Tribal leaders and stakeholders that it is prioritizing staffing needs so that the 60-day time limit for responding to Tribal hemp regulatory plans will be met once regulations are finalized. For Tribes to successfully enter this market without further delay, it is crucial that the agency remain committed to this approach.
- Leadership within both the USDA Office of Tribal Relations and the USDA-AMS have previously expressed that Tribes and Tribal producers may engage in hemp production in Indian Country, regardless of state law provisions. This view aligns with congressional intent expressed in the 2018 Farm Bill and a recent interpretation issued by the USDA Office of General Counsel. This information must continually be communicated to all USDA staff involved in hemp regulation so that it is consistently understood throughout all levels of the agency.
- The USDA-AMS must place a Full-Time Equivalent (FTE) employee tasked with providing Tribal representation throughout hemp regulatory drafting and implementation to ensure Tribal concerns are internally addressed throughout each process. The employee should have an in-depth knowledge of Tribal sovereignty, experience working with Tribal governments, and serve as a central point of contact for Tribal stakeholders for USDA-AMS hemp regulation matters.
- The 2018 Farm Bill provides that Tribal governments may be provided technical assistance to develop hemp regulatory plans. As part of this technical assistance, the USDA-AMS should provide a “model plan” for Tribal governments to adopt to their own individual needs. This would serve to expedite plan approval once regulations are finalized and lessen the amount of Tribal resources expended to enter this market.
- The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (H.R. 2157) provides that federal crop insurance will cover industrial hemp producers as part of a whole farm revenue protection policy beginning in the 2020 reinsurance year. The USDA-AMS and USDA-RMA should work together to ensure this provision is implemented in accordance with congressional intent and without undue delay.

# Tribal Advisory Committee

*Direct Engagement with USDA & DOI*

## Background

### Section 12303 – Tribal Advisory Committee

- Establishes a new 11-member Tribal Advisory Committee through the Office of Tribal Relations to provide advice to the Secretary on Tribal-related issues and policies (Similar Structure to TTAC):
  - 3 members appointed by the Secretary;
  - 2 members appointed by the Senate Committee on Indian Affairs of the Senate (Chair and Vice-Chair get 1 appointment each);
  - 2 members appointed by the U.S. Senate Committee on Agriculture, (Chair and Ranking get 1 appointment each); and
  - 4 members appointed by the U.S. House Committee on Agriculture of the House of Representatives Chair and Ranking get 2 appointment each).
- The Secretary is required to accept nominations for membership to the TAC submitted by a Tribe, Tribal organization, or a national or regional organization with expertise related to TAC issues. Members appointed to the TAC serve in terms of 3 years and may be re-appointed up to 3 consecutive terms.
- Requires a representative from the USDA Office of Tribal Relations and the Assistance Secretary of Indian Affairs, or a designee, to attend each TAC meeting.

## Implementation Talking Points

### Section 12303 – Tribal Advisory Committee

- USDA must begin the process of drafting a charter to establish the TAC. As part of the Secretary's Membership Balance Plan for this TAC, the Secretary should work closely with and solicit input from Tribes, Tribal organizations, former federal advisory committee members for USDA on Indian Country agricultural issues, and appropriate national/regional organizations with relevant subject matter expertise to determine how to provide the most effective, balanced representation for the TAC.
- During the development of the TAC, USDA must also reach out and work with the Assistant Secretary of Indian Affairs to ensure cross-agency collaboration.
- The President's signing statement accompanying the 2018 Farm Bill expresses concerns with the TAC being composed of appointments made by both the executive and legislative branches, and as a result, instructs the Secretary of Agriculture not to establish the TAC. To alleviate these concerns, the Secretary should instruct the USDA Office of General Counsel to examine the similarly structured Tribal Treasury Advisory Committee in the U.S. Department of the Treasury as a precedent demonstrating the legality of such a committee established pursuant to an act of Congress, and begin implementation of the TAC as soon as possible.

## Tribal Research Provisions

### *TCU Equity and Opportunities for Native Students*

Background	Implementation Talking Points
<p><b>Sections 7123 &amp; 7609 – TCU Across Access to Programs</b></p> <ul style="list-style-type: none"> <li>Includes Tribal Colleges and Universities as eligible entities for the capacity building program to facilitate collaboration with international partner institutions to build capacity in research, extension, and teaching.</li> <li>Includes Tribal Colleges and Universities in the Children, Youth, and Families at Risk (CYFAR) and the Federally Recognized Tribes Extension Program (FRTEP).</li> </ul>	<p><b>Sections 7123 &amp; 7609 – TCU Across Access to Programs</b></p> <ul style="list-style-type: none"> <li>USDA must consult with Tribes and work with TCUs to determine the best ways to facilitate TCU participation in the collaborative research, extension, and teaching efforts with international partner institutions, to further support inclusions and access to the capacity building program.</li> <li>The 2018 Farm Bill extended parity to TCUs and made them eligible to compete for FRTEP funding, which is an importance acknowledgment of the need for TCU parity in funding and programs. While this doubles the eligible entities for the program, no additional funding was provided for FRTEP, which remains its original 1990 funding level of \$3 million. The USDA should ask that the President’s Budget include a request for an additional \$7 million, at a minimum, in Congressional appropriations for the FRTEP program, and provide funding for FRTEP through available extension funding.</li> </ul>
<p><b>Section 7120 – New Beginning Initiative or “Wokini Initiative”</b></p> <ul style="list-style-type: none"> <li>Establishes a competitive grant program for land-grant colleges and universities to provide Tribal student scholarships.</li> </ul>	<p><b>Section 7120 – New Beginning Initiative or “Wokini Initiative”</b></p> <ul style="list-style-type: none"> <li>The USDA must work closely with Tribes and land-grant colleges and universities to determine the regulations, especially regarding what qualifies towards matching funds, including: reduced tuition for Tribal</li> </ul>



<ul style="list-style-type: none"> <li>Land-grant colleges and universities receiving grants must match funds at 100 percent. <ul style="list-style-type: none"> <li>Funds limited to \$500,000 per state per year.</li> <li>Entire program is capped at \$5 million.</li> </ul> </li> </ul>	<p>students, on-campus Native student centers, tuition assistance, specialized mentoring, advising, and counseling services, and co-curricular activities support, etc.).</p> <ul style="list-style-type: none"> <li>The Farm Bill only authorizes appropriations of \$5,000,000 per year through fiscal year 2023 and does not provide direct funding for the program. The USDA must request that the President's Budget include a request for Congress to fully fund this program and look to fund the program through additional funding at the Department.</li> </ul>
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## Tribal Crop Insurance Provision

### *Improving Access for Tribal Producers*

Background	Implementation Talking Points
<p><b>Section 11108 – Underserved Producers</b></p> <ul style="list-style-type: none"> <li>Includes Tribal producers in definitions of underserved producers for review and report of whether crop insurance is providing adequate coverage.</li> <li>Requires a report to Congress not less than once every three years detailing recommendations to increase participation in federal crop insurance programs for Tribal producers and others.</li> </ul>	<p><b>Section 11108 – Underserved Producers</b></p> <ul style="list-style-type: none"> <li>The USDA begin the process of outreach and inclusion of Tribal producers for immediate inclusion in the next report.</li> <li>Prior to the report, USDA Risk Management Agency must consult with Tribes and appropriate stakeholders to determine Tribal barriers to participation in federal crop insurance programs and solicit recommendations for eliminating these barriers for inclusion in the Congressional report.</li> </ul>

Tribal Promise Zones Provision	
<i>Support Community and Economic Development</i>	
Background	Implementation Talking Points
<p><b>Section 12510 – Tribal Promise Zones</b></p> <ul style="list-style-type: none"> <li>Ensures that the current designated Tribal Promise Zone will continue to provide improved access to resources and technical assistance from federal agency partners to Native communities to support job growth, economic development, and educational opportunities through building strong federal, Tribal, and private partnerships.</li> <li>Promise Zones rely on collaborative relationships with local communities and federal agencies to optimize federal resources.</li> </ul>	<p><b>Section 12510 – Tribal Promise Zones</b></p> <ul style="list-style-type: none"> <li>Within 1 year of Farm Bill enactment (by December 20, 2019), the Secretary of Agriculture must consult with Tribes to determine a minimum number of nominated zones to be designated as Tribal Promise Zones.</li> <li>The 2018 Farm Bill mandates that these nominated zones be designated as Tribal Promise Zones by January 1, 2020.</li> <li>USDA must begin the process and consult directly with Tribes to set up additional selection criteria and minimal poverty and unemployment standards for determining which nominated zones shall be designated as Tribal Promise Zones as required by the under the 2018 Farm Bill.</li> </ul>

Tribal Rural Development Provisions	
<i>Building Infrastructure and Econ. Dev.</i>	
Background	Implementation Talking Points
<p><b>Sections 6201, 6204, 6302, 6205, 6209, 6211, and 6505:</b></p> <ul style="list-style-type: none"> <li>Establishes a permanent Tribal technical service and assistance office across all USDA Rural Development funding authorities.</li> </ul>	<p><b>Sections 6201, 6204, 6302, 6205, 6209, 6211, and 6505:</b></p> <ul style="list-style-type: none"> <li>USDA-Rural Development must conduct direct and specific Tribal consultations on the implementation the all Rural Development Title programs, especially the technical assistance office and broadband programs.</li> </ul>

<ul style="list-style-type: none"> <li>• Provides refinancing authority for Rural Development programs currently within the Substantially Underserved Trust Areas (SUTA) designation.</li> <li>• Tribal priority, inclusion, and access to two broadband programs to build infrastructure and economic development opportunities in Indian Country – increase broadband program to \$325 million (from \$25 mil.).</li> </ul>	<ul style="list-style-type: none"> <li>• USDA must take steps to establish, in consultation with Tribes, the technical assistance office as soon as possible to support greater inclusion for Tribal governments and entities applying for RD programs.</li> <li>• Implementation of the broadband provisions must ensure that application for priority points for Tribes/Tribal entities are applied correctly.</li> <li>• Application components for points that do not fit Tribal applications, must not count against Tribal entities.</li> </ul>
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## Farming Opportunities Training and Outreach

Background	Implementation Talking Points
<b>Sections 12301:</b> <ul style="list-style-type: none"> <li>• Provides additional Tribal government and producers eligibility and permanent baseline funding of \$435 million for the Farming Opportunities Training and Outreach (FOTO) program which combines the beginning and socially disadvantaged farmers and ranchers programs.</li> </ul>	<b>Sections 12301:</b> <ul style="list-style-type: none"> <li>• USDA must conduct consultation with Tribes to ensure opportunities funded through the FOTO program are the prioritized in a manner to meet the most pressing needs of Tribal governments and individual Native producers.</li> </ul>

## Local Agriculture Market Program

Background	Implementation Talking Points
<b>Sections 10102:</b> <ul style="list-style-type: none"> <li>• Combines two existing programs: the Farmers Market and Local Food Promotion Program (FMLFPP); and the Value-Added Producers Grant Program (VAPG).</li> <li>• Establishes Tribal eligibility in local food programs to grow, process, and market Native foods.</li> </ul>	<b>Sections 10102:</b> <ul style="list-style-type: none"> <li>• USDA must consult with Tribes to ensure no administrative barriers exist to Tribal producers and Native food businesses accessing these programs.</li> </ul>

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