

February 21, 2025

Kelly Loeffler
Administrator
U.S. Small Business Administration
409 Third Street SW
Washington, DC 20416

RE: SBA Treatment of Tribal Nations in Implementation of Administration Priorities

Dear Administrator Loeffler:

On behalf of the undersigned organizations serving Tribal Nations and Tribal citizens and communities, we write to congratulate you on your confirmation to lead the U.S. Small Business Administration (SBA). *We request a meeting with you as soon as possible* to discuss implementing President Trump's priorities in a manner that recognizes Tribal Nations' sovereign governmental status and the United States' longstanding trust and treaty obligations.

Shared Priorities. President Trump in his first Administration saw Indian Country as a strong partner, and Tribal Nations are ready to work with the Trump Administration again on shared priorities. Indian Country has long supported a smaller federal bureaucracy with less red tape. We believe in reducing unnecessary regulatory burdens and streamlining federal funding mechanisms, which will help foster Tribal Nations' locally-driven economic development and strengthen our rights of self-determination. We are ready to join forces with the Administration in its pursuit to hold the federal government accountable to the highest standards, as the American people deserve.

Inadvertent Harm to Indian Country. While we look forward to achieving these shared goals, recent actions to implement the Administration's Executive Orders have impacted Tribal Nations and Native people in ways that are deeply concerning. Regarding SBA in particular, we are concerned the Administration's priority of addressing diversity, equity, inclusion, and accessibility (DEIA) initiatives is affecting government contracts awarded to Tribal Nations and our citizens. As you know, the Small Business Act established the 8(a) Business Development Program, through which SBA awards government contracts to "socially and economically disadvantaged small business concerns." Many Tribal Nations rely on the SBA 8(a) Program for diversified economic development that creates jobs and generates Tribal government revenue to provide our citizens and communities with essential services. These are not "preferences" or "race-based" programs, but rather they deliver trust and treaty obligations to sovereign Tribal Nations and their citizens and communities. We do not believe President Trump's DEIA and other priorities mean to target Tribal Nations, citizens, or communities. Yet, implementation of these priorities is detrimentally affecting us, and this harm is contrary to President Trump's work with Indian Country during his first term and his views that small businesses are a critical driver of this country's economic growth. This is true for 8(a) companies owned by Tribal Nations and Native people that provide much-needed goods and services to federal agencies, including the U.S. Departments of Defense, State, Interior, and more.

Unique Legal Status of Tribal Nations. Tribal Nations are and always have been inherently sovereign governments that have strong political relationships with our Tribal citizens and community members. We govern and police our lands, and we provide services aimed at keeping our communities safe and healthy. Tribal Nations also have political, government-to-government relationships with the United States, and we prepaid with our lands and resources for trust and treaty obligations that the United States owes us. The U.S. Constitution singles out Tribal Nations and Native people as unique, and the U.S. Supreme Court has time and again affirmed the principle that United States actions that deliver on trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities do not run afoul of the U.S. Constitution's equal protection requirements.

Scope of Trust and Treaty Obligations. The United States fulfills its trust and treaty obligations both through the direct delivery of Tribal programs and services and the provision of federal funding to Tribal Nations to deliver services to our own communities. Essential services include healthcare through the Indian Health Service, law enforcement and public safety through the Bureau of Indian Affairs, and education through the Bureau of Indian Education—not to mention countless others. Any Tribal program or funding delivered to Tribal Nations—including through Urban Indian Organizations and Tribal organizations serving Tribal Nations—is provided in furtherance of the United States' trust and treaty obligations. The federal employees necessary for the functioning of Tribal programs and the disbursement of Tribal funds are also part of the trust and treaty obligations. These actions are not discretionary; they are legal obligations rooted in treaties, trust obligations, the U.S. Constitution, and long-standing federal statutes.

Positive Clarifications by Other Federal Agencies. We note and appreciate that the Departments of Health and Human Services and Interior and the Office of Personnel Management have taken some steps to clarify that implementation of the Administration's Executive Orders and priorities should not impact the United States' delivery on trust and treaty obligations and that such delivery is not race-based. It is also our understanding that the termination of some federal employees was suspended in response to Tribal advocacy.

Requests. Indian Country programs and funding are provided on the basis of our unique political status and are legally required by trust and treaty obligations and associated implementing statutes. Each of the Administration's mandates has acknowledged that such ongoing legal requirements are not to be affected. Therefore, we make the following requests.

- *Engage* with us—*prior* to taking action—to better understand how to implement the Administration's priorities without affecting ongoing legal requirements to Indian Country, as is required by the United States' duty to consult government-to-government with Tribal Nations on federal actions that may have Tribal implications.
- *Follow* the lead of other federal agencies by affirmatively stating that programs for Tribal Nations and Tribal citizens and communities—including 8(a) government contract access for businesses owned by Tribal Nations and Native people—are not DEIA initiatives, but are delivered in recognition of our unique political status and in furtherance of the United States' trust and treaty obligations.
- *Exempt* from any efforts to pause or reduce federal funding all SBA Tribal programs or funding delivered to Tribal Nations, including through Urban Indian Organizations and

Tribal and Native organizations serving Tribal Nations, Tribal-owned, and Tribal citizen-owned companies.

- *Exempt* from any workforce reductions all SBA employees serving in Tribal offices or whose roles assist in the delivery of services or funding to Tribal Nations or Tribal citizens or communities.
- *Continue* the vibrant operations of SBA's Office of Native American Affairs headed by an Assistant Administrator who reports directly to the SBA Administrator, coordinates with other SBA offices on Tribal-related issues, and facilitates SBA-Tribal Consultations.

Tribal Nations' exercise of our sovereignty and the United States' delivery on its trust and treaty obligations must not become collateral damage in the Administration's implementation of its priorities.

Thank you for your leadership on these important issues. We invite you to meet with us so that we may work together in partnership to reach mutual understanding and achieve our shared priorities.

Sincerely,

Affiliated Tribes of Northwest Indians
American Indian Higher Education Consortium
California Tribal Chairpersons' Association
Great Lakes Inter-Tribal Council, Inc.
Great Plains Tribal Chairman's Association, Inc.
Midwest Alliance of Sovereign Tribes
National Center for American Indian Enterprise Development
National Congress of American Indians
National Council of Urban Indian Health
National Indian Child Welfare Association
National Indian Education Association
National Indian Health Board
Rocky Mountain Tribal Leaders Council
Self-Governance Communication and Education Consortium
United South and Eastern Tribes Sovereignty Protection Fund