



October 1, 2021

Dear Tribal Leaders,

The [Economic Development Administration](#) (EDA) is pleased to provide an update to recent Tribal Consultation activity and to introduce new initiatives and events intended to better support Native American Communities across the country. EDA is committed to strengthening Tribal sovereignty and self-governance and the goal of the fulfillment of federal trust responsibilities and treaty obligations to Tribal Nations.

Background on Recent Consultations

In April 2021, EDA hosted two Tribal Consultations with Tribal Leaders and their proxies. The purpose of these consultations was to solicit feedback regarding a proposal to update EDA regulations to expand the range of Tribal entities eligible to receive grants under the Public Works and Economic Development Act of 1965 (PWEDA) to include for-profit Tribal corporations that are wholly owned by, and established for the benefit of, a Tribe. This rule change was proposed to be responsive to the unique role that Tribal corporations have in providing services for their Tribes and to enable Native American Communities to have more equitable access to EDA program resources. The consultations were well attended and had ample participation by Tribal Leaders or their proxies.

Following the consultations, EDA provided an extended opportunity for representatives to submit feedback. During the consultation and throughout the comment period EDA heard that the proposed regulation update was broadly supported by the community. Several comments noted that allowing Tribally owned for-profit organizations to be eligible for EDA grants would increase Tribal access to economic development opportunities and support long-term prosperity. In contrast, a few commenters expressed concerns that if EDA extended eligibility to for-profit entities, smaller and less well-resourced Tribes would be disadvantaged in competition for EDA funding. As noted in the Federal Register Notice, EDA appreciates this concern and will monitor the distribution of funding and make adjustments to its application review process, as necessary, to ensure that EDA grant funding is distributed equitably. Please refer to the Federal Register Notice for a full overview of the type of comments received and EDA's responses.¹

EDA's rule expanding the range of eligible Tribal entities went into effect on September 24, 2021.

¹ Several Tribal commenters asked whether this expansion of eligibility would apply to Alaska Native Corporations (ANCs). Because ANCs are not wholly owned by Tribes, they fall outside the scope of EDA's regulatory change. In June, however, the United State Supreme Court issued its decision in *Yellen v. Confederated Tribes of the Chehalis Reservation*, 121 S. Ct. 2434 (2021), in which it held that the definition of "Indian Tribe" contained in the Indian Self-Determination and Education Assistance Act (ISDA) includes ANCs. Because the definition of "Indian Tribe" in PWEDA is virtually the same as the ISDA definition, EDA has determined that the Chehalis decision also applies to PWEDA and that ANCs are therefore likely eligible for EDA assistance. That determination is a result of the Supreme Court's decision, however, and not an effect of EDA's regulatory change. EDA will work to provide additional information on ANCs eligibility through a separate information campaign as those entities are only in Alaska. The purpose of the webinar is to discuss the expanded eligibility to for-profit Tribal corporations that are wholly owned by, and established for the benefit of, a Tribe.

Expanded eligibility applies to all EDA PWEDA grant programs, including American Rescue Plan (ARP) programming. Under the new definition of “Indian Tribe,” eligibility is not limited to any particular type of for-profit entity. Indian corporations, Section 17 corporations, state-chartered corporations, and Limited Liability Corporations (among others) are all potentially eligible so long as the entity is wholly owned by, and established exclusively for the benefit of the Tribe.

Invitation to Attend EDA Webinar on Eligibility Change and American Rescue Plan Indigenous Communities Program

Tribal Leaders and their designated representatives, as well as members of Native American Communities and stakeholder organizations, are cordially invited to attend EDA’s upcoming webinar explaining EDA’s updated Tribal eligibility regulations. At the webinar EDA will take questions about how the new eligibility will impact EDA’s grant programs and provide an overview of how EDA intends to ensure both that the for-profit entity is wholly owned by a Tribe and that the entity is organized for the benefit of that Tribe.

The webinar will also provide an overview of funding available through EDA programs, most specifically through the ARP [Indigenous Communities program](#). Through this program EDA is allocating \$100 million in ARP Act funding specifically for Native American Communities which were disproportionately impacted by the pandemic. A wide range of technical, planning, workforce development, entrepreneurship, and public works and infrastructure projects are eligible for funding under this program. Please note that Tribes are also eligible and encouraged to apply under all of EDA’s other programs.

EDA Tribal Engagement Coordinator

EDA is also pleased to announce the appointment of Carolee Wenderoth as the new Tribal Engagement Coordinator at EDA. Ms. Wenderoth will have a portfolio dedicated to working directly on matters related to Native American Communities including outreach and program implementation.

Ms. Wenderoth may be reached at cwenderoth1@eda.gov.

Webinar Information and Additional Resources

The webinar will be hosted by EDA and the Native American Finance Officers Association (NAFOA) and held via Zoom:

- October 14, 2021 at 2pm-3pm EDT
- Please use this link to register: https://nafoa.zoom.us/webinar/register/WN_7iz-he66QNuVmAD9E52Mw
- To join by Telephone dial:
 - US : +1 346 248 7799 or +1 253 215 8782 or +1 408 638 0968 or +1 669 900 6833 or +1 301 715 8592 or +1 312 626 6799 or +1 646 876 9923
 - For higher quality, dial a number based on your current location.

This will be conducted via a virtual platform through which participants may provide live written comments. Participation via written channels and the platform’s chat capabilities is highly encouraged.

The web platform will be provided by EDA partner organization, NAFOA. This event will be recorded and posted online.

- Recordings of EDA’s April 16 and 19 Tribal Consultations can be found at <https://eda.gov/tribal/> along with the associated Dear Tribal Leader Letter and presentation slides.
- The rule change Federal Register Notice can be found [here](#).
- Any questions specifically regarding expanded eligibility please contact Mara Quintero Campbell, Senior Advisor, email: MCampbell@eda.gov, telephone: (202) 603-9960.
- Information regarding EDA’s entire suite of ARP programs can be found at <https://www.eda.gov/arpa/>.
- Information specifically regarding the Indigenous Communities program can be found at: <https://eda.gov/arpa/indigenous/>.
 - EDA has established an email address to answer questions related to the Indigenous Communities program. Indigenous@eda.gov.

This webinar is not for press purposes.

As the Assistant Secretary of Commerce for Economic Development and the Deputy Assistant Secretary & Chief Operating Officer, we are responsible for, and committed to, ensuring that EDA’s programs and resources are meeting the needs of our stakeholders. We are also committed to President Biden’s economic agenda to “build back better,” which includes maintaining and strengthening ties to Tribal Nations across the country.

We look forward to participating in these forums and we hope that you will be able to join us. Thank you.

Sincerely,



Alejandra Y. Castillo

Assistant Secretary of Commerce for Economic Development



Dennis Alvord

Deputy Assistant Secretary & Chief Operating Officer