

Remarks by U.S. Treasurer Chief Lynn Malerba at the National Congress of American Indians

February 13, 2024

As Prepared for Delivery

Wuykeesuk eeonooak nuteeooees Soqsqa Mutawi Mutahash, Lynn Malerba, wuchee Moheekanuwak. Kutapatotamawush (thank you) to NCAI Board President Macarro, the entire NCAI Board, and Executive Director Larry Wright for inviting me to speak to this room full of honorable Tribal leaders here with us today. It is a pleasure to provide this update on behalf of the Department of the Treasury.

During my time as the Treasurer, I have had the privilege of welcoming and meeting with many Tribal delegations visiting DC, as well as traveling to Indian Country to truly listen to your concerns, understand how Treasury can play a role in economic development in Indian Country and assist in reducing barriers to economic development. I have had the opportunity to tour housing projects, Tribal entrepreneurial projects, new health care centers, manufacturing facilities, and several programs related to public safety, language preservation, and food sovereignty, to highlight a few. What I have seen are Tribes embracing the federal resources unlocked through President Biden's historic suite of legislation, including the American Rescue Plan Act and the Inflation Reduction Act, and using these resources to provide much needed services and support to their communities in culturally specific, goal-oriented ways. These projects contribute to the stability of Tribal communities in addition to creating jobs for Tribal citizens. The ability to live and work on your Tribal homelands cannot be underestimated in terms of its cultural significance, and I believe this Administration has made significant progress in supporting Tribal lands and Tribal economic development. However, it is evident that we must continue this forward progress to ensure that these gains are sustained. Today, I will be providing an overview of the steps we have already taken to invest in Tribal economic development, and preview our plans for the work ahead.

I want to make it clear that the Department of the Treasury is committed to working with Indian Country. Tribal governments have long requested the creation of a Tribal Office, staffed with Tribal citizens who understand Tribal issues. And Treasury listened. In August of 2022, the Treasury Office of Tribal and Native Affairs was created to advise the Department on

economic and recovery programs, tax policies, and other policies that impact Tribal and Native communities. This is to ensure that the entire Treasury Department, including the Internal Revenue Service, has the benefit of advisors with Tribal expertise. The office ensures Tribes and Tribal communities are equitably included in the Department's work and their unique government-to-government relationship is understood. Under the Biden Administration, Treasury has had a growing relationship with Tribal governments and American Indian and Alaska Native peoples across its bureaus. It is well worth noting that this office would not be established today if it were not for the direct call from Tribal leaders during Tribal consultations and engagement with Treasury.

At the most recent White House Tribal Nations Summit in December, it was announced that Secretary Yellen had approved Treasury's revised Tribal Consultation Policy. This updated policy ensures the Department's compliance with the Presidential Memorandum on Uniform Standards for Tribal Consultation. This policy applies to all offices and bureaus within the Treasury Department, including the IRS, to meaningfully consult with Tribes on all policies and guidance that have Tribal implications. The policy also requires that Treasury and its bureaus shall disclose to the affected Tribes the outcome of the consultation and decisions made as a result of the consultation. Equally important, it requires Treasury employees who work with Tribal Nations or on policies with Tribal implications to participate in an annual Tribal training course. The training shall include, but not be limited to:

- A review of federal Indian Law and Policy;
- An overview of Tribal governments and economies; and
- Treasury's consultation polices, including best practices for identifying which policy matters require consultation in collaboration with the Office of Tribal and Native Affairs.

These documents are a tangible reminder that Treasury has integrated the Office of Tribal and Native Affairs into its existing structure and organization. The office continues to work closely with offices who are administering programs and developing guidance impacting Tribes.

Not only are we working to implement this policy, we are continuing to work on other cross-agency initiatives such as the White House Access to Capital Initiative, which is informed by the work of the Treasury Tribal Advisory Committee, the Office of Capital Access (formally known as the Office of Recovery Programs), the Department's Community Development Financial Institutions Fund (CDFI Fund) and other Treasury offices. Also at the December White House Tribal Nations Summit, the Department released the Access to Capital Initiative's first report, commissioned by the Treasury Department on behalf of the White House Council on

Native American Affairs: the Federal Initiative on Access to Capital Indian Country “Increasing Community Economic Development and Deployment of New Market Tax Credits in Indian Country” report. This report details the various funding streams available to Tribes and how Tribes are taking advantage of these opportunities, as well as some of the barriers that exists to access these resources.

Further, we know that tax policy and Tribal economies are indelibly linked. We are working hard to meaningfully consult with Tribes and to ensure your voices are heard and included in the developing of policy here at Treasury. This is particularly true when it relates to the unique attributes of Tribal governments and the government-to-government relationship Tribes have with the federal government. I often remind my colleagues across the government that this relationship extends to all departments, bureaus and offices of the government.

We have already begun working to implement the Executive Order 14112 - “Reforming Federal Funding and Support for Tribal Nations to Better Embrace our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination,” which was signed by President Biden in December. This Executive Order acknowledges the challenges Tribes face when exercising their Tribal sovereignty, including in navigating access to federal funding sources. The E.O. directs all agencies throughout the federal government to identify any statutory and regulatory changes that are necessary to ensure that federal funding and support programs effectively address the needs of Tribal nations and recommend legislative changes where appropriate. Treasury has identified the appropriate staff who will be participating in the various subcommittees being organized by the Office of Management and Budget (OMB) and the Office of the Tribal Advisor for Domestic Policy. I recommend you all review the Executive Order, but in the meantime, I’d like to give you a quick overview of what it does.

Each federal agency is directed to take action to increase the accessibility, equity, flexibility and utility of federal funding and support programs for Tribal Nations, while increasing the transparency and efficiency of federal funding processes to better live up to the federal government’s trust responsibilities and support Tribal self-determination. The Executive Order recognizes that consortia may be the appropriate mechanisms to apply for and administer programs for multiple small tribes. It also requires the Director of the OMB and the Domestic Policy Advisor to lead an effort in collaboration with the White House Council on Native American Affairs to identify chronic shortfalls in federal funding and to submit recommendations to the President describing what additional funding and programming is necessary to better live up to the federal government’s trust responsibilities. This E.O.

acknowledges that in order to provide better programming, we need to take into account the unique needs, limited capacity or significant barriers faced by Tribal Nations by providing reasonable and appropriate exceptions or accommodations when necessary.

A simple example of how this E.O. may be useful is in regard to the issue of stable broadband and staffing capacity. How do you apply for and report on funding if there is no broadband in your community? If you are a small tribe, village, or pueblo, you may have one or two people managing multiple programs. If that one person has a major illness, how do you remain compliant with the administration and reporting of that program?

I am sure there will be multiple opportunities for Tribes to consult with agencies as they develop their plans to implement this E.O., but I encourage you to begin to think about what kinds of waivers and flexibilities could enhance your ability to apply for and manage federal programs in a streamlined way.

Lastly, I want to point out the publication of the Tribal Housing Stability Report: Supporting Housing Stability with Pandemic Response Funds. The report focuses on the current state of housing in Indian Country – discussing not only housing challenges but also sharing how tribes have invested their federal pandemic recovery funds to address these barriers, including stabilizing current housing rates and preserving or constructing new housing. I would like to especially thank Jennifer Parisien for her hard work on this report.

Looking ahead, we continue to meet with national and regional Tribal organizations such as yours to better understand the priorities of Indian Country as we work toward supporting a robust Tribal economy. Most recently I met with the Tribal Economic and Tax Reform Alliance (TETRA) about the importance of ensuring tax policy consistently recognizes Tribal sovereignty and the unique relationship Tribes have with the federal government and all its agencies.

This relates to the work of the Treasury Tribal Advisory Committee, or TTAC. TTAC will hold three meetings this year, with the next meeting being held on April 23. As always, we encourage you to attend either virtually or in person. We will be releasing more information about the next meeting soon, so be on the lookout in our weekly newsletter and on our website.

We continue to work within Treasury to develop guidance from consultation held last year on the General Welfare Exclusion Act and the Tax Status of Tribally Chartered Corporations. This policy will inform Tribes' ability to fully access the monetized tax credits being offered through

the Inflation Reduction Act. As always, Treasury will hold Tribal consultations on any proposed guidance for you to provide specific feedback and inform final guidance.

And finally, I will be participating in a Tribal Financial Inclusion roundtable hosted by Treasury's Office of Consumer Policy. This conversation is to help develop a national strategy to broaden access to financial services among underserved communities and improve the ability of such communities to use and benefit from financial tools and services.

We have a busy and important year ahead of us. Tribes have never before had this much influence or support at the Department of the Treasury. Take advantage of this opportunity because your government leaders are listening – and change, for the better, is happening. Please know how much we appreciate the partnership of our Tribal leaders, Tribal governments, and Tribal organizations as we work together to strengthen our Tribal communities.

I hope you have a terrific conference. Kutapatotamawush (thank you) for allowing me time to speak.

###