

USDA Barriers Consultations 2024

Tribal Briefing Materials
Food, Safety, & Trade



Tribal Barriers at USDA

Food, Safety, & Trade

The Indigenous Food and Agriculture Initiative (IFAI) and the Intertribal Buffalo Council drafted this briefing document ahead of the U.S. Department of Agriculture (USDA) Tribal Barriers Consultation: Food, Safety, & Trade on Friday, April 26, 2024.

IFAI and ITBC hope this document provides key information, helping inform and educate Tribal leaders, producers, citizens, and employees on potential barriers and actions to improve USDA's service and programming to Indian Country.

Tribal Caucus: Friday, April 26, 2-3 p.m. EST

Tribal Consultation with USDA: Friday, April 26, 3- 4:30 p.m. EST

Listening Session: Friday, April 26, 4:30–5:30 p.m.

[Register here – Same link for caucus, consultation and listening session](#)

Note: Listening Session could begin before the proposed time of 4:30 p.m. EST, depending on when the Tribal Consultation period concludes. During the Listening Session portion, Tribal citizens, Tribal staff, and Tribally-serving organizations may provide input.

Find more information:

www.usda.gov/tribalrelations/tribal-consultations

Logistics

During the week of April 22 – 26, 2024, USDA will hold five separate Tribal Consultations for elected officials and their proxies to discuss Tribal barriers at USDA. Consultations will be divided by topic as follows.

- 1 Monday April 22: Education and Research
- 2 Tuesday April 23: Forests and Public Lands Management
- 3 Wednesday April 24: Farming, Ranching, and Conservation
- 4 Thursday April 25: Economic Development
- 5 Friday April 26: Food, Safety, and Trade

IFAI developed this briefing material for the Tribal caucus and consultation focused on barriers in **Food, Safety, and Trade on Friday, April 26, 2024**. For more information on the other topic consultations, see the [OTR Tribal Consultation website](#).

On Friday, April 26, 2024 there will be a caucus, consultation and listening session for Food, Safety, and Trade.

- The Tribal caucus will begin at 2 p.m. EST and is only open to Tribal leaders, their staff, and Indian Country serving organization staff. No federal staff or officials, nor media, will be on this call.
- The official consultation between USDA and Tribal government officials will immediately follow at 3 p.m. EST.
- The open listening session is anticipated to begin at 4:30 p.m., where Tribal citizens may offer comment.
- All are online only, and pre-registration is required through this one [registration link](#). The caucus, consultation and listening session will all use the same link so you only need to register one time. A Dear Tribal Leader invitation can be found [here](#).
- After registering, you will receive a Zoom confirmation email with connection information. If you are having trouble registering through Zoom, please contact the USDA Office of Tribal Relations at Tribal.Relations@usda.gov.
- If you are a Tribal government staffer/designee appointed to speak on behalf of your Tribe by its elected leadership, you must submit a proxy letter to USDA Office of Tribal Relations at Tribal.Relations@usda.gov before the meeting. The proxy letter template can be downloaded [here](#).
- If schedules do not allow for attendance, written comments can be submitted to Tribal.relations@usda.gov.
- USDA developed a framing paper to provide an agenda for the consultation. The framing paper can be found [here](#).

Logistics

What is a Tribal Caucus?

This is a closed meeting, often held before an official consultation with the federal government. Caucus attendees are only Tribal government leaders, their staff and supporting organizations/individuals who are invited to the meeting. No federal staff or media members can attend, unless explicitly invited by the organizers. This allows attendees to discuss issues amongst themselves, ask questions of subject matter experts and formulate ideas on what they would like to discuss at the official consultation.

What is a Tribal Consultation?

A consultation is an official meeting between sovereigns — the federal government and Tribal Nations. Federal law requires Consultations, and those speaking must either be an elected official from a Tribe or their proxy. Proxies must show federal staff their signed proxy letter by their Tribal government in order to speak on behalf of that Tribe.



Introduction & Background

In January 2021, President Biden signed an [*Executive Order on Advancing Racial Equity and Support for Underserved Communities*](#) to address entrenched disparities in U.S. laws, public policies and private and public institutions. Indian Country continues to be underserved, marginalized, and adversely affected by persistent poverty and inequality, including a lack of access to federal programs and services.

From April 22 to 26, 2024, Tribal leaders and their representatives will meet with the U.S. Department of Agriculture (USDA) Consulting Officials on how the Department is incorporating Tribal input to increase their access to federal programs. Tribal leaders can provide feedback on USDA's commitment toward addressing historical and current barriers facing Indian Country through equitable access to USDA programs and services.

On behalf of our respective organizations, we appreciate the opportunity to support Tribal leaders to address the barriers in Indian Country across the USDA and to partner with the Office of Tribal Relations, and all USDA agencies, to provide workable solutions. Government-to-government or Nation-to-Nation Consultation between Tribal Nations and the United States federal government has been a core principle of the Tribal-federal partnership for the last 20 years. Tribal leaders will continue to hold the USDA to this principle in acknowledgment of Tribal Nations' sovereignty.

Tribal agriculture production and food systems are essential economic development and community drivers in Indian Country. Yet, the ongoing lack of equitable access to USDA programs, credit, and infrastructure continues to pose barriers for Tribes.

Removing these hinderances can significantly improve Indian Country economies, spurring economic growth in necessary physical infrastructure and creating pathways to Tribal self-determination and Tribal food sovereignty.



Overview

USDA has provided the following lists of items to discuss during the April 26, 2024 consultation:

1. Federal Fee Coverage for Voluntary USDA Inspection of Bison Processing
2. Emergency Feeding in Tribal Communities
3. Promoting Traditional Indigenous Foods in Child Nutrition Programs
4. Native Fish Initiative
5. Unmet Budget Needs

USDA officials are prepared to update Tribal leaders on any progress the Department has made since the previous consultation.

On the following pages, we have provided a short summary of each issue and highlighted any unresolved issues related to these topics. A longer, more comprehensive briefing follows, with information and issues separated by agency.

Tribal leaders are by no means limited to discussing these topics at the consultation. Tribal leaders may raise additional points reflecting the priorities of their own communities in the areas of food, safety, and trade.



2024 Barrier Topics

USDA has identified the following 2024 topics to discuss with Tribal leaders. While these are the topics USDA has chosen to discuss, Tribal leaders are not limited to these topics and may raise any issue during consultation.

1. Federal Fee Coverage for Voluntary USDA Inspection for Bison Processing

What USDA heard from Tribes in prior Consultations:

In 2022 Congress directed the USDA Food Safety and Inspection Service (FSIS) to hold a listening session on whether bison should remain a nonamenable species. USDA classifies [bison as nonamenable](#) under voluntary inspection. Among other things, this means that producers wishing to sell bison in interstate commerce must pay for FSIS inspections. At the consultation on this issue, Tribes present urged USDA to keep bison regulated as nonamenable but explore options that would enable waiving associated inspection fee for bison inspected by FSIS. More broadly, Indian Country processors and other small processors across the nation have highlighted the lack of access to federal inspectors for all species as a barrier.

For FY2024, Congress appropriated \$700,000 to USDA FSIS to cover voluntary meat inspection fees for the slaughtering or processing of bison/buffalo at Native American owned establishments or establishments operating on Tribal lands. **This money must be expended by September 2024.**

Unfortunately, these funds were appropriated on March 9, 2024, leaving USDA with only five months left to spend this money before it expires. USDA is requesting feedback on specific definitions listed in the appropriations bill: Native American-owned establishments, and establishments operating on Tribal lands. Tribal leaders should consider requesting the Department act faster. This funding must reach Indian Country as quickly and efficiently as possible. If it does not, the funding will expire, and both USDA and Indian Country lose it entirely.

2024 Barrier Topics

Further, \$700,000 only goes so far. [The current base rate fee is \\$71.64/hour for voluntary inspection](#). Both overtime and holiday rates are higher, and laboratory costs are not included in those rates. [Fees](#) can include the time required to render service as well as the time required for inspectors' travel. Even if the entirety of the \$700,000 was expended on minimum fees charged at the base rate, it would only cover roughly 9,771 hours of work, or approximately 1,221 eight-hour workdays for a single inspector. As of September 2023, FSIS employed 8,108 field staff.

FSIS is already underfunded and understaffed. Lack of access to federal inspectors is a huge barrier for processors in Indian Country, and other small processors across the nation. For FY2025, FSIS requested nearly \$86 million. Without that funding, FSIS will have to scale back operations, specifically not backfilling and/or eliminating 800 positions. This will create additional hardship for processors. Eliminating these positions will slow operations, disrupt the farm to establishment pipeline, increase costs and decrease efficiency, increase food safety concerns, and hinder international market access.

The \$700,000 for voluntary fee coverage must be expended as soon as possible. USDA must also look beyond that short-term, limited-purpose funding and create a long-term plan to ensure FSIS has the necessary funding, staff, and training to support Indian Country processors and small processors across the nation more effectively.

[Example of Progress Made to Date – please see USDA Framing Paper.](#)



2024 Barrier Topics

USDA seeks Tribal input on the following discussion areas:

FSIS requests input from Indian Country on how to define and affirm key terms under this provision most effectively. FSIS has proposed the following definitions for consideration:

Proposed/possible response(s):

- “Native American-owned establishment” means “a USDA-inspected food processing establishment that is owned by an Indian Tribe as defined by the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130) or an enrolled member of an Indian Tribe.”
- “Establishment operating on Tribal lands” means “a USDA-inspected food processing establishment that operates within the exterior boundaries of an Indian reservation, on Tribal trust land, or other land owned by an Indian tribe.”

Has FSIS adequately captured whether an establishment is “Native American owned” or “operating on Tribal lands”? What other considerations should FSIS be including for this purpose?

Proposed/possible response(s):

- Due to extreme time constraints Congress *placed on spending this money*, time for thoughtful discussion is hampered. This funding must reach Indian Country as quickly and efficiently as possible. If it expires, USDA and Indian Country will lose access entirely. In the future, more time should be available to Tribal leaders *and subject matter experts to discuss* nuances around processing operations owned/operated by federally recognized Tribes compared to those owned by individual Tribal members.

2024 Barrier Topics

USDA seeks Tribal input on the following discussion areas:

How should FSIS communicate the availability of this voluntary inspection fee coverage and ensure that potentially eligible parties are identified for voluntary inspection fees?

Proposed/possible response(s):

- FSIS should ensure that, in addition to Tribal leaders, the following groups are informed about the availability of this voluntary inspection fee coverage. A single 'Dear Tribal leader' letter' is not sufficient and contacts should include:
 - Plant Managers of Tribally-Owned Processing Facilities
 - Buffalo Program Managers
 - Herd Managers
 - Local Processors
 - Inspectors
- Tribal leaders encourage FSIS to work with the [American Indian Foods Program at the Intertribal Agriculture Council](#) to identify eligible Tribally-owned processing facilities.

What is an appropriate process for eligible parties to request the coverage of the voluntary inspection fee for bison? What documents should be provided with the request to affirm eligibility?

Proposed/possible response:

- The process to request coverage should be as simple as possible, taking into consideration Tribal leaders have full schedules and may not have extensive knowledge of what happens on the ground. Minimal proof of Tribal ownership should be sufficient. FSIS should work to do its own concurrent verifications through Tribal resources such as checking Tribal government websites and conferring with the American Indian Food Program's list of Native-owned entities. Both are available online.

2024 Barrier Topics

Additional Considerations for Tribal Leaders/Proxies

- USDA must expend the \$700,000 as soon as possible. USDA has only five months left to ensure this money reaches Indian Country.
- For Tribes, the long-term issues with FSIS are shared by the wider industry, especially small/very small operations. These are:
 - Access to federal inspectors; and
 - Federal inspectors who are trained appropriately and do not act in a discriminatory manner.
- FSIS is already underfunded and understaffed. For FY2025, FSIS requested nearly \$86 million. Without that funding, FSIS will have to scale back operations, specifically not backfilling and/or eliminating 800 positions. This will create additional hardship for processors. Eliminating these positions will slow operations, disrupt the farm-to-establishment pipeline, increase costs and decrease efficiency, increase food safety concerns, and hinder international market access.
- What will happen at FSIS if they do not receive the additional money?
- How is USDA planning to determine which FSIS positions are not filled or eliminated?
- How will USDA work to resolve ongoing workforce issues with inspectors, both in retaining employees and in retaining quality employees?
- What pathways are available for Tribal citizens to enter this workforce?
- What training and support is available to inspectors to ensure they do not behave in a discriminatory manner?



2024 Barrier Topics

2. Emergency Feeding in Tribal Communities

What USDA heard from Tribes in prior Consultations: Currently, certain USDA programs such as [The Emergency Food Assistance Program \(TEFAP\)](#) cannot be administered by Indian Tribal Organizations (ITOs).

This program helps to serve low-income people by providing food assistance at no cost. To participate in such programs ITOs must go through a State. Indian Country representatives expressed a desire to run such a program directly, not as subgrantees of the State. This change would require an act of Congress.

[Example of Progress Made to Date – please see USDA Framing Paper.](#)



2024 Barrier Topics

USDA seeks Tribal input on the following discussion areas:

How can USDA continue to work with Tribal partners to explore how TEFAP can support emergency feeding efforts in Tribal areas?

Proposed/possible response(s):

- The best solution would be for Tribes to have the option to run TEFAP directly rather than going through a State. However, USDA cannot implement this solution independently. Congress must change existing law to create that pathway for Tribes. Absent that, USDA should lay out specific and enforceable processes (with timetables) for States that may refuse to work with Tribes around TEFAP. These processes must be paired with enforcement from USDA to ensure State accountability. As it stands, some Tribal Nations and States have tumultuous relationships and have difficulty working together, leaving Tribal communities to suffer the absence of service in times of dire need.

What are the main barriers to the expansion of TEFAP in Tribal areas?

Proposed/possible response(s):

- The subjugation of Tribal sovereignty. Asking sovereigns to apply as subgrantees to States for federal programs does not reflect Tribal Nations status as sovereigns.
- The second barrier is the relationship — or lack thereof — that may exist between some States and Tribes.

2024 Barrier Topics

USDA seeks Tribal input on the following discussion areas:

What types of foods are Tribes interested in distributing through their emergency feeding programs?

Proposed/possible response(s):

- Currently, this question is difficult to answer because Tribes are not eligible to administer TEFAP.
- Tribes, as always, are interested in making sure traditional and culturally relevant foods are available through all USDA programs. Indian Country is not a monolith, and each Tribe has its own traditional and culturally relevant foods. One effective method for ensuring the availability of regionally appropriate traditional foods is to allow for regional purchasing and distribution of foods. Further, we encourage USDA to work directly with Tribal Leaders and ITO nutrition programs to identify and source traditionally and culturally relevant foods with more specificity rather than pursuing a one size fits all approach that assumes what is relevant to one Tribe is relevant or important to all.

Additional considerations:

- USDA's "encouraging" States to work with Tribes on TEFAP only goes so far. All momentum lies with the State, and if cooperation between that entity and a Tribe is unworkable, there are few avenues for Tribes to address this. Until Congress creates a pathway to Tribal administration of TEFAP, USDA must explicitly enforce regulations that require States to officially consult with Tribes to expand TEFAP's use across Indian Country communities. USDA's enforcement must be paired with training and support for States on best practices for working in Indian Country.

2024 Barrier Topics

3. Promoting Traditional Indigenous Foods in Child Nutrition Programs

What USDA heard from Tribes in 2021 and 2022 Consultations:

Tribal Nations have unequivocally expressed their desire for opportunities to increase Indigenous foods in child nutrition programs.

[Example of Progress Made to Date – please see USDA Framing Paper.](#)

USDA seeks Tribal input on the following discussion areas:

What additional traditional Indigenous foods should FNS prioritize adding to the **Food Buying Guide (FBG)**?

Proposed/possible response:

- FNS should prioritize regionalizing the food buying guide to allow for more specificity in traditional and culturally relevant foods. What is traditional in Alaska is not in the American Southwest.

2024 Barrier Topics

USDA seeks Tribal input on the following discussion areas:

For Indigenous foods that are already in the FBG what preparation methods would Indian Tribal Organizations like to see included in the FBG?

Proposed/possible response:

- Because so many Tribes have different cultural and historical practices concerning food preparation, USDA should allow flexible, Tribe-specific flexibility for FBG food preparations. Tribes should have latitude to prepare foods according to their customs. A federal-wide standard, without flexibility for Tribes, cannot account for the variety of preparation methods Tribes have historically used.
- Federal officials should also consider that — in food preparation and other areas — Tribal communities may not want their knowledge and practices written down or widely shared.

What resources can USDA further develop to aid in the use of traditional Indigenous foods in school meals?

Proposed/possible response:

- USDA can provide regionally specific guides to traditional and culturally relevant foods to ensure that different parts of the country are getting the region-appropriate guidelines for food and food preparation. A national guideline will not account for the distinct and variable needs across Indian Country.

2024 Barrier Topics

USDA seeks Tribal input on the following discussion areas:

How can USDA and Action for Healthy Kids (AFHK), the cooperator for the Healthy Meals Incentives (HMI) Recognition Awards, best promote the HMI Recognition Awards program to Indian Tribal Organizations to encourage them to apply? What resources can USDA and AFHK provide to help Tribal Organizations meet award criteria?

Proposed/possible response(s):

- The best way to promote these awards to ITOs is to show Tribal consideration in the process that USDA and its partners undertake:
 - Are traditional and culturally relevant foods included?
 - Are Tribal meal preparations included?
 - Are there more regionalized options for Tribes in certain regions compared to others?
 - Were experts or American Indian/Alaska Native-owned entities with specialties in this sector brought in to advise or provide outreach?

Additional Considerations:

- USDA should focus on regional sourcing. This will increase the specificity and variety of traditional and culturally relevant food and it acknowledges the different traditions and cuisines of different areas. Indian Country is vastly spread out so there is no one-size-fits-all when it comes to traditional foods.
- Additionally, to enhance traditional foods within this program, USDA can purchase from Indigenous producers and simplify the process for small and/or Indigenous producers to sell into federal nutrition programs. These smaller producers will be able to provide traditional foods but are unable to meet national sourcing volume requirements.

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Additional Considerations Continued:

- Some Tribes may consider the use of the term “Indigenous” problematic. The term “Indian” is included in many treaties and federal documents, about Tribal governments and their citizens. Federal officials should make clear that the term “Indigenous” cannot be a substitute to federal treaty or Tribal rule obligations.
- As a result of removal and displacement, many Tribal communities and their citizens reside outside of their historic homelands. Many have adapted to their current locales, including local staples and practices that people may not consider “traditional” if compared to their original homelands. Foods or practices now embraced by Tribes as a response to their lack of access to their “traditional” sources can still become culturally relevant and deeply entwined in Tribal communities. USDA should defer to Tribes and ensure use of the term “traditional” does not preclude the inclusion of culturally-relevant foods and practices.



2024 Barrier Topics

4. Native Fish Initiative

What USDA heard from Tribes in Prior Consultations:

USDA has also heard numerous requests to put more of an emphasis on Indigenous foods and better incorporate them throughout all of USDA's programs. Specifically, they have heard an emphasis on buffalo and fish.

[Example of Progress Made to Date – please see USDA Framing Paper.](#)



2024 Barrier Topics

USDA seeks Tribal input on the following discussion areas:

How might USDA purchase differently to better support local and Tribal fisheries?

Proposed/possible response(s):

- Tribal leaders understand that USDA is attempting to take the right steps toward acknowledging Tribal cultures and sovereignty in general; LFPA is a great example of a USDA program that works. Purchasing and distributing salmon that are gutted but intact so that traditional processes of filleting and smoking are encouraged.
- Current fishing practices have a profound impact on Tribes and their traditional fishing practices. USDA should make every effort to ensure that the fishing practices it supports or encourages do not create additional barriers or hardship for Tribes. An example is expansive pollock fishing, which impacts chinook salmon that become “bycatch.” They are then unable to get to rivers to spawn, causing losses for Tribal fishers who, for cultural and traditional reasons, fish for chinook salmon.
- While USDA supports the inclusion of Tribal fish and seafood in their food programs, it should publicly encourage procurement from Tribal fisheries. USDA needs to enable more Tribes to participate in its commodity programs. It has created a market for non-Tribal entities, the same opportunity should be afforded to Tribal fisheries.

USDA maintains the [Food Buying Guide \(FBG\)](#) to assist Child Nutrition Program operators with calculating reimbursements. Does the FBG include all types of fish and seafood that are important to Tribal Nations in feeding their children at school?

2024 Barrier Topics

Proposed/possible response(s):

- Different regions would have different feedback because each region has individual traditional foods. In many West Coast Tribal communities, salmon is a traditional fish, whereas flounder or shrimp are more traditional to Tribes in the south.
- Understanding that including all Tribal foods in the Food Buying Guide might be very difficult, USDA should consider regional representation: Pacific, Great Lakes, Southwest, etc.

USDA and DOI recently announced a Draft Rule that would add additional Tribal perspectives to the Federal Subsistence Board. What are your thoughts on this proposed new change?

Proposed/possible response(s):

- The addition of the three Tribal seats is a step in the right direction. Tribes continue to note the backlog of unaddressed issues about subsistence management and with the Federal Subsistence Board. One example is the need for broader coordination between the U.S. Department of the Interior and the National Oceanic and Atmospheric Administration, to reduce the overemphasis on the economic benefits of fishing with little to no consideration of the burdens placed on other fisheries, communities, and the ecosystem (e.g. extensive bycatch of the pollock trawl fisheries impact to the entire ecosystem).

Additional Considerations:

- Fish populations in many parts of the country are declining rapidly, impacting Tribal nations' ability to harvest wild fish under their customs and treaty rights. Increased focus on fish may lead to further decimation of their populations. Indian Country encourages the USDA to be intentional and thoughtful about these issues as they go forward with such rulemaking.

2024 Barrier Topics

5. Unmet Budget Needs

In [December 2023](#), [President Biden signed an executive order](#) directing federal agencies to provide more flexibility in support of Tribal self-determination. This executive order also called upon agencies to report to the White House what unmet budget needs exist in supporting Tribes.

[Read the IFAI white paper analyzing this EO.](#)

[Example of Progress Made to Date – please see USDA Framing Paper.](#)

USDA seeks Tribal input on the following discussion areas:

What unmet budget needs to you want to flag for USDA?

Proposed/possible response(s):

- Many federal programs for Native communities remain underfunded, as noted in [the U.S. Commission on Civil Rights 2018 Broken Promises report](#). Those designed to benefit Native individuals are disproportionately underfunded compared to their counterparts that are meant for non-Native individuals.
- USDA's Food Safety and Inspection Service remains understaffed and underfunded, as discussed above. This should not be the case and more funding should go towards these programs. It would better enable FSIS to support Tribally-owned and small processors across the nation in turn leading to a more efficient, safe, and diverse food supply.

Thank You!

