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December 21, 2022

VIA ELECTRONIC SUBMISSION TO: Regulations.gov (TREAS-DO-2022-0020-0001)

Jessica Milano
Chief Program Officer
Office of Recovery Programs (ORP)
U.S. Department of Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

RE: COMMUNITY INVESTMENT REQUEST FOR INFORMATION COMMENTS

Dear Chief Program Officer Milano and ORP colleagues:

The Native CDFI Network (NCN), the lone national membership organization solely dedicated to serving and supporting Native community development financial institutions (CDFIs), welcomes this opportunity to provide comments to the Interagency Community Investment Committee (ICIC) in response to the Request for Information (RFI) on "[Opportunities and Challenges in Federal Community Investment Programs](#)" (Document Citation: 87 FR 60236; Document Number: 2022-21524).

The Vital Role Native CDFIs Play

As the CDFI Fund explains on its website, Native CDFIs' origins can be traced to the 1994 Congressional legislation authorizing the Fund's creation, which contained among its provisions the mandating of a study examining lending and investment practices in Native communities.¹ Titled the Native American Lending Study, the study identified 17 major barriers to investment in Indian Country, and "affirmed the importance of developing Native CDFIs to play a key role in the broader effort to lead Native Communities into the nation's economic mainstream."²

In the two decades since the study's release, Native CDFIs have proven themselves vital engines for fueling the growth of healthy, vibrant Native economies and communities. In the CDFI Fund's own words, Native CDFIs are "an important part of the CDFI Fund's mission to expand the capacity of financial institutions to provide credit, capital, and financial services to underserved populations and communities in the United States," and they are making a "considerable impact" by "helping to transform their communities. They are creating

¹ <https://www.cdfifund.gov/programs-training/programs/native-initiatives>

² https://www.cdfifund.gov/sites/cdfi/files/documents/cdfi7205_fs_ni_updatedfeb20.pdf

businesses and jobs in places that desperately need them. They are providing personal financial education and business training to persons who have been excluded from our nation's economic mainstream. They are helping to change the lives of the people they serve."³ In short, Native CDFIs epitomize what the CDFI Fund sees as the hallmark for CDFI certification: "those working at the margins and beyond to consciously and deliberately make impact."⁴

Despite the extraordinary economic progress certified and emerging Native CDFIs are cultivating across Indian Country through their deep knowledge of tribal nations and tribal trust lands as well as their intimate understanding of the unique needs of the communities they serve and the customized programs and products they create to address those needs, there still exist significant unmet needs for capital, credit, training, technical assistance, and financial capability building across Native communities. Simply put, as Treasurer of the United States Lynn Malerba declared at NCN's recent 2022 Annual Policy and Capacity Building Summit, "We need more Native CDFIs, not fewer."⁵

In light of the well-documented continuing need for access to capital in Indian Country and robust capacity building in both tribes and Native CDFIs to more fully support economic and community development on tribal lands, the ICIC initiative is a welcome opportunity for interagency coordination in furtherance of this purpose.

General Responses to the RFI

As an initial matter, NCN strongly recommends that the ICIC engage in formal government-to-government Consultation with federally recognized Indian tribes, pursuant to Executive Order 13175, subsequent Presidential Memoranda, and the formal Tribal Consultation policies adopted by ICIC's member Agencies. In addition, the ICIC should engage in direct stakeholder outreach with Native CDFIs, other Native financial institutions, and key Indian Country stakeholders to gather further input regarding how it can best structure its efforts to ensure they work for Indian Country.

Further, we strongly encourage the ICIC to engage with and incorporate key elements of the recently announced "[Federal Initiative on Access to Capital in Indian Country](#)." This initiative is also a "multi-agency strategy to improve awareness of, access to, and utilization of federal funding resources for Tribal governments, Tribal enterprises, Native entrepreneurs and Native CDFIs" through the White House Council on Native American Affairs.⁶ There is a substantial amount of overlap between these two initiatives, as they both relate to Indian Country, Indian tribes, and Native CDFIs, and from our perspective alignment of these efforts to reduce duplication will be more efficient and lead to greater outcomes.

Critically, additional interagency coordination by the ICIC is also warranted. While the ICIC includes several agencies that administer certain lending programs that are critical to Indian Country, there are several agencies missing, notably:

- the **Department of the Interior (DOI)**, which administers the BIA Loan Guarantee Program (it also recently launched a new office that is particularly relevant to the ICIC's work – see below);

³ <https://www.cdfifund.gov/sites/cdfi/files/documents/native-american-strategic-plan.pdf>, PDF p. 3.

⁴ <https://www.cdfifund.gov/node/1017926>

⁵ NCN Annual Policy and Capacity Building Summit, Washington, D.C., December 6, 2022.

⁶ [Federal Initiative on Access to Capital in Indian Country 2022 \(bia.gov\)](#).

- the **Department of Energy (DOE)**, which administers loan guarantee programs, including the Tribal Energy Loan Guarantee Program, to support energy infrastructure development and deployment; and
- the **Environmental Protection Agency (EPA)**, which now administers the Greenhouse Gas Emission Reduction Fund and various water infrastructure financing programs to support carbon emission reduction projects and clean water infrastructure projects.

Responses to Key Questions

1. Please describe examples of best practices and lessons learned from community investment projects that have layered a mix of public, private, and/or philanthropic capital. How could these projects have been more impactful or more cost effective to implement? In responding to this question, examples may address any of the four substantive areas of focus described in this RFI: (1) strengthening the capacity of community financial institutions; (2) supporting small businesses and entrepreneurship; (3) improving financial health and inclusion; and (4) investing in community facilities and infrastructure. In addition, a non-exhaustive list of example programs is provided in the appendix of this RFI as a reference.

NCN cannot readily share specific examples of best practices and lessons learned, as these types of community investment models are not prevalent in Indian Country, and Native CDFIs don't commonly seek to structure capital to support loans and investments through these types of models. However, there is another federal agency example of how to layer federal funding to invest in community facilities: the Federal Infrastructure Task Force to Improve Access to Safe Drinking Water and Basic Sanitation to Tribal Communities (hereafter "Federal Infrastructure Task Force"), which has an objective to "improve access to safe drinking water and basic sanitation in Indian Country."⁷ The Task Force was formed through an MOU between EPA, USDA-Rural Development, Housing and Urban Development, Health and Human Services, and DOI, and one of its many goals is to better coordinate the deployment of federal funding for tribal safe drinking water projects.

2. From the examples provided in response to question 1, what specific changes could agencies consider to facilitate the layering of federal funds to attract greater private follow-on funding, as they implement new community investment programs and contemplate modifications to others?

Despite the substantial amount of federal funding through the various COVID relief laws, the infrastructure laws, and regular appropriations, access to these funds and the ability to leverage these funds is still beyond the reach of many tribes and Native CDFIs due to capacity, capability and outside investment constraints – especially for large-scale community and economic development opportunities, such as manufacturing or water, energy, or telecommunications infrastructure. Below, we share some ways the ICIC could alleviate these constraints:

- The ICIC could facilitate regulatory relief for Native CDFIs, such as permanent cost share waivers or reduced documentation requirements, across the ICIC's participating agencies.
- It could align regulatory requirements. We understand ICIC's member agencies cannot change the underlying statutory requirements, but they do control their own regulatory requirements and can modify those requirements to explicitly enhance Indian Country access and impact.
- The ICIC agencies could create funding set-asides for tribal lands, Indian tribes, and Native CDFIs so there is funding from each agency that tribes and Native CDFIs can rely upon as they seek out additional

⁷ <https://www.epa.gov/tribal/federal-infrastructure-task-force-improve-access-safe-drinking-water-and-basic-sanitation>

funding sources (whether state, philanthropic, or private investments). A huge barrier to attracting additional funding is the uncertainty surrounding whether federal funding will be available from year to year and to what degree funding levels will fluctuate.

- Finally, the ICIC could implement measures – to the degree practicable based on the statutes governing the various program funds they administer – to enable Native CDFIs and tribal communities to merge federal program funds to advance comprehensive community development initiatives that holistically serve the capital and technical assistance needs of Native people in the most targeted, efficient, and effective manner possible. Public Law 102-477 (477 Program) – to which several of the ICIC agencies are party – provides a proven blueprint for such an approach. For example, the 477 Program allows tribes and intertribal consortia to merge various relevant federal program funds into a single plan, budget, and reporting system, enabling them to streamline the administration of these funds and maximize fund deployment into communities in ways specifically customized to community needs. The ICIC should promote a virtual version of this mechanism for the various agency programs identified in the Appendix attached to the RFI.

3. As agencies are implementing new programs under recent CHIPS and IRA legislation, how can they best incorporate these lessons to streamline design and delivery, as well as ensure historically underserved communities benefit from federal funds?

The above listed measures can and should be implemented for the Bipartisan Infrastructure Law and the Inflation Reduction Act. These laws also affirm the need to bring other agencies into the ICIC, including EPA and DOE. Furthermore, the approach of the Tribal Infrastructure Task Force – which focuses on one project at a time – or a modified version of the 477 Program could be leveraged to ensure the layering of multiple other federal funding programs, especially for community infrastructure needs.

4. Community financial institutions play a critical role in providing safe, affordable capital and financial services to historically underserved communities. How can federal agency coordination help build the capacity of these organizations to serve their communities?

As stated above, Native CDFIs also have an underserved need for additional technical assistance and capacity building within their own organizations to build technical expertise about economic, community, and infrastructure development. For example, Native CDFIs are not generally positioned to support clean energy project development or broadband deployment through lending products. Federal agencies should consider developing targeted technical assistance and training for Native CDFI leaders and staff on infrastructure development and deployment so Native CDFIs can determine whether and how to develop lending products, seek outside investment, and serve as financial advisors to tribes and tribal enterprises on infrastructure deployment and economics.

5. What specific changes to federal credit or securitization programs could facilitate additional private investment in community financial institutions, and what are the most important existing limitations of these programs that may prohibit additional scale that could be achieved?

To answer this question, NCN supports the points and recommendations made in the January 2021 study titled [“Securitization for Social Innovation”](#) by LISC, specifically regarding the need to create and support an “intermediary business between community development financial institutions (CDFIs) and capital markets. This

business would structure financial products backed by assets acquired from CDFIs, thus mobilizing more mainstream capital for CDFIs of all sizes and enhancing their community lending capacities in a sustainable manner. The proposed intermediary would assist CDFI loan funds in particular and the local communities they serve in gaining access to capital through a new and currently unavailable channel for the CDFI industry: asset-backed securities.”⁸ As the authors further explain, this type of intermediary “can lower barriers to such funding by acquiring the assets of CDFIs regardless of their sophistication or size and packaging, or securitizing, those assets in a manner suitable to different types of investors. This approach enhances CDFIs’ investing capacity more than directly lending to CDFIs, since CDFIs can originate a loan, sell it off to the intermediary, and use that recovered capital to make more loans without encumbering their balance sheets with additional debt. Moreover, the intermediary allows public and philanthropic actors to support CDFIs quickly and effectively, which has become an even more pressing need in this pandemic-stricken environment. Governments and foundations can provide funds or guarantees to support a structure that acquires significant volumes of assets from a multitude of CDFIs without those public entities having to seek out and engage directly with each individual CDFI.”⁹

The ICIC agencies need to jointly create an initiative specifically designed to create and cultivate federal, private, and philanthropic investments in Native-led financial intermediaries who have an explicit mission to exclusively serve Native CDFIs and tribal communities. The agencies also should collectively commit to a rigorous process for identifying and partnering with *only* those private and philanthropic investors who have demonstrated a *genuine* commitment to social impact investing and a meaningful, targeted commitment to providing capital to these Native-led intermediaries that defers to their self-determined needs, priorities, approaches, and barometers of success based on their intimate understanding of how best to serve their communities.

6. How can the Agencies incentivize or structure data collection and reporting to promote increased private sector and philanthropic investment in community financial institutions?

The agencies that comprise the ICIC should provide funding and technical assistance to support Native CDFIs and other community financial institutions serving tribal communities and Native people to regularly conduct market studies of their service areas and populations that provide a detailed, accurate picture of the current capital needs of those populations and how increased private sector and philanthropic investments can surgically address those needs. This also will enhance the ability of these entities to create and deploy targeted loan products and services specifically designed to meet those needs.

In addition, the Agencies should support Native CDFI and other financial institutions’ collection and analysis of longitudinal data that enables these entities to document the significant, multi-fold return on investment (ROI) that the allocation of federal, private, and philanthropic dollars in these entities creates for tribal communities. This type of ROI data has proven particularly effective in securing additional dollars that empower these entities to more fully address the unmet capital needs of their service populations.

Next, the ICIC agencies should conduct a comprehensive survey of Native CDFIs that determines: (1) how and to what degree the complexity of current federal funding application processes deter them from applying, (2)

⁸ [011121 securitization for social innovation report fin.pdf \(lisc.org\)](#), p. 4.

⁹ *Ibid.*

how regulatory/reporting burdens (see below) lessen the impact of federal funding once obtained, and (3) what streamlining/alignment measure the agencies could employ to increase federal funding access and impact.

Finally, all ICIC agencies should disaggregate their data to identify investments made in tribal communities and Native CDFIs and investments made in tribal lands. This data will help private and philanthropic investors determine where, how, and to what degree there are gaps or inadequacies in federal funding that they could help to address. The new Community Reinvestment Act (CRA) regulations, for example, should mandate that banking institutions report CRA-qualified investments specifically made in Indian Country and to Native businesses and individuals to hold those banking institutions accountable to proportionately investing in Indian Country compared to other CRA-serving communities.

7. How can further alignment of and coordination between federal agencies in the four areas of substantive focus result in stronger outcomes with regards to reducing racial economic disparities, improving financial security and economic mobility, and generating broadly shared economic opportunity?

As discussed above, the ICIC should focus intensely on identifying and reducing the regulatory and reporting burdens attached to federal funding sources as well as the costs associated with accessing them. The incredibly complex and time-consuming application processes associated with many federal programs unnecessarily require a significant and often prohibitive opportunity cost for many tribal communities and Native CDFIs with limited financial and human resources to expend on such pursuits. In addition, the complex regulatory/reporting burdens these programs require of funding recipients require substantial community/organizational resources to meet, which are subtracted from the overall purported benefits of these programs to the community or the community lender – often a Native CDFI – putting those affected further behind. Streamlining and aligning federal program applications and decreasing and simplifying the programs’ regulatory and reporting burdens will significantly reduce the opportunity costs of tribal communities and Native CDFIs in accessing these funds, thereby increasing the impact of the dollars provided and the number of Indian Country applicants who will seek and obtain these funds. The ICIC should consider developing a single, streamlined “universal application” – modeled on the USDA ReConnect platform – for all relevant agency programs; it also should work with the White House Council on Native American Affairs (WHCNA) and the Office of Management and Budget to catalogue all agency funding sources for which tribal communities and Native CDFIs are eligible and regularly share them through a targeted, ongoing dissemination campaign to foster increased applications from tribal communities and Native CDFIs.

8. What data should the Agencies consider collecting to better understand and report the impact of community investments in reducing racial, gender, and geographic, or other economic disparities?

Without incurring undue data collection and reporting burdens on Native CDFIs and other Indian Country recipients of community investment dollars, the ICIC agencies should *regularly* collect general tribal community data that tracks collective investments in Native CDFIs and related entities serving Native people, the unmet capital and technical assistance needs of the populations they serve, and how these entities’ deployment of specific streams of community investment dollars are moving the needle for the Native people served by those dollars. The agencies would be wise in working with Native CDFIs and related entities to determine how best to collect said data, and they should invest in the data capacity of those entities.

9. How can the Agencies collaborate on providing technical assistance, opportunities for peer-to-peer learning, and other non-financial resources to support the deployment of capital or implementation of community-serving projects in historically underserved communities?

The ICIC should leverage the newly formed technical assistance programs, such as Thriving Communities, the EPA's regional technical assistance centers, or the DOI and DOE technical assistance programs for tribal economic, community, and infrastructure development. The ICIC should also coordinate its efforts in Indian Country with the WHCNA through the Federal Initiative on Access to Capital in Indian Country.

The ICIC – led by member agencies Treasury, SBA, and HUD – also should create and implement targeted technical assistance initiatives for Native CDFIs that are designed to enhance (1) their technical know-how, and (2) their understanding of and ability to access federal funding sources, in particular competitive grant programs. These initiatives should include technical assistance specifically customized to “emerging” Native CDFIs to assist them in meeting the pending heightened CDFI Certification requirements.

10. Please describe best-in-class examples of how federal technical assistance has been best implemented through public-private partnerships.

The Department of the Interior (DOI) and Bureau of Indian Affairs (BIA) recently launched the [Office of Strategic Partnerships](#) (OSP), which constitutes an emerging “best-in-class” example of how federal technical assistance can be effectively facilitated through public-private partnerships (OSP). OSP also provides the ICIC a model for leveraging public-private partnerships to increase Indian Country's access to capital. For example, OSP recently signed an MOU with NCN and the Oweesta Corporation to increase access to financial resources and leverage opportunities for Tribal communities and entrepreneurs.

The ICIC should directly engage with OSP to learn more about its structure and initiatives, and it also should strongly consider adding DOI as a formal agency member of the ICIC to facilitate strong, formal interagency collaboration for this purpose and others designed to foster Indian Country economic and community development.

The ICIC also can learn from a [recent cooperative agreement](#) NCN signed with the USDA's Office of Tribal Relations to develop an electronic resource toolkit that will promote awareness of and access to USDA-Rural Development programs by Native CDFIs and tribal communities.

Closing

Thank you again for the opportunity to submit these comments on the ICIC efforts to better coordinate federal resources to increase investment in Indian Country. We again reiterate our request that the ICIC engage directly with tribal governments through Tribal Consultation. In addition, the ICIC should convene a formal listening session with relevant stakeholders, including Native CDFI leaders, ICIC members, and high-ranking representatives of other key federal agencies (notably the Department of the Interior, the Environmental Protection Agency and the Department of Energy) who have a vested interest in ensuring that federal funding and programs supporting Native CDFIs specifically and Indian Country community and economic development broadly is in coordinated alignment to ensure maximum impact.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Upton". The signature is fluid and cursive, with the first name "Pete" being more prominent than the last name "Upton".

Pete Upton
Board Chair/ CEO, Native CDFI Network
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