Indian Country Priorities and Opportunities for the 2023 Farm Bill
Title V: Credit

Key Points and Recommendations

- According to the most recent Census of Agriculture, there are 80,000+ Native food producers across the United States, generating $3.5 billion in market value of raw agricultural commodities each year.
- Maintaining—or scaling—this existing level of agricultural production requires access to credit borrowed on fair terms, but most Tribal communities are "credit deserts," where Native producers lack access to any lines of credit outside USDA's Farm Service Agency (FSA) programs or community-based financial services.
- Improvements to FSA programs and creative flexibilities that enable Native Community Development Financial Institutions (Native CDFIs) to expand their agricultural lending will provide those key lines of credit that improve Native food economies and support rural America.

Background Information and Context

Credit access is so challenging for Native producers that most of Indian Country is referred to as "credit deserts." On average, Native producers carry more debt at higher and sometimes even predatory loan rates than other producers. Continuing to improve programs within the Credit Title so that Native producers can more fully access these programs will improve economic realities for 80,000 Native farmers and ranchers across Indian Country, and improve rural economies along with it.

Opportunities for Indian Country in the Credit Title

Structuring Loans to Suit the Business

- Authorize several innovative loan structuring measures in the coming Farm Bill. For example, currently FSA will lend 100 percent the cost of bred livestock. They will then subordinate their lien position to a local commercial lender for annual production costs, increasing the amount of debt secured by the same amount of assets, sometimes by as much as 25 percent. If the first year of operating expenses could be included in the original loan, and amortized over the life of the secured asset, producers would end the year with cash in the bank, allowing producers to take advantage of pricing opportunities on input materials, replacement stock, or expansion opportunities. Such an approach would incentivize operating from available resources, instead of what could be borrowed on an annual basis.

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Debt Restructuring for FSA Planning Prices

- When commodity price cycles run contrary to the mandated FSA Planning Prices, despite a producer's inclination to plan conservatively, producers are often faced with choice of accepting a plan based on those planning prices or shutting down their operation. In cases where FSA planning prices are more than 20 percent higher than the actual prices, a producer should be able to restructure their debt in a way that will not count towards lifetime limits on loan servicing.

Socially Disadvantaged Interest Rate

- Update the Socially Disadvantaged Rate (SDR) interest rate for FSA loans from a static number (currently 5 percent) to be indexed to the prevailing rate and set a commensurate proportion of that rate, 50 percent of the standard rate. The current rate was set years ago when the prevailing interest rate was in the double digits and should already have been revisited and revised.

FSA Food Loan Authority

- Under current program guidelines, there is some latitude for producers whose production will take a period to fully ramp up. Initial payments can be made at an 18-month mark rather than within the first year. This same methodology should be employed for producers wishing to take their raw product to the next step in the value chain.

Keepseagle-class Forgiveness

- The *Keepseagle* litigation proved there was a systemic and deeply rooted history of discrimination at the USDA against Native and other producers. While Native Americans could avail themselves of the opportunity for debt settlement and a small monetary award to attempt to make them whole, some successful claimants also received a "clean slate" when dealing with the FSA in the future. With only 3,000 successful claimants of an anticipated 12,000 potential claimants, many Native producers, still feeling the disenfranchisement of decades of disparate treatment, did not take part in the claims process. Allowing the larger pool of potential *Keepseagle* claimants to experience a "clean slate" would be a no-cost change that would improve future opportunities for many tribal producers.

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Remove the Graduation Requirement for FSA programs

- Due to the general lack of credit availability on and near Indian reservations, it is difficult to access viable credit rates for even experienced producers operating farms and ranches on trust lands. Removing the statutory requirement for producers on Indian reservations to have graduated from FSA programs would allow agriculture operations to be more stable and assist other producers who farm and ranch in areas where credit access is tenuous at best.

Remove the Requirement for Private Credit Denial

- Explicitly exempt tribal producers from the FSA requirement of obtaining three denial letters from private credit sources in order to participate in an FSA loan program. The general lack of private lending available in Indian Country renders the requirement onerous and unduly burdensome.

Create Common Definition of Land Owned by Indian Tribes across all USDA

- Currently, there is no common definition of "land owned by Indian Tribes" across all USDA programs creating inconsistent program access even within programs run by a single agency. An alternative to placing the definition in the Credit Title or another a section having application broadly across the entire Department, is to place it within the Definitions section of the Conservation Title, where many problems associated with lack of common definition are most pronounced. Regardless of where such definition is placed, attention should be paid to consistency across the family of USDA programs and authorities.

- **Add Native producer provision to the Farm Credit System**
    - Require the Farm Credit System to make loans to Native Agricultural producers and implement programs designed to increase credit access to Native agricultural producers and tribes.

- **Provide Loan and Loan Guaranteed Opportunities to Support Meat, Poultry, Fish, and Seafood Processing**

- Congress should ensure that loan and loan guarantee opportunities are available for the development of meat, poultry, fish, and seafood processing facilities in Indian Country.