

# **FAQs: SELF-DETERMINATION “638” TRIBAL ADMINISTRATION OF**

- **SNAP BENEFIT PROGRAMS**
- **SNAP-RELATED JOB ASSISTANCE/TRAINING PROGRAMS, &**
- **USDA-FORESTRY PROGRAMS**

**BACKGROUND.** Tribes are seeking the addition of provisions in the 2018 Farm Bill which would authorize tribal “638” administration of the following USDA programs:

## **1. Supplemental Nutrition Assistance Programs (SNAP)**

Tribal governments are in the best position to serve their food-insecure citizens and to tailor food assistance programs to meet the unique circumstances in their own communities. Tribal administration offers the most effective and cost efficient direct communication, outreach, nutrition education, and feeding program service delivery through a streamlined process. With approximately 24 percent of all Native households receiving Supplemental Nutrition Assistance Program (“SNAP”) benefits, Tribal governments should be allowed to shape SNAP within existing federal authority parameters to best meet the unique needs of Indian Country.

## **2. SNAP-Related Employment and Training Programs**

Most of the tribal communities in Indian Country are located in rural or remote areas with limited economic development and employment opportunities. While the current national unemployment rate hovers around 4.1 percent, Indian Country’s unemployment rate is roughly 10 percent. Some tribes have much higher rates of unemployment, reaching 60 or sometimes even 80 percent. Despite tribes working to economically diversify and increase the number of employment opportunities available for their members, the lack of access to employment and training program funding leaves tribal governments at a significant disadvantage. Applying tribal “638” authority to workforce development programs authorized in the 2018 Farm Bill would ensure that tribes are able to best meet the unique needs of their tribal members.

## **3. Forestry**

Tribal governments have both a strong cultural and economic tie to forests. To date, more than 300 tribes have forests within the 57 million acres of land comprising Indian Country. These forest lands provide more than \$40 million in annual tribal governmental revenue and 19,000 jobs in and around tribal communities. Because many tribes maintain deep cultural, spiritual, and traditional ties to adjacent federal forests and possess treaty rights to access these forests, maintaining the health of these forests for the next generation is a shared value of tribes and the federal government. However, because fire, disease and other threats facing tribal forests do not recognize forest boundaries, “638” tribal management of neighboring forests will allow for cohesive management practices that promote healthy forests, ecosystems, and local forest economies. Tribal forestry management practices have been proven to support the health of trees and wildlife, lessen the impact of devastating wild fires, limit the infestation of invasive plants and insects, and promote forest recovery.

# QUESTIONS AND ANSWERS

**Q: What is “638” tribal administrative authority?**

**A:** The Indian Self Determination and Education Assistance Act of 1975 (P.L. 93-638 or “638”) established contracting and compacting authority, or “638” authority, allowing for the direct tribal administration of programs housed in the Indian Health Service (“IHS”) and the Bureau of Indian Affairs (“BIA”). For 43 years, “638” authority has authorized tribes to assume the operational responsibility and federal funding for certain programs previously administered and funded by the federal government for the benefit of Indians. “638” has consistently proven to be the most cost-effective approach in administering federally-supported programs in Indian Country. “638” tribal control over these programs would allow tribes to tailor food nutrition training and outreach, just as tribes now shape health care, public safety, transportation, and other programs, to fit the needs of their own communities. Tribes know best how to meet the needs of their own people and how to do so most efficiently. “638” consistently produces the biggest Indian Country bang for the federal buck.

**Q: What does it mean, as a practical matter, for a tribe to assume “638” administration of a federal program?**

**A:** It means the tribe “steps into the shoes” of the federal agency, taking on the responsibility to spend the funds the federal government would have otherwise spent to administer the functions, services and activities of a specified program, or portions thereof. The tribe acts in the place of the federal agency, but with federal funds and authority.

**Q: Will the application of “638” authority cost more federal money?**

**A:** No. The “638” authority statute requires only that the Secretary transfer the funds that the Secretary would have otherwise spent on the same beneficiaries for the same purposes. 25 U.S.C. 5325 (a)(1) reads:

*The amount transferred “shall not be less than the . . . Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract.”*

**Q: How would the administrative costs of a tribe administering SNAP be provided?**

**A:** In the same way, manner and amount as the USDA provides for the administrative costs of a state agency administering SNAP. Administrative costs are included within the overall allocation for supplemental nutrition assistance programs. No more, no less.

**Q: Why won’t applying “638” authority to USDA programs increase the cost to the federal budget and “score”?**

**A:** Applying “638” authority to USDA programs only affects who spends the federal money. It does not affect how much federal money is spent. “638” authority in purpose and practice lessens the federal bureaucracy and transfers those “savings” to the tribe to enhance tribal accountability and expanded tribal benefits. Providing tribal “638” authority saves the federal government time, money, and resources, while empowering tribal self-governance and serving tribal citizens efficiently.

# QUESTIONS AND ANSWERS

**Q: Does “638” authority now apply to any USDA programs?**

**A:** No. Congress has applied “638” authority for decades to IHS and BIA programs, functions, services and activities. Congress has previously extended somewhat similar authority to the Department of Housing and Urban Development Indian housing program, the Department of Transportation Reservation Roads program, and the Department of Labor through P.L. 102-477.

**Q: Are tribes actually able to run complicated USDA-funded programs like SNAP, employment and training, and Forestry Management programs?**

**A:** Yes. Hundreds of tribes have already demonstrated their capability to run far more complex programs. To date, virtually every tribe has some experience with “638” authority to deliver programs and services in the most cost effective and efficient manner. Each year, several billion dollars in federal funding is transferred from BIA and IHS to Indian tribes for the tribal administration of hospitals, clinics, schools, colleges, social services programs, land management, prisons, and law enforcement agencies. There can be no question that Indian tribes have the capacity to administer a system of electronic payments, job training, distribution of food, and forestry management.

**Q: Will USDA be overrun with having to deal with hundreds of tribes?**

**A:** No. The “638” regulations facilitate a smooth transfer of funds and establish a flexible Federal-Tribal administrative system of oversight control. “638” authority has been in place and operating for years. USDA need only identify the allocations available and enter into agreements pursuant to existing and well-used regulations. Since the statute makes “638” authority a voluntary, tribal choice, a tribe may do it alone, or in partnership with other tribes, or decide to not administer the program at all for any reason, including the fact that some tribes have few or no members eligible to participate in SNAP. Concerns about a tribal floodgate opening that overwhelms USDA are not well-informed.