

United States Senate
WASHINGTON, DC 20510

September 29, 2021

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Yellen:

We write to ask that the Department of the Treasury establish an Office of Tribal Affairs. The recent tribal consultations and interactions between Treasury and tribal nations underscore the need for sufficient, dedicated, in-house expertise at Treasury on tribal policy matters. The establishment of such an office has support from Indian Country and would improve Treasury's ability to fulfill its trust responsibilities to respect the nation-to-nation relationship between the federal government and tribal nations.

Treasury has long had a role in matters, including tax and finance issues, that have seriously affected the welfare and sovereignty of some tribal nations. This role has increased over time and has become extremely important during the COVID-19 pandemic, because Congress has charged Treasury with the crucial responsibility of disbursing to tribal nations billions of dollars in relief funds.¹ The recent historic appropriation of federal funding for Tribal governments via the Treasury Department has the potential to be transformative and life-altering, which places a great responsibility on the Department to ensure that this consequential funding is allocated fairly while guaranteeing that subsequent regulations are reflective of the realities that tribal nations face. The Internal Revenue Service, the Office of the Comptroller of the Currency, the Community Development Financial Institutions Program, and the Office of Recovery Programs are just some of the Treasury components that make decisions with enormous impact on tribal nations, in such areas as COVID-19 relief implementation, tribal economic development, taxation and tax incentives, capital finance and capital needs, and trade policy.

The recent work of Treasury during the COVID-19 pandemic has shown that the Department requires a more formalized body to interact with tribal nations. Treasury needs a sufficient number of permanent personnel who can help improve the Department's tribal consultation process, strengthen the Department's relationship with tribes, and provide more in-house expertise on matters affecting tribal nations. The Treasury Tribal Advisory Committee (TTAC), established under section 3(a) of the Tribal General Welfare Exclusion Act of 2014,² plays an important role, but this body is not a substitute for a dedicated Office of Tribal Affairs

¹ Title V of the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136; Title IX, Subtitle M of the American Rescue Plan Act of 2021, Public Law 117-2.

² 26 U.S.C. § 139E note; Public Law 113-168.

with a sufficient number of full-time, in-house personnel. Indeed, an Office of Tribal Affairs would likely help coordinate the TTAC's work.

President Fawn Sharp of the National Congress of American Indians has testified that “an Office of Tribal Affairs is critically needed within Treasury to address tribal economic development, tax, and capital needs; integrate tribal nations within Treasury policy making; and facilitate tribal consultations.”³ Recent events have confirmed President Sharp's statement.⁴ Concerns about Treasury's interactions with tribal nations regarding pandemic relief funding were also voiced during the last administration.⁵

In light of President Biden's memorandum affirming the importance of tribal consultation⁶—which states that it is his “priority” to make “regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy”—we believe Treasury has an obligation to provide permanent personnel to ensure that the Department's tribal consultations meet the goals set forth by the President. Treasury acknowledges this point as well; the Deputy Secretary of the Treasury has “reiterated the importance of the nation-to-nation consultation process.”⁷ An Office of Tribal Affairs would help achieve this.

Although the pandemic has underscored the urgency of Treasury having proper in-house capacity to address tribal issues appropriately, this need existed before the pandemic and before this administration, and, absent institutional changes at the Department, it will continue to exist after the pandemic and after this administration. Therefore, we urge the Department of the Treasury to establish an Office of Tribal Affairs.

We respectfully request a response by October 13, 2021, regarding your plans on this matter. Thank you for your consideration.

Sincerely,

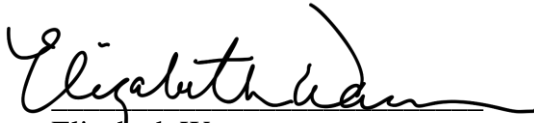
³ Written testimony of President Fawn Sharp to the U.S. Commission on Civil Rights, July 17, 2020, p. 15, <https://www.usccr.gov/files/2020-07-17-Fawn-Sharp-Testimony.pdf>.

⁴ See, e.g., Tribal Business News, “Tribes say Treasury's American Rescue Plan employment-based formula creates inequity,” Rob Capriccioso, July 12, 2021, <https://tribalbusinessnews.com/sections/economic-development/13549-tribes-say-treasury-s-american-rescue-plan-employment-based-formula-creates-inequity>; Tribal Business News, “Tribes alarmed by Treasury Department's handling of \$20B American Rescue Plan funds,” Rob Capriccioso, July 12, 2021, <https://tribalbusinessnews.com/sections/economic-development/13553-tribes-alarmed-by-treasury-department-s-handling-of-20b-american-rescue-plan-funds>.

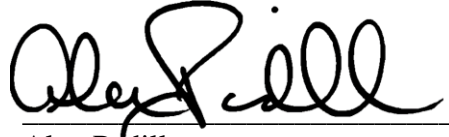
⁵ See, e.g., Indianz.com, “Treasury in spotlight as tribes await COVID-19 relief promised months ago,” Acee Agoyo, June 10, 2020, <https://www.indianz.com/News/2020/06/10/treasury-in-spotlight-as-tribes-await-co.asp>.

⁶ White House, “Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships,” January 26, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>.

⁷ U.S. Department of the Treasury, “Readout: Treasury Deputy Secretary Wally Adeyemo Joined Virtual Consultation with Tribal Leaders,” April 1, 2021, <https://home.treasury.gov/news/press-releases/jy0097>.



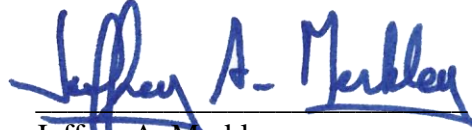
Elizabeth Warren
United States Senator



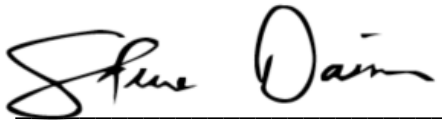
Alex Padilla
United States Senator



Ron Wyden
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United States Senator



Steve Daines
United States Senator