

TRIBAL ENVIRONMENTAL RESILIENCY RESOURCES ACT (TERRA ACT)

Problem. Tribal communities throughout the United States are increasingly vulnerable to natural disasters and other threats from our fluctuating environment. Tribal homelands and traditional ways of life are in jeopardy because of dangers like flooding, erosion, sea level rise, permafrost degradation, ocean acidification, extended drought, extreme temperatures, and more frequent and severe wildfires, hurricanes, and tornadoes. Many Tribal Nations have already made difficult decisions to protect their citizens, including by relocating entire communities.

Need for a Coordinated Federal Program. Currently, there is no coordinated Federal support for addressing environmental threats to Tribal communities, including complex relocation efforts, leaving Tribal Nations to navigate the jumble of existing resources scattered among dozens of Federal agencies without any clear guidance. The Bureau of Indian Affairs (BIA) and the Government Accountability Office (GAO) have recognized this problem. In a 2020 report, the BIA warned that this “patchwork approach” leaves critical gaps in Tribes’ ability to plan for relocation and other prevention and mitigation efforts. And in report GAO-20-488, the GAO named “unclear federal leadership [a]s the key challenge to climate migration as a resilience strategy.”

In most cases, it is not possible to access the needed resources from a single agency. For example, even when combined, the funding BIA receives for these purposes from annual appropriations and the Infrastructure Investment and Jobs Act would barely cover a single community-driven relocation project. Instead, funds must be gathered from disconnected Federal agencies and programs, each of which comes with bundles of regulatory strings attached, including distinct purposes, reporting requirements, and differing periods of availability that could affect a Tribe’s eligibility for other Federal resources. They may also require a cost-share obligation that, for many Tribal Nations, is impossible to meet. Meanwhile, it also takes large amounts of staff time and resources to manage this inefficient bureaucracy—resources that the most environmentally vulnerable Tribal Nations, often small and under-resourced to start, simply do not have.

Goal. Create a Federal program, housed in the Department of the Interior, that establishes Federal interagency coordination to support environmental and natural disaster prevention, mitigation, and relief efforts (including for slow-moving disasters) for environmentally vulnerable Tribal communities. This will act as a navigational tool and fill existing gaps by allowing Tribal Nations to integrate existing resources into comprehensive Plans tailored to address their communities’ needs, with mechanisms to streamline the process, reduce administrative burdens, promote Tribal self-determination, and achieve the most efficient and effective result possible.

Broad Support. A half dozen national and regional Tribal organizations, including NCAI, AFN, and USET, have issued resolutions supporting this legislative effort, while programs of this nature have also received supported from Federal bodies such as BIA, GAO, and the House Select Committee on the Climate Crisis.

Key Provisions.

- **Eligible Programs.** Federal programs are eligible for TERRA Plans if they are: (1) implemented for a purpose that addresses environmental resiliency, including by advancing such purpose through housing, infrastructure, economic development, or other means provided; and (2) funded based on Tribal or Indian status, or provided to Tribes via competitive or noncompetitive processes or block grants.
- **Waiver Authority.** At a Tribal Nation’s request, Federal agencies may grant, if not inconsistent with the Federal program’s underlying statutory authority, any waiver of a statutory, regulatory, or administrative requirement, regulation, policy, or procedure the Tribal Nation believes is necessary to effectively implement its Plan.
- **Streamlining Measures:** Single annual report per Plan; interagency frameworks for integrating and administering Plan funds; coordinated interagency permitting, review, and authorization for NEPA and any other required authorizations not waived; expedited fee-to-trust processes for Plan-related purposes.