

## Department of Labor Tribal Consultation and Coordination Plan of Action

### Implementing Executive Order 13175

**Purpose:** To ensure compliance with Executive Order (E.O.) 13175.

**Guiding Principles:** The Department of Labor (DOL) will strive to fulfill the nation-to-nation relationship that exists between tribes and the Federal Government through timely and effective communication and collaboration, ensuring input from tribal leaders in the development of agency programs and policies that may have tribal implications.

**Narrative:** Since the November 5, 2009 issuance of the Presidential Memorandum to Agency Heads on Tribal Consultation, the Department of Labor has taken several steps to develop and implement a comprehensive tribal consultation policy. Namely, DOL has sought tribal input on how to best execute meaningful consultation. DOL participated in three tribal consultation listening sessions hosted by the Department of the Interior in Washington D.C., Minneapolis, and Phoenix, at which DOL heard from approximately 75 tribal leaders and other representatives. Through issuance of a press release announcing DOL participation in the DOI listening sessions (<http://www.dol.gov/opa/media/press/opa/opa20091528.htm>), leaders were also invited to submit written comments to DOL's Office of Public Engagement, the designated agency lead for development of DOL's tribal consultation and coordination plan. DOL's participation in these preliminary sessions was also announced in the premiere issue of the bimonthly DOL Newsletter for Tribal Leadership released December 18, 2009 (<http://www.dol.gov/nan/>).

The Office of Public Engagement (OPE) and the Office of the Assistant Secretary (OASP) for Policy have initiated an internal review of existing programs. Agencies *with* existing programs or initiatives specific to tribal nations have designated lead contacts for the implementation of the Department's plan, consistent with the Presidential Memorandum and E.O. 13175. OPE and OASP will take additional steps in the coming months to engage DOL agencies *without* existing programs specific to tribal nations to ensure their programs, as appropriate, are prepared to engage tribes in meaningful consultation as new and ongoing issues and initiatives of potential interest to the tribes arise.

**Plan of Action:** The Department of Labor has planned several next steps in order to develop a formal agency policy designed to carry out the objectives of E.O. 13175 and subsequently, to begin implementation of that policy.

- ***Review of comments received by DOL on consultation best practices:*** In preparation for next steps, compile and review summary of comments received by Nicole Willis, OPE,

DOL Tribal Consultation Lead, at the three in-person sessions and also submissions received electronically. *By 120 days from PM, or March 5, 2010.*

- ***Review of other Agency consultation policies and their recent feedback:*** In preparation for next steps, DOL will also review the policies of other agencies with established consultation practices, in particular DOI and HHS, and will review comments received by those agencies since the issuance of the PM (Nov. 5, 2009) when available. *By 120 days from PM, or March 5, 2010.*
- ***Internal Data Call and Informational Sessions:*** The OPE and OASP will issue a call for data to all DOL agencies in order to solicit information on programs and initiatives that may inadvertently affect tribes, and to offer technical assistance to any agency that needs to initiate tribal collaboration. Informational sessions for agency leads will be held in order to explain the PM, EO, questions regarding Federal Indian Law, and to answer any questions as to whether or not an agency's policies could have tribal implications. Agencies will be able to suggest elements to include in the draft policy. *Responses and sessions to be completed by 148 Days from PM, or April 2, 2010.*

As DOL agencies gain a clearer understanding of their existing and/or emerging relationship with Indian tribes, agencies who oversee policies with tribal implications are to plan formal consultation sessions, taking place at least 30 days prior to the 270-day deadline set forth in the PM (*239 days from PM, or July 2, 2010*). Sessions may include receiving comments on consultation best practices as well as on specific programs and policies. Sessions scheduled after the publication of the proposed draft may also include commentary on the draft.

- ***Develop a draft consultation policy:*** OPE and OASP will develop a draft DOL-wide consultation policy, incorporating the tribal comments and the information and suggestions gathered during the internal review period. All agencies will have an opportunity to review the draft. *By 180 days from PM, or May 4, 2010.*
- ***Public review of draft:*** The proposed draft will be published in the Federal Register upon the *May 4, 2010* draft deadline along with a solicitation for written comments to be due no later than *July 2, 2010*. Tribes will also be able to provide comments on the draft at the formal consultation sessions scheduled by DOL agencies prior to *July 2, 2010* (see "*Internal Data Call and Informational Sessions*"). The proposed draft will also be published to the DOL website upon the *May 4, 2010* deadline with a notice that comments on the proposed draft are to be received no later than *July 2, 2010*.

- ***Review, Final Policy, and Progress Report:*** DOL will review comments received on the draft proposal, both written submissions as well as comments received during formal agency consultation sessions. The Consultation Lead and OASP will compile a final version of the DOL formal consultation policy, to be submitted for DOL agency-wide clearance no later than the 270 days from the date of the PM (*August 2, 2010*). Also, as required by the PM, DOL will issue a “progress report” to OMB 270 days from the date of the PM (*August 2, 2010*), detailing the steps taken in implementation of the PM and EO 13175.
- ***Ongoing evaluation:*** The Consultation Lead will be responsible for monitoring the effective and consistent implementation of the final consultation policy, and ensuring that tribal consultation and collaboration is a timely, meaningful, and effective process.