



National
Congress of
American
Indians

**CONSULTATION WITH
TRIBAL NATIONS:
AN UPDATE ON
IMPLEMENTATION OF
EXECUTIVE ORDER
13175**

JANUARY 2012

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INTRODUCTION

On November 5, 2009, President Obama held a historic meeting with tribal leaders from across the United States and promised to improve the partnership between the federal government and Native nations. As an initial step toward fulfilling this commitment, the President issued an Executive Memorandum that directed all federal agencies to develop a plan within 90 days to consult and coordinate with tribal governments under President Clinton's Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Although E.O. 13175 was issued in 2000, its call for meaningful consultation and collaboration with tribes is rooted in the longstanding government-to-government relationship between Native nations and the U.S. federal government.

E.O. 13175's purpose is to improve governmental services and programs on Indian reservations within a framework of tribal self-determination. Any time an agency develops a new rule, policy, or directive, or takes any action that might impact tribes, the agency must consult with affected tribes early and often during the decision-making process. The fundamental request of the National Congress of American Indians (NCAI) has been that the federal government go beyond dialogue and truly take action to meet its responsibilities to Indian Country.

E.O. 13175 applies to any federal "agency," including any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the federal government. While some independent regulatory agencies have concluded that E.O. 13175 does not explicitly apply to their agency, further review and consultation with intertribal organizations (like NCAI) has led some of those agencies to conclude that President Obama's memorandum issues a broader mandate that recommends the development of a consultation policy by all federal agencies. As such, some independent agencies that did not initially engage in tribal consultation have since developed tribal consultation policies or are in the process of doing so. NCAI encourages all agencies, including independent regulatory agencies, to implement comprehensive tribal consultation policies in a timely manner.

This report is intended to provide NCAI membership with an update on federal agencies' progress in developing and implementing tribal consultation policies. While many agencies have taken this charge seriously and have greatly improved their consultation activities, other agencies are still in the process of developing their policies. This report provides the following information on each agency's progress:

- **Implementation Plan Status:** President Obama's Executive Memorandum directed agencies to submit a tribal consultation implementation plan to the Office of Management and Budget (OMB) within 90 days (by February 3, 2010). We have indicated whether each agency submitted its plan and on what date, if known. Where possible, we have included a link to the implementation plan on the web.

- **Consultation Policy Status:** We have indicated whether or not each agency has developed a formal consultation policy and, if so, whether it is a draft or final version and how many pages it is. Where possible, we have included a link to the policy on the web.
- **Progress Report Status:** The President's Executive Memorandum further directed each agency to submit to OMB within 270 days (August 2010) and annually thereafter a progress report on the status of each action included in its implementation plan and any proposed updates. If known, we have indicated if and when an agency submitted a progress report and, where possible, included a link to the progress report on the web.
- **Highlights of Major Consultation Efforts Since 2009:** NCAI attempted to contact each agency and obtain any highlights of its major consultation efforts since the President's memorandum in 2009. Please note that the information in this section constitutes selected highlights and does not encapsulate all consultation activities of the given agency. If an agency did not respond to our request, we have included whatever information was publicly available on the web.
- **Contacts:** We have included agencies' point of contact for tribal consultation, as well as agencies' American Indian/Alaska Native website links, if available. Additionally, we have noted contact information for the NCAI staff member responsible for coordination with respective agencies.

If you have any questions or comments about this report, please contact Katy Jackman, NCAI Staff Attorney, at kjackman@ncai.org, or Katie Jones, Legislative Fellow, at kjones@ncai.org.

EXECUTIVE SUMMARY

Agency	Does the agency have a consultation implementation plan? (Yes/No/Draft)	Does the agency have a consultation policy in place? (Yes/No/Draft)	When was the consultation policy was last updated?	Does the agency have a point of contact for tribal consultation? (Yes/No)	Does the agency have an Office of Tribal Relations or equivalent? (Yes/No)
Executive Departments <i>(Sub-agencies in italics)</i>					
Department of Agriculture (USDA)	Yes	Yes	9/11/2008 ¹	Yes	Yes
Department of Commerce (DOC)	Yes	Draft ²	9/2011	Yes	No
Department of Defense (DOD)	Yes	Yes	1998	Yes	No
Department of Education (ED)	Yes	No	N/A	Yes	Yes
Department of Energy (DOE)	Draft	Yes	1/16/2009	Yes	Yes
Department of Health and Human Services (HHS)	Yes	Yes	12/14/2010	Yes	Yes
<i>Administration for Children and Families (ACF)</i>	Follows HHS agency-wide plan.	Yes	8/18/2011	Yes	Yes
<i>Centers for Disease Control and Prevention (CDC)/ Agency for Toxic Substances and Disease</i>	Follows HHS agency-wide plan.	Yes	10/18/2005 ³	Yes	Yes

¹ The USDA is currently working to update its tribal consultation policy and plans to release a final version soon.

² The Department of Commerce is currently working to get its draft policy through clearance and plans to release it publicly soon.

³ CDC is in the process of revising the current policy. It is anticipated that the revised policy will be approved and issued in spring 2012.

<i>Registry (ATSDR)</i>					
<i>Centers for Medicare & Medicaid Services (CMS)</i>	Follows HHS agency-wide plan.	Yes	11/17/2011	Yes	Yes
<i>National Institutes of Health (NIH)</i>	No	No	N/A	Yes	No
Department of Homeland Security (DHS)	Yes	Yes	5/11/2011	Yes	Yes
Department of Housing and Urban Development (HUD)	Yes	Yes	6/28/2001 ⁴	Yes	Yes
Department of the Interior (DOI)	Yes	Yes	12/1/2011	Yes	Yes
Department of Justice (DOJ)	Yes	Draft	12/2011	Yes	Yes
Department of Labor (DOL)	Yes	Draft	9/2011	Yes	No
Department of State (DOS)	Yes	Yes ⁵	2/3/2010	Yes	No
Department of Transportation (DOT)	Yes	Yes ⁶	3/2010	Yes	No
Department of the Treasury	No	Draft (internal only)	7/23/2010	Yes	No
Department of Veterans Affairs (VA)	Yes	Yes	2/4/2011	Yes	Yes
US Army Corps of Engineers	Yes	Draft	1/2012	Yes	Yes

⁴ HUD is currently working to update its tribal consultation policy and plans to release a final version soon.

⁵ A Department of State official has informed NCAI that DOS's consultation policy is contained within its implementation plan.

⁶ A Department of Transportation official has informed NCAI that DOT's implementation plan functions as the department's formal tribal consultation policy.

Independent Agencies and Government Corporations Affecting Tribal Government Interests					
Advisory Council on Historic Preservation	Yes	Yes	11/17/2000	Yes	Yes
Commission on Civil Rights	No	No	N/A	No	No
Environmental Protection Agency (EPA)	Yes	Yes	5/4/2011	Yes	Yes
Farm Credit Administration	No	No ⁷	N/A	No	No
Federal Communications Commission (FCC)	No	Yes	6/23/2000	Yes	Yes
Federal Election Commission (FEC)	No	No	N/A	No	No
Federal Housing Finance Agency	No	No	N/A	No	No
National Labor Relations Board (NLRB)	No	No	N/A	No	No
National Science Foundation (NSF)	No	No	N/A	No	No
National Transportation Safety Board	No	No	N/A	No	No
Securities and Exchange Commission (SEC)	No	No	N/A	No	No

⁷ A Farm Credit Administration official has informed NCAI that the agency does not currently have any directives or regulations that would affect tribes. In the event that the agency ever does, it plans to develop a protocol for tribal consultation.

Small Business Administration (SBA)	Draft (not public)	Draft (not public)	2011	Yes	Yes
Social Security Administration (SSA)	Yes	Yes	2010	Yes	No
Federal Boards, Commissions, and Committees Affecting Tribal Government Interests					
Denali Commission	No	No ⁸	N/A	Yes	No
Indian Arts and Crafts Board	No	Yes ⁹	12/1/2011	Yes	N/A
Marine Mammal Corporation	Yes	No	N/A	Yes	No
National Indian Gaming Commission	No	Draft	3/8/2011	Yes	N/A

⁸ The Denali Commission is currently identifying and developing a list of best practices for tribal consultation in Alaska that can be used across the family of federal agencies.

⁹ An official from the Indian Arts and Crafts Board has informed NCAI that it follows the Department of the Interior's policy.

DEPARTMENT OF AGRICULTURE (USDA)

Consultation Policy Status

Final as of September 11, 2008. (7 pages)
<http://www.ocio.usda.gov/directives/doc/DR1350-001.htm>

USDA is currently working to update its consultation policy.

Implementation Plan Status

Submitted on February 3, 2010.
<http://www.usda.gov/documents/ConsultationPlan.pdf>

Agency Website for American Indians/Alaska Natives

http://www.usda.gov/wps/portal/usda/usdahome?navid=OTR&navtype=CO&deployment_action=changenav

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

Please see the following pages provided by the USDA.

USDA TRIBAL CONSULTATION HIGHLIGHTS

OFFICE OF TRIBAL RELATIONS (OTR)

- **Office of Tribal Relations:** USDA Office of Tribal Relations (USDA OTR) opened in late 2009 to serve as point of contact for all 565 federally-recognized tribal governments, their tribal communities and individual tribal members, as well as state-recognized tribal governments, to ensure USDA program and service delivery improvement occurs. All 565 federally-recognized tribal governments were advised of and provided copies of USDA's Action Plan in early 2011 to improve consultation and collaboration with their tribal governments. USDA OTR, as well as the entire Department, has aggressively pursued implementation of that plan. The following outline the specific accomplishments of the USDA OTR and all Agencies of USDA, working either individually or through and with Agency and Mission Areas of the Department. Individual agencies and mission area reports will follow thereafter.
- **Departmental Regulation:** Drafting of a new USDA Departmental Regulation occurred in FY 2010 and FY 2011. The new Departmental Regulation (DR) has been cleared and all tribal governments were given 60 days to provide consultative comments on the new DR. The DR will be adopted formally by the Secretary upon its final additional review for budgetary impact, currently underway. The DR will govern Tribal Consultation and Collaboration throughout the Department and will guide all agencies of the Department in recognition of trust responsibilities, and the government to government relationship with tribes. All agencies and offices of the Department will be required to either revisit or revise existing policy or craft new policies that conform to the new Departmental Regulation.
- **Incorporation of Tribal Issues Into the Fabric of Departmental Activities:** In addition to the previously reported activities, the following have occurred from August 2010 to present:
 - Individual consultations with tribal governments have been honored when requested.
 - The USDA Office of General Counsel has designated an individual within that office to work with the USDA OTR in a comprehensive regulatory review for the Department.
 - USDA has incorporated consultation and collaboration requirements into SES performance measurements beginning in the FY 2011 cycle.
 - USDA OTR has been included as an approval step in all clearance processes for agency regulations and has been incorporated into all correspondence tracking mechanisms for the Department.
 - USDA OTR has regularly reviewed all regulations promulgated by all agencies of the Department and provided guidance on Tribal Impact Statements.
 - USDA OTR has also been included in the regulatory planning process agency work plans so that consultation requirements can be incorporated into agency timetables for regulation development.
 - A "Tribal Impact Statement" has been included in all regulatory review processes. This statement is similar to a Civil Rights Impact Statement and provides agency

officials with key insight concerning their responsibilities for tribal consultation and coordination on specific policies.

- USDA OTR entered into cooperative agreements in FY 2010 to launch technical assistance in order to improve tribal governments, communities, and individuals access to Departmental programs and services.
 - Working groups within the Department have been formed and meet monthly to address policy development, reporting and accountability, and education and training issues facing the USDA workforce when working with Tribal governments, communities and individuals.
 - USDA OTR worked with OGC and across all agencies of the Department in researching and drafting a response to the White House, Department of State, and Office of Management and Budget's request to examine USDA programs for compliance with the United Nations Declaration on the Rights of Indigenous Peoples. USDAOTR has worked with State Department to address inquiries from the United Nations Special Rapporteur on the Rights of Indigenous peoples concerning sacred sites issues.
- **Disaster Response Efforts:** All tribes (federally-recognized, state-recognized – 13 total) in six (6) Gulf States were reached out to on a weekly basis first through USDA efforts, and later through interdepartmental efforts led by the White House, to discuss programs and services available to tribes in the Gulf affected by the Deepwater oil spill. Weekly calls began early summer 2010 and continued until September 2010. Tribes affected by emerging flood and fire natural disasters in 2011 were contacted by the USDA OTR and their ongoing communication with various field agencies of USDA was facilitated by the office. The Secretary met with tribal leaders (and other non-tribal leaders) in Nebraska and Iowa to discuss impacts of flooding in that region. The Secretary also met with tribal leaders (and other non-tribal leaders) in Arizona to discuss impacts of forest fires in that region. Field office leadership of the FS met regularly with New Mexico tribes severely affected by the Wallow and Las Conchas fires. The Society of American Archaeologists commended the forest firefighters and the Forest Service for their proactive and critical engagement on the front lines to help protect sacred sites located on tribal lands from being further ravaged by spreading forest fires.
 - **Process Improvement with BIA:** USDA OTR and the office of the Assistant Secretary, Bureau of Indian Affairs (BIA) began and are co-hosting weekly meetings between program managers of BIA and USDA (Rural Development, Natural Resources Conservation Service, and Farm Service Agency) to tackle administrative duplication of effort, barriers, and challenges to deploying projects and programs in Indian Country. The effort is utilizing the principles of Lean Six Sigma and general process improvement to identify ways to streamline applications, waive unnecessary duplications, and otherwise improve the process that all agencies must undertake to perform necessary due diligence when launching funded activities. The USDA Office of General Counsel and the DOI Office of the Solicitor are also engaged in this process. The process was reported as part of USDA's Administrative Flexibility efforts and will continue throughout FY 2012 and beyond, culminating in new training for both department's employees and re-engagement on an interdepartmental MOU to institutionalize these improvements.

- **Training:** USDA OTR has worked across all USDA agencies to provide senior management training on the principles of tribal consultation, Indian law and history, and the principles of Section 106 consultation relating to historic and cultural preservation. USDA OTR provided Section 106 training to all 7 mission areas and all 17 agencies of the Department and has worked closely in an advisory capacity with numerous USDA agencies to meet consultation requests related to specific projects and/or permits. USDA OTR launched eight (8) training modules available to all USDA employees through webinars in late FY 2011. These training modules will be fully migrated to the USDA training platform of AgLearn and thus made available on an as needed basis. Several of the modules will be recommended as training requirements for all or a portion of USDA employees, depending on their involvement with tribes. Finally, in FY 2011 a monthly meeting of all Department Federal Preservation Offices (FPO) began in order to further coordinate their efforts at the agency level and surface additional needs and concerns.

******These are selected highlights from across USDA and do not encapsulate all activities of the Department******

FOREST SERVICE

- **Regional Efforts in 2009:** Approximately 1,800 consultations
- **Regional Efforts in 2010:** Forest Service efforts at outreach, collaboration, and consultation with Tribes for 2010 reported 1,867 consultation sessions* conducted by district, forest and regional officials.
- **Sacred Sites:** the U.S. Department of Agriculture's (USDA) Office of Tribal Relations and the USDA's Forest Service formed a team, led by four senior executives, to talk to tribes and other Native American communities about how the Forest Service can do a better job incorporating Sacred Sites issues into the agency's mission to deliver forest goods and services for current and future generations on NFS lands. More than 50 meetings (listening sessions) were held across the nation. They were held in Indian Country, in Alaska Native villages, telephonically and face to face, at intertribal venues, and at numerous other locations as requested by the tribes. These listening sessions reached out to native communities, engaging not only tribal leadership but also culture-keepers, traditional practitioners, and unaffiliated native descendants. The Secretary has asked the Forest Service and USDA OTR to provide a final report and recommendations for sacred site policy changes and proposed policy language following the conclusion of tribal consultation. (<http://www.fs.fed.us/spf/tribalrelations/sacredsites.shtml>)
- **Government to Government:**
 - The Alaska Region of the Forest Service consults on Regional and Forest issues with 31 federally recognized tribes and 30 Alaska Native Corporations located near the two National Forests of Alaska. The Tongass National Forest, in particular, is the home of 19 federally recognized tribes, 6 traditional tribes, and 12 Native Villages

and urban corporations, such as the Sealaska Regional Corporation, as well as many other tribal organizations including Grand Camp. With broader topics such as changes to the Federal Subsistence Regulations, the Forest Service Planning Rule, and the Sacred Sites Report, the Alaska Region is also responsible for reaching out to all tribes and Corporations in Alaska.

- Forest Service Personnel participated in information-sharing and collaboration on past, ongoing, and upcoming issues that may affect tribes and Alaska Native Corporations at many events over the past year, at every organizational level. In the field, District and Forest staff and line officers engage with tribes on national, regional, and local issues. At the regional level, the Regional Foresters took part in multi-state, multi-tribe collaborations on the Forest Service Planning Rule. National leadership, including the Chief and Deputy Chiefs, participated in national-level listening sessions on the Planning Rule. In particular, the Forest Service conducted Tribal/Corporation listening sessions in collaborative processes for the Planning Rule and the Sacred Sites Report. Elected tribal officials, executives from Alaska Native Corporations, and their respective delegations visiting Washington DC often arrange to meet with FS staff and leadership in the Forest Service's Washington Office. For example, this past year, FS OTR and others met with representatives of the Sealaska Corporation and the Pueblo of Tesuque.
- Individual Consultations in DC and in the field regarding topics of Indian preference in hiring.

RURAL DEVELOPMENT (RD)

- **Substantially Underserved Trust Areas (SUTA):** Throughout FY 2010 and 2011 USDA's Rural Utilities Service (RUS) conducted twenty (20) direct government-to-government Substantially Underserved Trust Areas (SUTA) consultations, seven (7) regional consultations, one listening session and three (3) internet and toll free teleconference based webinars on the implementation of the SUTA provision with tribal nations and village corporations from across the country and in the Western Pacific territories.
- **Rural Utilities Service (RUS) SEARCH Grants:** Grant program's Federal Register request was rejected and sent back from OMB for lack of tribal consultation. Agency reached out to tribal leaders through teleconference to implement the rule.
- **Interagency Infrastructure Taskforce (ITF):** The federal partners of the Task Force are the US Department of Agriculture (Rural Development - USDA-RD), the US Environmental Protection Agency (EPA), the US Department of Health and Human Services through the Indian Health Service, the US Department of Housing and Urban Development (HUD), and the US Department of the Interior (Bureau of Indian Affairs - BIA). In December 2011, the Task Force released a Progress Report which details the accomplishments of the group to-date. The report can be found at <http://www.epa.gov/indian/pdf/infra-task-force-progress.pdf>. In addition, USDA is participating on a ITF sub-group that has drafted an MOU through which the participating agencies will streamline processing of tribal water and waste infrastructure applications and improve coordination on funding.

- **Rural Energy for America Program (REAP):** Rural Business-Cooperative Service (RBCS), through input received in consultation efforts has expanded the definition of small businesses in the Rural Energy for America Program (REAP) to explicitly include tribal Section 17 Corporations and other similar tribal corporations as eligible applicants.
- **Value-Added Producer Grant (VAPG):** Rural Development actively using feedback from the regional consultation events to clarify how tribes and tribal entities are eligible for the Value Added Producer Grant Program.
- **Government to Government Interaction**
 - USDA Rural Development’s Under Secretary, Dallas Tonsager provided plenary remarks at the Reservation Economic Summit on March 16th, 2011. He also convened a lender’s roundtable with banks, Community Development Financial Institutions, stakeholders and other federal agencies to discuss the credit needs of Indian Country and how federal loan guarantee programs can be better utilized.
 - On Wednesday February 16, 2011 USDA Rural Development’s Deputy Under Secretary provided remarks at the National American Indian Housing Council’s Legislative Conference in Washington, DC.
 - On Thursday July 21, 2011 Rural Development convened a tribal leader outreach webinar to discuss Rural Development priorities for President Obama’s 2013 budget and the 2012 Farm Bill. This webinar was offered as part of Rural Development’s response to Executive Order 13563, “Improving Regulation and Regulatory Review” requiring all federal agencies to review existing regulations and determine which, if any, should be amended, supplemented, or repealed. Sixty-five (65) tribal leaders and professionals participated on the call and offered their insights over a productive, facilitated 90-minute discussion. More information on that process and event can be found at: www.rurdev.usda.gov/RD_StakeholderOutreach.html
- **Funding**
 - On July 15th, 2011 Secretary Vilsack announced that 14 rural Alaska Villages, many with populations that are predominately Alaska Native, will receive \$23.6 million through the Rural Alaska Village Grant program.
 - In FY 2011, USDA, Rural Development’s Water and Environmental Programs awarded \$2.1 million for 7 grants to provide technical assistance and training to tribes related to water and waste service. In addition, USDA awarded nearly \$1 million to Solid Waste Management projects in Indian Country.
 - In FY 2011 USDA Rural Development has provided nearly \$16 million in grant funding through its 306C grant program for water and waste infrastructure in tribal areas. Examples of projects funded include:
 - In FY 2011, USDA Rural Development funding will improve the environmental health of the Laguna Pueblo by providing \$6 million for wastewater system improvement in the Villages of Encinal, Mesita, New Laguna West, Paraje, Seama, and Pagate. The funds will be used to connect 1013 homes to a modern sanitary sewer collection system.

- **Mni Waste Water Company Water System Replacement Project:** In August 2011, USDA Rural Development provided \$12 million grant and \$3.34 million loan to Mni Waste Water Company to complete phase II of a multi phase project to replace their failing water system. The system serves the Cheyenne River Sioux Tribe Reservation, as well as Meade and Perkins Counties in South Dakota. The original intake and treatment plant of this system has become inadequate for this system. The original intake was abandoned in 2006 due to low river levels from extreme drought. On January 31, 2010 an ice storm hit the reservation of the Cheyenne River Sioux Tribe. The severe winds of the storm itself knocked down more than 3,000 power poles, and the tribe's aging and inefficient water system, which was unable to cope with the added pressure, collapsed, leaving the reservation's 13,000 residents without electricity, heat or running water for weeks on end. A day later, the tribe declared a state of emergency as the storm was followed by a blizzard and below freezing temperatures. A total of 1,500 to 2,000 households were affected by the disaster and many homes were damaged. This is the second commitment of funds by USDA Rural Development for this multi-phase project. In 2010, USDA provided Water and Waste Disposal Loan of \$3,625,000 and a grant of \$9,798,000 to support the project.
- **NEPA Regulations:** Preparing to offer Consultation on regulations that cover NEPA process for the Agency
- Individual consultation with a tribe regarding Indian preference on a construction of a water project, which the Agency is now utilizing to examine the potential for a policy shift across Rural Development.
- Multiple individual consultations regarding electric transmission and broadband projects that cross tribal lands.
- Individual tribal consultation with a tribe to implement a Congressional appropriation for a large water project.

FARM SERVICE AGENCY

- **Keepseagle Settlement:** Under the current administration, perhaps the most important effort undertaken by the Department this year on behalf of tribes was the announcement of settlement of the long-pending *Keepseagle v. Vilsack* discrimination class action lawsuit. Secretary Vilsack and Attorney General Holder announced settlement of the case in October 2010 and the settlement agreement was approved by the court in April 2011. The 180-day claims process began June 29, 2011 and will conclude on December 27, 2011. The settlement provides \$760 million in compensation and debt relief, in addition to tax relief and programmatic relief to those affected by discrimination in the USDA farm loan program. OTR reached out to all federally recognized tribes to offer individual Consultations on the Settlement details process and continue to work with Class Counsel to ensure the effectiveness of the Settlement.
- **Highly Fractionated Land Loan Program:** The 2008 Farm Bill authorizes FSA to provide loans to eligible Native Americans and tribes for purchasing tribal land and consolidating fractionated interests. The legislation links FSA's loan authority to the Bureau of Indian

Affairs (BLA) Partition of Highly Fractionated Indian Lands Program, which provides a structured process for purchasing fractionated land. The legislation stipulates that only purchasers selected through the BLA process may receive FSA Highly Fractionated Land loans. In the fall of 2010, FSA conducted seven Tribal Consultations to get input on effectively implementing the Highly Fractionated Land Program. Participants recommended involving tribes in the process as re-lenders and FSA is working to adhere to Consultation comments.

- **Biomass Crop Assistance Program (BCAP):** Agency offered multiple teleconferences to garner input on implementation of final rule.
- **Voluntary Public Access:** Grant program's Federal Register request was rejected and sent back from OMB for lack of Tribal consultation. Agency reached out to tribal leaders through teleconference to implement the rule.

FOOD AND NUTRITION SERVICE (FNS)

- **Healthy Hunger Free Kids Act (HHFKA):** The Healthy, Hunger-Free Kids Act of 2010 authorizes funding for federal school meal and child nutrition programs and increases access to healthy food for low-income children. The bill that reauthorizes these programs is often referred to by shorthand as the child nutrition reauthorization bill. This particular bill reauthorizes child nutrition programs for five years and includes \$4.5 billion in new funding for these programs over 10 years. FNS committed to and completed Consultation at multiple regional venues prior to implementation of this Act.
- **Let's Move! in Indian Country:** USDA OTR along with USDA Food and Nutrition Service (FNS) and other federal partners, worked with the First Lady's *Let's Move!* Initiative to design and launch *Let's Move! in Indian Country* (LMIC). USDA OTR developed a Toolkit and Resource Guide for individuals, schools, private organizations, tribal leaders, community groups, and a host of others interested in helping American Indian and Alaska Native children combat obesity. To launch the initiative, more than 300 children and the entire Menominee Legislature joined the First Lady's Office and other federal officials in May 2011 for the launch of LMIC. Efforts are targeted toward four key strategies: encouraging breastfeeding at health care facilities; improving 100 school and community centers by increasing access to USDA nutrition assistance programs; engaging 25,000 people in Indian Country to exercise five days a week for six weeks; and supporting the development of 20 tribal or inter-tribal food policy councils to improve access to affordable, healthy food.
- **Food Distribution Program on Indian Reservations (FDPIR):** The Food & Nutrition Service (FNS) has made significant improvements in the nutritional quality of the food it distributes in all of its food assistance programs, including the Food Distribution Program on Indian Reservations (FDPIR). However, limitations in the current model of food delivery prevent FDPIR from offering locally and traditionally grown foods that are preferred on a local or regional basis. Currently, USDA generally offers only foods that can be purchased in large quantities. While the current system allows for economies of scale in food purchasing, it does not support offering different foods in different locations to support varying cultural

food traditions and tribal vendors that may be able to support a local but not a nationwide system. USDA recently consulted with tribes on the possibility of conducting a pilot in 2012 to test an alternative distribution system that may support regional purchasing and the incorporation of locally-grown, traditional foods into the FDPIR program. The consultation produced a number of valuable ideas about how to structure the pilot for success. Consultation will continue as the pilot develops.

NATURAL RESOURCES CONSERVATION SERVICE (NRCS)

- **Government-to-Government**

- Thirty-three (33) states reported through the survey that they had discussions that covered *relationship/partnership building* topics during pre-consultation and formal consultation meetings for an average of 16 that equaled an overall total of 553.
- Twenty-six (26) states reported they had an average of 7 *training events* with tribes in FY-2011 for an overall total of 185 training events.
- Eighteen (18) states had an average of 5 *training events* that were held on *tribal reservations* for an overall total of 96.
- In Thirty-Three (33) states, an average of 20 *NRCS employees* were trained on Tribal conservation issues and overall total of 673 employees received training.
- In eighteen (18) states, an average of 31 *tribal members* underwent training on conservation issues for an overall total of 550 Tribal members.
- When asked how many *educational meetings* NRCS and tribes held in FY-2011, twenty-seven (27) states responded that they had a total of 200 educational related meetings for an approximate average of 7 ½ per state.
- In Fiscal Year-2011, twenty-one (21) states had a total of 70 *on-farm demonstrations* for an average of about 3 per state.
- The overall number of *NRCS-Tribal Working Groups/Advisory Councils* that are operating in FY-2011 equal 49. Twenty-Four (24) states reported an average of 2 per state.

- **Program Funding**

- Environmental Quality Incentive Program (EQIP): In FY 2011 NRCS awarded 670 EQIP contracts to tribes in the amount of \$35,297,525.
 - NRCS awarded 38 Wildlife Habitat Incentives Program (WHIP) contracts to tribes in the amount of \$3,208,351.
 - In FY 2010 NRCS awarded 4 Agricultural Water Enhancement Program (AWEP) contracts in the amount of \$76,655.
 - In the Conservation Stewardship Program (CSP) NRCS awarded 246 contracts to tribal governments totaling \$10,481,954.
 - NRCS awarded 6 Agricultural Management Assistance (AMA) contracts to tribal governments in the amount of \$138,120.
- Individual tribal consultations regarding definitions for Healthy Forest Reserve Program and EQIP's availability of usage toward irrigation.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

- **Government-to-Government Consultation**

- The Plant Protection and Quarantine (PPQ) program followed up last summer's ongoing consultations with the Yakama Nation on the subject of transporting municipal solid waste from Hawaii to a public landfill in Klickitat County. The landfill is located on ceded lands. Although a letter was sent by the Under Secretary for Marketing and Regulatory Programs after the PPQ Deputy Administrator and a tribal representative engaged in a National Historic Preservation Act follow-up consultation discussion, the Yakama Nation declined further consultation.
- PPQ contacted 49 potentially affected tribes to tell them about the Agency's European grape vine moth program in California. PPQ also sent them maps, letters, and program information.
- PPQ sent letters to 53 Tribes in Arizona, California, Florida, Louisiana, Mississippi, and Texas to begin consultation on the formulation of the Agency's citrus nursery stock rule. We included educational material to inform them about various citrus diseases, including citrus greening and its vector (the Asian citrus psyllid), citrus black spot, and sweet orange scab.
- PPQ offered information on plum pox virus, biocontrol, and European grape vine moth, but the tribes did not accept the invitation to enter into formal consultation.
- In February, PPQ's Florida State Plant Health Director (SPHD) sent letters to the Seminole and Miccosukee tribes advising of changes in Federal regulations with respect to pest permitting and biocontrol organisms.
- APHIS sponsored the Navajo Nation's National Veterinary Stockpile (NVS) exercises. The NVS exercise provides countermeasures that tribes need to respond to foreign animal disease outbreaks.
- Veterinary Services' (VS) tribal liaison and other management officials discussed animal disease traceability and the current collaborative effort with states, tribes, and livestock producers through an animal identification process at the following venues:
- In a series of meetings in July 2011, VS discussed traceability and tuberculosis and brucellosis plus proposed regulations around transport of horses to slaughter with the following Tribes:
 - Tribes of the Northwest in Warm Springs, OR (July 21)
 - Yakama Nation in Toppenish, WA (July 21)
 - Tribes of the Rocky Mountain region in Billings, MT (July 25)
 - Tribes of Nevada in Reno (July 27)
 - Tribes of the Southwest in Albuquerque (July 28)
- On behalf of APHIS PPQ, the Agency's Policy and Program Development (PPD) unit completed an initial assessment of potential impacts to historic and cultural resources associated with the movement of municipal solid waste from Hawaii to landfills in Washington and Oregon, as required under Section 106 of the National Historic Preservation Act. PPQ submitted this assessment to Tribal Historic Preservation Officers for the Confederated Tribes of the Warm Springs Reservation (Oregon), the Confederated Tribes and Bands of the Yakama Indian Nation (Washington), and the Confederated Tribes of the Umatilla Indian Reservation (Oregon) with a request that they consult with us over any additional issues they

would like us to include in our assessment. As of August, PPQ we have received a request for additional information only from the Umatilla.

- On January 19, 2011, APHIS Biotechnology Regulatory Services (BRS) sent information and an offer of consultation to the chairman of the Leech Lake Tribe about a request for a field trial of a genetically engineered aspen tree within 12 miles of the reservation. No consultation took place.
- On April 4, BRS sent information and an offer of tribal consultation to the Yakama Nation about a request for Round-Up™ Ready Sugar Beet field releases on the reservation. A conference call between the program and tribal representatives occurred on April 11. On May 5, the Yakama Nation Chairman submitted a letter to the program, stating the tribe had no further concerns and approved issuing the permit.
- Prior to issuing the Agency's Federal Order that would require nurseries shipping plants interstate to provide advance notification to the destination State(s), PPQ held several consultations with tribally owned nurseries in the three affected States (California, Oregon, and Washington).on March 1, 2011 Through the consultation process, APHIS learned that the advance notification requirement would not affect the businesses as they do not ship interstate. All of their nursery stock is sold and utilized locally. PPQ also used these meetings to share information on Phytophthora ramorum (the cause of Sudden Oak Death), a disease that affects hundreds of plant species grown and sold in the Northwest.

FOOD SAFETY AND INSPECTION SERVICE (FSIS)

- FSIS had information requested from the Wind River Arapahoe Tribe of Wyoming and the First American Natural Food (FANF), LLC related to building a red meat slaughter facility and Mobile Slaughter Unit on the Wind River Indian Reservation in Wyoming. They requested future technical assistance from FSIS and USDA as needed. A feasibility study is being conducted by FANF, Inc. Other resource information requested included USDA funding resources, which was referred to the tribal liaisons of Rural Development, APHIS, and the USDA Office of Tribal Relations for follow-up.

NATIONAL INSTITUTE FOR FOOD AND AGRICULTURE (NIFA)

- NIFA's program portfolio, with a few exceptions, is almost exclusive to the 32 accredited Tribal Land Grant Institutions or the 1862 Land Grant Institutions that conduct educational activities on Federally Recognized Tribal Land (FRTEP). While all but one of the Tribal Land Grants resides on tribal reservation land, NIFA does not have a state-based presence, does not handle Federal Funds that flow directly to tribal governments, and is concerned primarily with institution and human capacity building at the Institution level.
- For all of NIFA's grant programs, stakeholder consultation with the TCU Presidents and Faculty of the Tribal Land Grants is ongoing. NIFA routinely incorporates changes to its grant program 'Request for Applications' (RFA) in direct response to feedback, both written and verbal, from Tribal Land Grant institutions and stakeholders.

CONSULTATION COORDINATION ACROSS MULTIPLE AGENCIES

- Joint Regional Consultation:** Beginning October 2010 and concluding in January 2011, OTR and six (6) USDA agencies coordinated in-person consultation with tribal elected officials concerning seventy (70) regulations *** in seven regional locations. (Rapid City, SD; Oklahoma City, OK; Minneapolis, MN; Seattle, WA; Nashville, TN; Albuquerque, NM; and, Anchorage, AK) Had each agency met its obligations separately, the cost would have been between \$4.5 and \$10 million dollars, based on a preliminary projection. This effort demonstrated an awareness and sensitivity to the mounting costs for tribal governments in meeting with separate Federal agencies in an uncoordinated fashion. The Agencies (Food and Nutrition Service, Farm Service Agency, Rural Development, Grain Inspection Packers and Stockyards Administration, Animal and Plant Health Inspection Service, and Natural Resources Conservation Service) agreed that a coordinated fashion was the best approach moving forward for both the Agencies and the tribes. The approach provided tribal officials one singular location to consult on various agency actions.

***Joint Regional Consultations Regulations

Natural Resources Conservation Service (NRCS)	Farm Service Agency (FSA)		
<ul style="list-style-type: none"> - Agricultural Management Assistance Program (AMA) 7 CFR Part 1465 - Conservation Stewardship Program (CSP) 7 CFR Part 1470 - Environmental Quality Incentives Program (EQIP) 7 CFR 1466 - Farm and Ranch Lands Protection Program (FRPP) 7 CFR 1491 - Grassland Reserve Program (GRP) 7 CFR Part 1415 - Healthy Forests Reserve Program (HFRP) 7 CFR Part 625 - Regional Equity (RE) 7 CFR Part 662 - State Technical Committees 7 CFR Part 610 - Technical Service Provider Assistance (TSP) 7 CFR Part 652 - Wetlands Reserve Program (WRP) 7 CFR Part 1467 - Wildlife Habitat Incentive Program (WHIP) 7 CFR Part 636 - Compliance with NEPA final rule: 7 CFR part 650.6 	<ul style="list-style-type: none"> - Conservation Reserve Program - Conservation Loan Guarantee - Farm Loan Program Loan Making Activities - Farm Loan Program Loan Servicing - Emergency Forest Restoration Program - Sugar to Ethanol Program - Asparagus Market Loss Assistance - Commodity Incentive Programs - Conservation Compliance - Prevention of Payments to Deceased Persons - Commodity Assessments - Beginning Farmer and Rancher Individual Development Accounts Pilot Program - Noninsured Crop Disaster Assistance Program (NAP) 		
Rural Development (RD)	Grain Inspection, Packers and Stockyards Administration (GIPSA)		
<p style="text-align: center;"><i>Rural Utilities Service</i></p> <ul style="list-style-type: none"> - Special Evaluation Assistance for Rural Communities and Households (SEARCH) Program – Section 6002 - Broadband Loan Program – Section 6110 - Energy Efficiency Program Regulation (under Electric Programs) – Section 6101 - Reinstatement of RUS Direct Lending Sec. 6102 - Substantially Underserved Trust Areas <p style="text-align: center;"><i>Rural Business Service</i></p> <ul style="list-style-type: none"> - Rural Microentrepreneur Assistance Program (RMAP) – Section 6022 - Value Added Producer Grant (VAPG) Program – Section 6202 - Rural Business Investment Program (RBIP) – Section 6027 - Rural Energy for America Program (REAP) – Section 9007 - Biorefinery Assistance Program – Section 9003 - Repowering Assistance Payments to Eligible Biorefineries – Section 9004 - Biofuel Assistance Payment Program – Section 9005 	<ul style="list-style-type: none"> - Implementation of Regulations Required Under Title XI of the Food, Conservation and Energy Act of 2008; Conduct in Violation of the Act <p style="text-align: center;">***Open until November 15th, 2010***</p> <table border="1" style="width: 100%; margin-top: 10px;"> <tr> <td style="text-align: center;">Animal and Plant Health Inspection Service (APHIS)</td> </tr> <tr> <td style="text-align: center;">- Animal Disease Traceability</td> </tr> </table>	Animal and Plant Health Inspection Service (APHIS)	- Animal Disease Traceability
Animal and Plant Health Inspection Service (APHIS)			
- Animal Disease Traceability			

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Food & Nutrition Service (FNS)	
<p style="text-align: center;"><i>Supplemental Nutrition Assistance Program (SNAP)</i></p> <ul style="list-style-type: none"> - SNAP: Quality Control Variance Exclusion - SNAP: Retailer Sanctions/Holding Settlement - SNAP: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits; Interchange Fees and Definition Updates - SNAP: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits; Interchange Fees and Definition Updates - SNAP: Clarification of Eligibility of Fleeing Felons - SNAP: Testing Requirements for Automated Data Processing and Information Retrieval Systems - SNAP Provision Major System Failures of Title IV of Public Law 110-246 - SNAP: Program Provisions of Title IV of Public Law 110-246 Part IV and II (Eligibility Disqualification & SNAP-FDPIR Dual Participation) - SNAP: Privacy Protections of Information from Applicant Households - SNAP Education (SNAP-Ed) Provisions of Title IV of Public Law 110-246 - SNAP: Civil Rights Protections for SNAP Households - SNAP: Farm Bill of 2008 Retailer Sanctions - SNAP: Eligibility, Certification and Employment, and Training Provisions of the Food, Conservation, and Energy Act of 2008 - SNAP: Review of Major Changes in Program Design and Management Evaluation Systems - SNAP: Clarification and Corrections to Recipient Claim Establishment and Collection Standards - Food Stamp Program: Disqualified Recipient Reporting and Computer Matching Requirements that Affect the Food Stamp Program <p style="text-align: center;"><i>Women & Infants with Children (WIC)</i></p> <ul style="list-style-type: none"> - WIC: Exclusions of Combat Pay from WIC Income Eligibility Determination - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages <p style="text-align: center;"><i>Food Distribution Program on Indian Reservations (FDPIR)</i></p> <ul style="list-style-type: none"> - (FDPIR): Food Distribution Program on Indian Reservations Income Deductions - Food Distribution Program on Indian Reservations: Amendments Related to the Food, Conservation, and Energy Act of 2008 	<p style="text-align: center;"><i>Child Nutrition</i></p> <ul style="list-style-type: none"> - Animal Traceability National School Lunch Program (NSLP); State Administrative Expense Funds, Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools: Reimbursement for Snacks in Afterschool Care Programs - Child and Adult Care Food Program (CACFP): Improving Management and Program Integrity - Revisions and Clarifications in Requirements for the Processing of Donated Foods - Verification of Eligibility for Free and Reduced Priced Meals in the National School Lunch and School Breakfast Programs - Fresh Fruit and Vegetable Program - Simplified Cost Accounting and Other Actions to Reduce Paperwork in the Summer Food Service Program - Implementing Provisions from the Child Nutrition and WIC Reauthorization Act of 2004: Seamless Summer Option for Schools Participating in the National School Lunch Program - Direct Certification of Homeless, Migrant and Runaway Children in Food Stamp Households - Nutrition Standards in the National School Lunch and School Breakfast Programs - Child Nutrition Programs: Geographic Preference Option for Procurement of Unprocessed Agricultural Products - Applying for Free and Reduced Price Meals in the National School Lunch Program and School Breakfast Program and for Benefits in the Special Milk Program, and Technical Amendments <p style="text-align: center;"><i>***FNS is anticipating reauthorization of the Child Nutrition Act and will be prepared to consult on Child Nutrition Programs if this occurs. This includes: The National School Lunch Program, School Breakfast Program, the Summer Food Service Program, and the Child and Adult Care Food Program.***</i></p>

DEPARTMENT OF COMMERCE (DOC)

Consultation Policy Status

Draft (not public yet).

The Department of Commerce detained the release of its tribal consultation policy due not having a tribal consultation official in place. The Department of Commerce selected a new Senior Advisor on Native American Affairs in mid-December 2011. This new tribal consultation official is currently working on getting the policy through Secretariat clearance. After clearance, the tribal consultation policy will be sent to tribal leaders for comment.

Implementation Plan Status

Submitted February 2010.

<http://www.commerce.gov/office-secretary/native-american-affairs/plan-develop-tribal-consultation-and-coordination-policy>

Agency Website for American Indians/Alaska Natives

<http://www.commerce.gov/office-secretary/native-american-affairs>

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

December 2 - 3, 2009 Tribal Justice, Safety and Wellness Sessions Anchorage, AK	June 1 - 3, 2010 Sovereignty Symposium Oklahoma City, OK
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December 7, 2009 SBA 8a Consultations Washington, DC	June 9 - 11, 2010 Tlingit Economic Development Conference Juneau and Angoon, AK
December 16 - 17, 2009 SBA 8a Consultations Seattle, WA	June 14 - 17, 2010 SAIGE Conference Mohegan, CT
January 11, 2010 SBA 8a Consultations Dallas, TX	July 29 - 30, 2010 Intertribal Timber Council Talking Stick, AZ
January 12, 2010 SBA 8a Consultations Atlanta, GA	August 3 – 6, 2010 NCAIED Wild Horse Pass, AZ
January 14 -15, 2010 SBA 8a Consultations Albuquerque, NM	August 23 - 27, 2010 MEDWeek Washington, DC
January 19, 2010 SBA 8a Consultations Chicago, IL	September 14 -15, 2010 NAFOA Conference Jersey City, NJ
February 7 – 10, 2010 ATNI Winter Conference Grand Mound, WA	September 20 – 22, 2010 2010 AIANTA Conference Tulalip, WA
February 22 - 24, 2010 RES2010 Las Vegas, NV	October 5 - 7, 2010 Development of National System on Marine Protected Areas Suquamish, WA
March 2 - 5, 2010 NCAI Winter Conference Washington, DC	October 19 - 24, 2010 AFN Convention Fairbanks, AK
March 9 - 11, 2010 NA Community Leaders Institute Phoenix, AZ	November 1 - 4, 2010 Tribal Natural Resource Committee Washington, DC
April 19 - 22, 2010 Thirty-Fourth Annual National Indian Timber Symposium Mescalero, NM	November 15 – 19, 2010 NCAI 67th Annual Conference Albuquerque, NM
May 11 - 13, 2010 Native American Finance Conference	December 13 - 16, 2010 NAMM Convention

Chandler, AZ

Anaheim, CA

May 17 - 20, 2010

ATNI Mid-Year Conference

Grand Ronde, OR

DEPARTMENT OF DEFENSE (DOD)

Consultation Policy Status

Final as of 1998. (14 pages)

<http://www.denix.osd.mil/na/upload/American-Indian-and-Alaska-Native-Policy.pdf>

- Policy was reviewed in 2003 by the Institute for Tribal Government at the Hatfield School of Government, Portland State University, Portland OR.
- Policy was reviewed in 2008 by the Morning Star Institute, Washington D.C.

Implementation Plan Status

Submitted February 12, 2010.

Progress Report Status

Submitted August 2010 and August 2011.

<http://www.denix.osd.mil/na/TribalConsultation.cfm>

Agency Website for American Indians/Alaska Natives

<https://www.denix.osd.mil/portal/page/portal/NA>

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DEPARTMENT OF EDUCATION (ED)

Consultation Policy Status

None.

Implementation Plan Status

Submitted to OMB on February 3, 2010.

Agency Websites for American Indians/Alaska Natives

<http://www2.ed.gov/about/offices/list/oese/oie/index.html>

<http://www.edtribalconsultations.org/>

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Highlights of Major Consultation Efforts since 2009 (Submitted by the Agency)

Consultations have been held on the following dates and locations:

- April 16, 2010, at the Cook Inlet Tribal Council in Anchorage, Alaska
- April 19, 2010, in Shawnee, Oklahoma
- April 28 2010, on the Pine Ridge Reservation in South Dakota
- May 3, 2010, in Santa Clara, New Mexico

- June 30, 2010, at the Navajo Reservation in Window Rock, Arizona
- July 15, 2010, in Puyallup, Washington
- March 4, 2011, in Denver, Colorado
- April 26, 2011, in Green Bay, Wisconsin
- May 6, 2011, in Stockton, California
- May 9, 2011, in Los Angeles, California

The Department of Education also participated in one of DOI's consultation drafting sessions at United Tribes Technical College in Bismarck, ND.

Transcripts for some of the above consultations, as well as a report on the 2010 consultations as whole, are available at <http://www2.ed.gov/about/inits/ed/indianed/docs.html>.

DEPARTMENT OF ENERGY (DOE)

Consultation Policy Status

Adopted through DOE Order 144.1 on January 16, 2009. (35 pages)

<https://www.directives.doe.gov/directives/archive-directives/144.1-BOrder/view>

Implementation Plan Status

Draft in revision.

Agency Website for American Indians/Alaska Natives

<http://energy.gov/indianenergy/office-indian-energy-policy-and-programs>

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

The Department of Energy (DOE) Office of Electricity Delivery and Energy Reliability has hosted the following national regional consultation sessions:

- AIPC Meeting at Acoma Pueblo - July 27, 2010
- Affiliated Tribes of Northwest Indians (ATNI) - September 22, 2010
- United South and Eastern Tribes (USET) - October 14, 2010

The Department of Energy (DOE) Office of Indian Energy Policy and Programs held eight Tribal Roundtables from March 16, 2011, to April 14, 2011. Roundtables were facilitated by the Udall Foundation's U.S. Institute for Environmental Conflict Resolution and held in the following locations:

1. Reno, NV 03.16.2011
2. Las Vegas, NV 03.16.2011
3. Pala, CA 03.23.2011
4. Washington, DC 03.30.2011
5. Phoenix, AZ 04.05.2011
6. Albuquerque, NM 04.06.2011
7. Anchorage, AK 04.14.2011
8. Tulsa, OK 04.14.2011

A ninth roundtable scheduled for Quinault, WA on 04.12.11 was postponed.

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Consultation Policy Status

Final as of December 14, 2010. (16 pages)

<http://www.hhs.gov/intergovernmental/tribal/docs/fnlbcnsplcy.pdf>

Implementation Plan Status

Submitted on February 4, 2010.

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

For detailed information on HHS's tribal consultations, please visit:

<http://www.hhs.gov/intergovernmental/tribal/tribalconsultation/tribalconsultation.html>

ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF)

Consultation Policy Status

Final as of August 18, 2011. (29 pages)

http://www.acf.hhs.gov/tribal/docs/ACF_TCP_Final.pdf

Implementation Plan Status

ACF follows HHS's agency-wide implementation plan.

Agency Native American Website

<http://www.acf.hhs.gov/tribal/index.html>

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Tribal liaisons are listed on this website: <http://www.acf.hhs.gov/tribal/liaisons.html>

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

- September 29, 2010
- August 18, 2011
- ACF's next consultation session is being planned for March 5-6, 2012.

CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)/AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY (ATSDR)

Consultation Policy Status

CDC's tribal consultation policy was issued on October 18, 2005. CDC is in the process of revising the current policy. It is anticipated that the revised policy will be approved and issued in the spring 2012.

http://www.cdc.gov/ostlts/tribal_public_health/TCAC/policy.html

Implementation Plan Status

The CDC/ATSDR follows HHS's agency-wide implementation plan.

Agency Website for American Indians/Alaska Natives

http://www.cdc.gov/ostlts/tribal_public_health/

Agency Contacts

The Office of the Director, CDC and Administrator for ATSDR, through the Office for State, Tribal, Local and Territorial Support (OSTLTS), Office for Tribal Support will be responsible for ensuring agency-wide adherence to CDC and HHS tribal consultation policies. Official CDC/ATSDR points of contact for tribal issues are:

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

7th Biannual Tribal Consultation Session
August 24, 2011
Suquamish, WA

6th Biannual Tribal Consultation Session
February 3, 2011
Atlanta, GA

5th Biannual Tribal Consultation Session
July 29, 2010
Havre, Montana

4th Biannual Tribal Consultation Session
January 28, 2010
Atlanta, Georgia

3rd Biannual Tribal Consultation Session
August 13, 2009
Anchorage, Alaska

2nd Biannual Tribal Consultation Session
November 20, 2008
Tohono O'odham Nation
Tucson, Arizona

1st Biannual Tribal Consultation Session
February 26-28, 2008
Atlanta, Georgia

CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

Consultation Policy Status

Final as of November 17, 2011. (10 pages)

http://www.cms.gov/AIAN/Downloads/CMSTCP_FINAL%2011_17_11.pdf

Implementation Plan Status

CMS follows HHS's agency-wide implementation plan.

Agency Website for American Indians/Alaska Natives

https://www.cms.gov/CMSLeadership/33_Office_TribalAffairsGroup.asp

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

CMS has finalized a formal consultation policy consistent with the Department of Health and Human Services Tribal Consultation Policy. The guiding principle of the policy is to ensure that broad based input is sought by CMS prior to taking actions that have the potential to affect federally recognized tribes. The agency specific policy establishes a clear, concise, and mutually acceptable process through which consultation can take place between CMS and Tribes. In response to the release of this policy, CMS held an All Tribes Call on Friday, December 9, 2011 to discuss the policy and answer questions the tribes had.

NATIONAL INSTITUTES OF HEALTH (NIH)

Consultation Policy Status

None.

Implementation Plan Status

None.

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DEPARTMENT OF HOMELAND SECURITY (DHS)

Consultation Policy Status

Final as of May 11, 2011. (3 pages)

http://www.mtwytlc.org/images/stories/users/01559_01040.pdf

Implementation Plan Status

Submitted on May 1, 2010.

Progress Report Status

Submitted August 2010.

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

DHS Secretary Napolitano conducted a tribal leader listening session at the NCAI Executive Council Winter Session in 2009 in Washington, DC.

FEMA Administrator Fugate held tribal listening sessions following the Presidential Tribal Summit, November 2009, a tribal listening session at the NCAI annual conference in Palm Springs in 2009, listening session at the NCAI annual conference in Albuquerque in 2010.

DHS Intergovernmental Affairs Assistant Secretary Betsy Markey conducted a tribal leader listening session at the 2011 fNCAI Annual Conference in Portland, Oregon.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Consultation Policy Status

Final as of June 28, 2001. (6 pages)

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/regs/govtovgov_tcp

An updated policy will be released soon.

Implementation Plan Status

Submitted.

Agency Website for American Indians/Alaska Natives

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/onap/

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

Tribal Consultations and Background on Revising HUD's Government-to-Government Tribal Consultation Policy

In response to President Clinton's Executive Order 13175 on "Consultation and Coordination with Indian Tribal Governments," (November 6, 2000), HUD implemented its Government-to-Government Tribal Consultation Policy on June 28, 2001.

In response to President Obama's November 5, 2009, Executive Memorandum on Tribal Consultation, HUD developed its action plan to revise the existing Tribal Consultation Policy by taking these steps:

In January 2010, HUD's Assistant Secretary for Public and Indian Housing met with representatives from other offices within HUD. Information was shared, advice was sought, and the Office of Native American Programs (ONAP) was identified as the lead office within the Department for this task.

As part of the comprehensive action plan, HUD created a dedicated mailbox to receive Consultation Policy comments from tribal governments, tribal officials and the public (TribalConsultationPolicyComments@hud.gov). All comments received have been posted on HUD's website, CODETALK (<http://www.hud.gov/offices/pih/ih/codetalk/>), which is accessible to the public.

Throughout January 2010, HUD held a series of regional tribal consultation sessions (see the schedule below). Each consultation session was hosted by one of the six Area ONAP Administrators. Prior to all meetings, each Area ONAP sent out invitation letters to all tribes and tribally designated housing entities to inform them of the meetings. The correspondence package included the President's Memorandum of November 5, 2009, Executive Order 13175, HUD's current tribal consultation policy, and a list of questions designed to prompt discussion and focus on the issues.

ONAP's Deputy Assistant Secretary (DAS) attended a Northwest ONAP and Eastern/Woodlands ONAP session, and the Assistant Secretary for Public and Indian Housing participated in the initial session held in Suquamish, Washington.

At all sessions, participants were informed that the electronic mailbox had been established to receive their comments, and HUD's CODETALK website would be used to display all comments received.

ONAP collected and consolidated all comments from participants who attended these consultation sessions, as well as all comments received by other means. HUD carefully reviewed all comments received from all sources. Summaries of each consultation session were posted on the CODETALK website, along with all additional comments, and any related materials received.

Listed below are the outreach and consultation sessions held in 2010.

- Northwest ONAP: January 13 in Suquamish, WA (outreach) in conjunction with the Northwest Indian Housing Association quarterly meeting; and January 21 in Seattle, Washington. A conference call-in number was provided for those that could not attend the January 21st session.
- Alaska ONAP: January 20 in Anchorage, Alaska (outreach) held in conjunction with an Alaska Association of Regional Indian Housing Authorities meeting.
- Southern Plains ONAP: January 21 in Norman, Oklahoma. Held in conjunction with a Southern Plains Indian Housing Authority meeting.
- Northern Plains ONAP: January 21 in Denver, Colorado. A conference call-in number was provided for those that could not attend the session.
- Southwest ONAP: January 25 in Scottsdale, Arizona.
- Eastern/Woodlands ONAP: January 28 and 29 in Hollywood, Florida. The January 28 session was on tribal consultation; the January 29 session was on the American Recovery and Reinvestment Act.

Listed below are the actions that the Department has taken and will take to update and revise the existing Government-to-Government Tribal Consultation Policy.

HUD has examined the existing policy and reviewed all comments received, both during and after the regional consultations.

Based on the comments received and the recommendations made at the regional Tribal Consultation Policy meetings held throughout the country, ONAP developed a number of revisions to the policy. In examining the existing policy, it was determined that although some changes were necessary to improve it, the current policy was fundamentally sound. Many comments emphasized the need to clarify some of the terms used in the policy, make changes to certain sections of the policy to more clearly emphasize the government-to-government relationship, insert definite timelines for proposed actions and more closely adhere to existing provisions. There was also a request to streamline the policy by consolidating two separate sections into one.

The Assistant Secretary for Public and Indian Housing will share the revised draft policy with all offices within HUD, and request their comments through a formal Departmental clearance process.

After departmental clearance is completed, HUD will distribute the revised Tribal Consultation Policy to tribes throughout the country by means of a “Dear Tribal Leader letter” that will be sent to every federally recognized tribe and each tribally designated housing entity (TDHE).

Tribes and TDHEs will be given a reasonable amount of time to formulate their responses to the revised draft policy. Once the tribes and TDHEs have offered their comments and recommendations, HUD will review the comments and revise the policy again, as necessary.

HUD will then publish the revised policy in the *Federal Register*. The *Federal Register* notice will provide a 60-day public comment period. There will be clear timelines in the notice that will establish the process for publication of the final version of the revised Tribal Consultation Policy.

HUD's website CODETALK will concurrently provide information on the policy's progress toward completion, and it will contain all comments received on all versions of the Tribal Consultation Policy.

The revised Tribal Consultation Policy will become final after HUD reviews all public comments, and incorporates any additional changes. HUD will publish the policy in the *Federal Register* within 90 days of finalization, and the notice will contain the date that the policy becomes effective. HUD will also again distribute it to all tribes and TDHEs.

Tribal Consultations on the American Indian, Alaska Native and Native Hawaiian Housing Needs Assessment

- 2010/2011: Seven regional meetings, from December 2010 to March 2011, to discuss the upcoming Housing Needs Assessment. (1) Dec 1-2 Denver. (2) Dec 14-15 Reno, NV. (3) Jan 12-13 Honolulu. (4) Jan 26-27 Oklahoma City. (5) Feb 23-24 Hollywood, FL. (6) March 2-3 Seattle. (7) March 23-24 Anchorage.
- Week of 6-13-11: Assistant Secretary Bostic spoke at NCAI in Milwaukee.
- 7-14-11 teleconference: HUD, tribal leaders, NAIHC and NCAI co-hosted a national teleconference to discuss the process being followed by HUD in the implementation of the study.
- 7-27-11: ONAP DAS Rodger Boyd and Assistant Secretary for PDR Raphael Bostic met with NAIHC, NCAI and tribal leaders in Washington, DC.
- 7-28-11: Consultation meeting co-hosted by NCAI and NAIHC in Washington, DC. ONAP and PDR met with tribal leaders to address issues and concerns regarding the upcoming study.

Tribal Consultations on the American Recovery and Reinvestment Act

- Eastern/Woodlands ONAP: January 29, 2010, Hollywood, Florida.
- ONAP held American Recovery and Reinvestment Act listening sessions in conjunction with NAIHC. They were held in December 2009 (Las Vegas), April 2010 (DC), and December 2010 (Las Vegas).

Tribal Consultations on Streamlining the Indian Housing Plan and Annual Performance Report

During a consultation session held in St. Paul, Minnesota, in July 2001, tribes recommended that the IHP and APR be revised to combine all information into one form and change reporting from a grant-based to a program year-based system. In response to this recommendation from tribes, HUD held eight tribal consultation meetings throughout the country from January to May 2005 to solicit comments and recommendations on the existing IHP and APR.

Once all comments were received from the consultation sessions, a tribal workgroup was established consisting of 12 tribal representatives selected by their respective regional housing associations to work with HUD staff to incorporate the suggestions gathered at the tribal consultations into a revised form. The draft IHP/APR was presented to tribal leaders at HUD's Native American Homeownership Summit in September 2005 and at the National American Indian Housing Council Convention in May 2007 and May 2009.

On February 11, 2008, ONAP sent a letter to tribal leaders and TDHEs providing a copy of the proposed changes to the IHP and APR forms. The letter requested feedback on the forms.

During 2010, the Negotiated Rulemaking Committee established to implement the statutory revisions to NAHASDA was consulted regarding the draft form during the negotiated rulemaking sessions conducted from May through August of 2010. Comments and feedback were gathered and final revisions were made to the draft form.

Regional Consultation on Training Coordination

August 2011: The Northern Plains Office of Native American Programs partnered with UNAHA and conducted informal outreach and consultation with Northern Plains tribes on training coordination.

DEPARTMENT OF THE INTERIOR (DOI)

Consultation Policy Status

Final as of December 1, 2011. (3 pages)
<http://www.doi.gov/tribes/Tribal-Consultation-Policy.cfm>

Implementation Plan Status

Submitted on January 27, 2010.

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Highlights of Major Consultation Efforts Since 2009

Please see the following link for a list of Interior's consultations:
<http://www.doi.gov/documents/TribalConsultationMeetings.html>

DEPARTMENT OF JUSTICE (DOJ)

Consultation Policy Status

Draft as of December 2011. (4 pages)

<http://www.justice.gov/otj/pdf/tribal-consultation-policy.pdf>

Implementation Plan Status

Submitted July 29, 2011.

Agency Website for American Indians/Alaska Natives

<http://www.justice.gov/otj/>

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

DOJ CONSULTATIONS (Led and Participated in)	LOCATION	REVELANT DATES
DOJ Indian Country Listening Session	St Paul, MN	Oct. 28-29, 2009
Department Tribal Consultation and Coordination Policy	Teleconference	Nov. 2009
Coordinated Tribal Assistance Solicitation (CTAS)	Teleconference	Dec. 2009
Prevent All Cigarette Trafficking Act	Washington, DC	June 8, 2010

Sex Offender Registration and Notification Act (SORNA) Supplemental Guidelines	Teleconference	June 8, 2010
SORNA Supplemental Guidelines	Rapid City, South Dakota	June 18, 2010
Office of Community Oriented Policing Methamphetamine Funding	Rapid City, South Dakota	June 18, 2010
SORNA Supplemental Guidelines	Teleconference	June 29, 2010
Violence Against Women Act Annual Consultation	Spokane, Washington	Oct. 4, 2010
CTAS	Spokane, Washington	Oct. 5, 2010
SORNA Supplemental Guidelines	Spokane, Washington	Oct. 5, 2010
Tribal Law and Order Act Implementation	San Diego, California	Oct. 12, 2010
Tribal Law and Order Act Implementation	Billings, Montana	Oct. 14, 2010
Tribal Law and Order Act Implementation	Albuquerque, New Mexico	Oct. 20, 2010
Tribal Law and Order Act Implementation	Miami, Florida	Oct. 28, 2010
Tribal Law and Order Act Implementation	Albuquerque, New Mexico	Nov.17, 2010
Tribal Law and Order Act Implementation	Agua Caliente, CA	Dec. 8, 2010
Tribal Law and Order Act Implementation	Hayward, Wisconsin	March 23, 2011
Tribal Law and Order Act Implementation	Salt River, Arizona	May 10 and 11, 2011
SORNA Supplemental Guidelines	Scottsdale, Arizona	May 11, 2011
Violence Against Women Act: Proposed Legislation	Milwaukee, Wisconsin	June 14, 2011
SORNA Supplemental Guidelines	Milwaukee, Wisconsin	June 14, 2011
Violence Against Women Act: Proposed Legislation	Teleconference	June 16 and 17, 2011
SORNA Supplemental Guidelines	Teleconference	June 30, 2011

DEPARTMENT OF LABOR (DOL)

Consultation Policy Status

Draft (not public yet).

Implementation Plan Status

Submitted February 2010.

[http://www.ncai.org/fileadmin/governance/DOC Tribal Govt Consultation Plan 2010 final .pdf](http://www.ncai.org/fileadmin/governance/DOC_Tribal_Govt_Consultation_Plan_2010_final_.pdf)

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Highlights of Major Consultation Efforts Since 2009

- Dec. 14, 2009 – Washington, DC
- Jan. 5, 2010 – Minneapolis, MN
- Jan. 12, 2010 – Phoenix, AZ
- Oct. 26, 2011 – Listening Session Teleconference
- Oct. 30, 2011 – Listening Session at NCAI Convention in Portland, OR

DEPARTMENT OF STATE (DOS)

Consultation Policy Status

A Department of State official has informed NCAI that its consultation policy is in its implementation plan.

Implementation Plan Status

Submitted on February 3, 2010.

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Highlights of Major Consultation Efforts Since 2009

Teck Cominco boundary water pollution issue on the Upper Columbia River
April 28, 2010

United Nations Declaration on the Rights of Indigenous Peoples
June 21, 2010
Rapid City, South Dakota

United Nations Declaration on the Rights of Indigenous Peoples
July 7, 2010
Washington, D.C.

Columbia River Treaty Review Process
June 23, 2011
Washington, D.C.

United Nations Declaration on the Rights of Indigenous Peoples

October 14, 2010
Washington, D.C.

Keystone XL

Oklahoma City, Washington D.C., etc.

Sessions were done with 45 tribes from across the U.S. during 2009 in preparation of the programmatic agreement and tribal monitoring plan concerning the Keystone XL Pipeline.

Federal Update: U.S. Preparations for the 2012 UN Conference on Sustainable Development (Rio+20)

NCAI Annual Convention, November 3, 2011

Portland, OR

Lawrence Gumbiner, Deputy Assistant Secretary, Bureau of Oceans, International Environmental and Scientific Affairs (OES), State Department

DEPARTMENT OF TRANSPORTATION (DOT)

Consultation Policy Status

A Department of Transportation official has informed NCAI that the Department of Transportation's implementation plan functions as the department's formal tribal consultation policy.

Implementation Plan Status

Submitted March 2010.

<http://www.dot.gov/tribal/docs/consultationplan.pdf>

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

The United States government has a unique legal relationship with federally-recognized tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. The federal government recognizes the right of self-determination for tribal governments and the obligation to work with Indian tribal governments in a government-to-government relationship. As an executive agency, the U.S. Department of Transportation (USDOT) has a responsibility and is committed to working with tribal governments in this unique relationship, respecting tribal sovereignty and self determination.

The USDOT seeks to foster and facilitate positive government-to-government relations between the Department and all federally-recognized tribes. To develop, improve, and maintain partnerships with Indian tribes, the Department frequently engages in consultations and meetings with tribal leaders and staff. Some examples of these consultations are included described below.

The Federal Highway Administration

On July 14, 2010, the Bureau of Indian Affairs (BIA) announced tribal consultations in partnership with the Federal Highway Administration (FHWA) to discuss a proposed change in how BIA and FHWA will implement Question 10 of 25 CFR Part 170, Subpart C.

The consultation sessions were held on the following dates, at the following locations:

- July 28, 2010 Providence, RI 1 p.m. - 5 p.m.
- August 17, 2010 Albuquerque, NM 9 a.m. - 1 p.m.
- August 18, 2010 Las Vegas, NV 9 a.m. - 1 p.m.
- August 19, 2010 Sacramento, CA 1 p.m. - 5 p.m.
- August 31, 2010 Billings, MT 9 a.m. - 1 p.m.
- September 1, 2010 Minneapolis, MN 1 p.m. - 5 p.m.
- September 14, 2010 Anchorage, AK 9 a.m. – 1 p.m.
- September 15, 2010 Seattle, WA 1 p.m. – 5 p.m.
- September 21, 2010 Oklahoma City, OK 9 a.m. – 1 p.m.
- September 22, 2010 Rapid City, SD 1 p.m. – 5 p.m.

National Highway Traffic Safety Administration

The following list includes tribal meetings in which National Highway Traffic Safety Administration (NHTSA) participated:

Date	Participants	Topic	Location
5/11/09	BIA IHSP Law Enforcement Advisory Committee (Hosted by BIA IHSP)	BAT Mobile Project	Albuquerque, NM
8/5/09	Lummi Nation (Hosted by BIA IHSP)	Site visit with Lummi Tribe regarding enforcement project	Lummi, WA
8/6/09	Washington traffic safety office staff, Colville Tribal PD (Hosted by BIA IHSP)	Site visit with staff from the Washington TSO to the Colville Nation to discuss joint project	Colville, WA
4/27-28/10	OK TTAP, BIA IHSP, FHWA, Federal Lands and Tribes (Hosted by FHWA & TTAP)	Oklahoma Tribal Transportation Summit	Midwest City, OK
6/8-9/10	BIA and Tribes (hosted by BIA IHSP)	BIA project refresher training	Albuquerque, NM
10/26-27/10	BIA and Tribes (hosted by BIA IHSP)	Project Management Training	Albuquerque, NM
11/2010	BIA, NHTSA, Tribes	Meeting to discuss 403 demo	

		project and gauge Tribal interest	Fort Worth, TX
3/27-29/11	BIA & Tribes (hosted by BIA IHSP)	Lifesavers Conference	Phoenix, AZ
4/30/11	BIA & Tribes (Hosted by BIA IHSP)	Grants Writing Training	Phoenix, AZ

The Federal Transit Administration

In 2010, the Federal Transit Administration (FTA) Tribal Transit Program (TTP) invested additional resources to meet the needs of the growing number of TTP recipients. This resulted in FTA conducting site visits to tribes. The purpose of the visits was to conduct on-site Needs Assessments of ten tribes. These Needs Assessments evaluated the capacity of the tribes to meet FTA requirements under the TTP. The information collected during these Needs Assessments were used to design Tribal Transit Program workshops to meet the needs of the tribes.

The site visits were conducted at the following locations:

- Jan 25-26, 2011 – Seminole, OK
- Jan 27, 2011 – Potawatomi, OK
- Feb 23-24, 2011 – Navajo, AZ
- March 22-23, 2011 – Cheyenne River Sioux Tribe, SD
- March 22-23, 2011 – Chickasaw, OK
- March 24-25, 2011 – Oglala Sioux Tribe, SD
- March 24-25, 2011 – Choctaw, OK
- May 3 – 4, 2011 - Ponca Tribe, OK
- May 5-7, 2011 – Miami Tribe, OK
- June 20-21, 2011 – Sitka Tribe of Alaska, AK
- June 23-24, 2011 - Chickaloon Native Village, AK

The Workshops were conducted in the following states:

- Charlotte, NC - May 10 – 11, 2011
- New Mexico – September 6-8, 2011
- Oklahoma City, OK - May 26 – 27, 2011
- Spokane, WA - April 18 – 21, 2011
- Alaska – Scheduled for mid October 2011

The Federal Aviation Administration

The Federal Aviation Administration (FAA) also conducted tribal consultations with individual tribes on a variety of aviation issues throughout the past two years.

DEPARTMENT OF THE TREASURY

Consultation Policy Status

Draft (internal only, as of July 23, 2010).

Implementation Plan Status

None.

Progress Report Status

Submitted on July 23, 2010.

<http://www.treasury.gov/resource-center/economic-policy/tribal-policy/Documents/Treasury%27s%20Tribal%20Consultation%20Progress%20Report%20Aug%202010.PDF>

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DEPARTMENT OF VETERAN AFFAIRS (VA)

Consultation Policy Status

Final as of February 4, 2011. (7 pages)

www.va.gov/TRIBALGOVERNMENT/docs/consultation_policy.pdf

Implementation Plan Status

Submitted.

www.va.gov/TRIBALGOVERNMENT/docs/plan_of_action.pdf

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US ARMY CORPS OF ENGINEERS

Consultation Policy Status

Second draft as of January 2012. Agency plans to release a final version of policy at the end of 2012.

Implementation Plan Status

Submitted to OMB through Department of Defense on January 7, 2010.

http://www.usace.army.mil/CECW/TribalIssues/Documents/poa_usace_07jan10.pdf

Agency Website for American Indians/Alaska Natives

<http://usace.army.mil/CECW/Tribalissues/Pages/ArticleTemplate.aspx>

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

1. Ongoing regular consultation meetings with the Columbia River Tribes, principally the Nez Perce, Umatilla, Warm Springs, and Yakama, on various projects and programs affecting salmonids and lamprey eel, and the general health of the river and its tributaries. Ongoing consultations with the Columbia River Inter Tribal Fish Commission (CRITFC) on same issues. Consultations underway with all Columbia River Tribes and CRITFC concerning the renewal of the upcoming USA/Canada treaty on the Columbia River system.
2. National consultation on reissuance of the Nationwide permits in 2006 and 2011. HQ directed districts to meet with tribes to discuss and deliberate over the nationwide permit process.

3. Largest regional consultations routinely take place along the Missouri River with all Lakota, Dakota and Nakota Nations, as well as TAT and upriver tribes. Subjects are management and protection of cultural resources, monitoring, etc. comes from the largest PA written - 43 pages - ratified in 2004.

4. Regional consultations on fires and flooding in New Mexico (Las Conchas fire/flood), Missouri, Kentucky and Tennessee (New Madrid levee blow) and Missouri River flooding (Montana, North Dakota, South Dakota, Nebraska, Kansas). Direct aid to Tribes provided in all cases.

INDEPENDENT AGENCIES AND OTHER GOVERNMENT ENTITIES

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Consultation Policy Status

Adopted on November 17, 2000.

<http://www.achp.gov/policystatement-tribes.html>

Implementation Plan Status

Submitted on February 3, 2010.

http://www.achp.gov/docs/tribal_consultation_plan.pdf

Progress Report Status

Submitted, available upon request.

Agency Website for American Indians/Alaska Natives

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COMMISSION ON CIVIL RIGHTS

Consultation Policy Status

None.

Implementation Plan Status

None.

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DENALI COMMISSION

Consultation Policy Status

None. The Denali Commission is currently identifying and developing a list of best practices for tribal consultation in Alaska that can be used across the family of federal agencies.

Implementation Plan Status

None.

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

Effective tribal consultation in Alaska must address several factors unique to Alaska, including working with 229 federally recognized tribes in Alaska as well as the ANCSA regional and village corporations. For example, in Alaska there is not only a government-to-government relationship between the federal government and tribes, but also an expected government-to-corporation relationship with the ANCSA corporations. To address this unique situation, the Denali Commission has convened a workgroup of federal partners to develop a tribal consultation protocol specific to Alaska. This protocol can then be considered and possibly adopted as appropriate across the family of federal agencies in their work with tribal governments throughout the state of Alaska.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Consultation Policy Status

Final as of May 4, 2011. (8 pages)

<http://www.epa.gov/indian/pdf/cons-and-coord-with-indian-tribes-policy.pdf>

Implementation Plan Status

Submitted.

<http://www.epa.gov/indian/pdf/epa-consultation-plan.pdf>

Agency Website for American Indians/Alaska Natives

<http://www.epa.gov/indian/>

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For a comprehensive list of regional and national EPA contacts, please visit:

<http://www.epa.gov/tribalportal/contactinfo/index.htm>

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

For a listing of the EPA's tribal consultations, please visit:
<http://yosemite.epa.gov/oita/TConsultation.nsf/TC?OpenView>

FARM CREDIT ADMINISTRATION

Consultation Policy Status

None. A Farm Credit Administration official has informed NCAI that the agency does not currently have any directives or regulations that would affect tribes. In the event that the agency ever does, it plans to develop a protocol for tribal consultation.

Implementation Plan Status

None.

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FEDERAL COMMUNICATIONS COMMISSION (FCC)

Consultation Policy Status

Final as of June 23, 2000. (4 pages)

<http://www.fcc.gov/Bureaus/OGC/Orders/2000/fcc00207.doc>

In August 2010, the FCC created its Office of Native Affairs and Policy to develop and drive an agency-wide tribal agenda.

Implementation Plan Status

As an independent agency of the federal government, the FCC developed its own policy statement on tribal consultation in 2000. The FCC's consultation program and the furtherance of its past Indian telecommunications initiatives is being developed at this time, although consultations, meetings, and listening sessions with tribes are ongoing in a variety of forms, locations, and on multiple subjects and matters, all related to increasing the levels of communications services for tribal nations.

Agency Website for American Indians/Alaska Natives

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Highlights of Major Consultation Efforts since 2009 (Submitted by the Agency)

This section includes consultations, listening sessions, and related meetings held with tribal leaders since the creation of FCC's Office on Native Affairs and Policy (ONAP) in August 2010. Since that date, ONAP has held consultations, listening sessions, and discussions with representatives from approximately 250 tribes either in sessions with leaders of individual tribes or regionally with leaders from a number of tribes at meetings of national and regional tribal organizations.

Additionally, the FCC created, appointed members to, and held the first meeting of the FCC-Native Nations Broadband Task Force which, in part, is charged with guiding the Commission in the development of a consultation policy. The FCC-Native Nations Broadband Task Force is comprised of elected and appointed tribal leaders from across the nation, as well as senior managers and decision makers from across the Commission's many bureaus and offices.

While not completely exhaustive, ONAP's consultations, listening sessions, and meetings with tribal leaders to date include the following:

- **Oct. 18, 2011: Conducted meetings with the Chairman and each Commissioner on Universal Service reform rulemaking:** ONAP fostered and participated in separate meetings between representatives of the National Tribal Telecommunications Association (the 8 tribally owned and operated telecom companies), the National Congress of American Indians, and the Affiliated Tribes of Northwest Indians, with the Chairman and Commissioners of the FCC and their legal advisors on tribal priorities and proposals for the Connect America Fund and Intercarrier Compensation rulemaking on Universal Service Fund reform.
- **Sept. 25-29, 2011: Conducted consultations with the tribal nations of the lower Klamath River Valley in Northern California:** From September 25th to 29th, in a region never before visited by the FCC ONAP, senior staff met with the tribal chairman, council members, and educators of the Karuk Tribe; the tribal chairman and council members of the Hoopa Tribe, as well as the general manager and staff of the Hoopa Tribe's radio station KIDE-FM; and with the council members, IT department, public safety officials, and educators within the Yurok Tribe. Meetings and sessions were conducted in the tribal headquarters of these three tribal nations, as well as at educational and key community anchor institutions in completely un-served areas of their tribal lands.
- **Aug. 31 to Sept. 3, 2011: Conducted consultation meetings with tribal nations in New Mexico:** ONAP met with the president the All-Indian Pueblo Council representing the 20 Pueblos of New Mexico on a myriad of communications and broadband related issues; met with the IT department and public safety officials of Santa Ana Pueblo; and met with the

governor, tribal council members, and several administration officials of Acoma Pueblo, on broadcast, broadband, and public safety related matters.

- **Sept. 16-19, 2011: Conducted consultation session and presentations with Arizona tribal nations:** ONAP senior staff held a presentation and listening session with the tribal leaders of the Arizona Inter-Tribal Council, as well as several separate individual meeting with elected leaders of Arizona tribes on various matters, these included the Hopi Tribe, Fort Mojave Indian Tribe, Colorado River Indian Tribes, and others on matters involving broadband, radio broadcasting, and ETC designation related matters.
- **Sept. 6-15, 2011: Omnibus consultation travel in North and South Dakota to meet with tribal leaders on broadband and other communications issues:** Conducted meetings and consultations with tribal Leaders in North and South Dakota regarding communications deployment planning, Universal Service Fund reform, the National Broadband Plan, eRate program, tower siting and the historic preservation review to protect tribal sacred sites, and many other subjects. On September 9, ONAP Chief Geoffrey Blackwell presented on FCC programs and initiatives, including Lifeline and Link Up, as an invited speaker at a session with many tribal leaders of the Great Plains Tribal Chairman's Association as well as the recently formed Coalition of Large Tribes (COLT), which was part of a larger United Tribes Summit held in Bismarck, ND. The ONAP senior staff then travelled to the Standing Rock, Cheyenne River, Lower Brule, and Pine Ridge reservations in North and South Dakota to meet with representatives from each tribal government, tribally-owned telecommunications companies, tribal colleges, and a tribal elementary school. During this ten-day trip, ONAP attended a number of meetings and travelled to remote portions of these reservations to discuss tribal experiences in gaining access to telephone and Internet service through major carriers, financing and running their own companies, and specific cultural and historic preservation concerns relating to several planned or current tower sites.
- **Sept. 6, 2011, Informed tribal leaders about developments with the Lifeline and Link Up Programs:** Sent letter to leaders of the federally recognized American Indian tribes and Alaska Native villages about the Enhanced Lifeline and Link Up programs available on tribal lands, an initiative to eliminate duplicate subscriptions in order to conform with program rules, and to inform tribal leaders about Lifeline Awareness Week held September 12 -17, and urge them to advise eligible low-income tribal members about the program and how to subscribe to it.
- **August 30 to September 1, 2011: Participated in the Utah Native Nations Summit in Salt Lake City, UT:** Presented at a panel session, met with tribal leaders about broadband deployment and other communications issues, and exhibited.
- **May 12, 2011: Participated in a Northern Cheyenne Tribe consultation teleconference:** Discussed tribal telecommunications and deployment issues.

- **March 14-17, 2011: Participated in the Reservation Economic Summit (RES) in Las Vegas, NV:** Conducted a consultation session with tribal leaders and managers on the Native Nations Day proceedings (see below), led a panel discussion, exhibited and held one-on-one meetings with tribal representatives.
- **March 3, 2011: Conducted Native Nations Day at the FCC:** ONAP coordinated Native Nations Day at which the FCC acted on several regulatory items to strengthen and expand communications services to Native Nations and their communities. The Commission held Native Nations Day as part of its open meeting with a renewed focus on initiatives that will help expand access to vital communications, including broadband, wireless, and radio services in these communities across the United States. The meeting included unprecedented public presentations from several Native nation leaders and afternoon nation-to-nation listening sessions. The items adopted by the Commission include:
 - A Notice of Inquiry on improving communications services for Native nations that seeks comment on a number of issues, including greater broadband deployment, the need for a uniform definition of tribal lands to be used agency-wide in rulemakings, and the importance of strengthening the FCC's nation-to-nation consultation process with Native nations.
 - A Notice of Proposed Rulemaking on ways to expand the efficient use of spectrum over tribal lands so as to improve access to mobile wireless communications.
 - A Second Report and Order, First Order on Reconsideration, and a Further Notice of Proposed Rulemaking that will help expand the FCC's current radio tribal priority rules and increase opportunities for tribal entities to provide broadcast radio services to Native communities.
- **January 20-24, 2011: Conducted fact-finding travel to explore broadband access and service challenges on Hawaiian homelands and in rural Hawaii:** ONAP Chief participated in a trip requested and coordinated by the Office of Hawaii Senator Inouye. ONAP visited locations on Hawaiian homelands and in rural areas to learn about broadband and communications challenges faced by Native Hawaiians.
- **October 4-7, 2010: Participated in TribalNet 2010 in Reno, NV:** Met with tribal leaders and tribal IT and telecom managers about FCC actions affecting tribes.
- **November 18, 2010: Met with the governor and senior officials from the Picuris Pueblo in Peñasco, NM:** ONAP staff met with the governor and senior officials from the Picuris Pueblo on broadband deployment and other telecommunications issues.
- **November 14-17, 2010: Participated in sessions at the annual conference of the National Congress of American Indians in Albuquerque, NM:** Presented to attendees and conducted consultation session with tribal leaders.
- **November 7, 2010: ONAP presented to and held a listening session with the Inter Tribal Council of Arizona in Phoenix, AZ:** Listened to concerns about broadband access and deployment.

- **September 28, 2010: Met with tribal leaders of the Lummi Tribe in Northwest Washington State** – Discussed broadband, broadband deployment, and other tribal communications issues. ONAP also gave a presented to the Tribal Business Council.
- **September 27, 2010: Met with the tribal leaders from the Tulalip Tribe in Northwest Washington State:** Discussed broadband, broadband deployment, other tribal communications issues, and visited facilities on the reservation.
- **September 24, 2010: Met with leaders of the Colville Confederated Tribes in Washington State:** Discussed broadband, broadband deployment, other tribal communications issues, and toured telecommunications facilities on the reservation.
- **September 23, 2010: Met with Coeur d’Alene tribal managers in Idaho:** Discussed broadband, broadband deployment, and other tribal communications issues, and toured telecommunications facilities on the reservation.
- **September 20-22, 2010: Participated in the annual meeting of the Affiliated Tribes of Northwest Indians (ATNI) in Spokane, WA:** Addressed a general session on broadband deployment and other tribal telecom issues. Conducted a panel discussion on the broadband, Universal Service Programs, follow up to the DTV transition, and conducted a consultation session for tribal chiefs, presidents, and tribal council members. Also briefed the ATNI Telecommunications & Energy Committee on the broadband issues.
- **August 31, 2010: Met with managers of Gila River Telecommunications, Inc. (GRTI) in Gila River, AZ:** Discussed broadband, broadband deployment, and other tribal communications issues.
- **August 31, 2010: Presented to the National Tribal Telecom Association in Gila River, AZ:** Discussed broadband, broadband deployment, and other tribal communications issues. Followed up on the DTV transition, and discussed other tribal telecom issues.
- **August 31, 2010: Met with the executive director and staff of the Inter Tribal Council of Arizona in Phoenix, AZ:** Discussed broadband, broadband deployment, and other tribal communications issues.
- **August 27, 2010: Met with Hopi Tribal chairman, tribal leaders, and tribal radio station managers and staff in Second Mesa and Kykotsmovi, AZ:** Discussed broadband, broadband deployment, and radio broadcasting issues.
- **August 25, 2010: Presented to and met with the chairman and governors of the All Indian Pueblo Council in Ohkay Owingeh, NM:** ONAP and staff from the FCC’s Media and Public Safety and Homeland Security Bureaus discussed broadband, broadband deployment, other tribal communications issues, follow up to the DTV transition, and tribal broadband and public safety issues.

- **August 25, 2010: Met with commissioners and managers from the Navajo Nation Telecommunications Regulatory Commission in Albuquerque, NM:** ONAP and staff from FCC's Media and Public Safety and Homeland Security Bureaus discussed broadband, broadband deployment, Universal Service, and public safety issues.
- **August 20, 2010: Met with public safety official representatives from the Crow Tribe in Crow Agency, MT:** Discussed emergency services regarding fire safety communications on the Crow Indian Reservation.
- **August 20-22, 2010: Participated in the Annual Crow Fair in Crow Agency, MT:** ONAP and staff from the FCC's Media and Enforcement Bureaus exhibited and listened to tribal leaders and members about difficulties in providing broadband, basic telecom, and broadcast services on tribal lands.

FEDERAL ELECTION COMMISSION (FEC)

Consultation Policy Status

None.

Implementation Plan Status

None.

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FEDERAL HOUSING FINANCE AGENCY

Consultation Policy Status

None.

Implementation Plan Status

None.

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INDIAN ARTS AND CRAFTS BOARD

Consultation Policy Status

The Indian Arts and Crafts Board follows the Department of the Interior's tribal consultation policy.

Implementation Plan Status

None.

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MARINE MAMMAL COMMISSION

Consultation Policy Status

See below.

Implementation Plan Status

Submitted.

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

The Marine Mammal Commission has taken the approach of integrating Alaska Native considerations into our daily work. We do so by appointing a Special Advisor on Alaska Native Affairs. That Advisor is consulted on all matters pertaining to Alaska Native interests. Commission staff are in regular contact with our Advisor. Given our small size, our responsibilities under the Marine Mammal Protection Act, and our strong interests in working with Alaska Natives, we do not hold formal consultations, but rather seek to integrate their concerns into our daily work.

We also have consulted periodically (two to four times since 2009) with representatives of the Makah Indian tribe on matters pertaining to the subsistence harvest of gray whales.

NATIONAL INDIAN GAMING COMMISSION

Consultation Policy Status

Draft as of March 8, 2011. (10 pages)

<http://www.nigc.gov/LinkClick.aspx?fileticket=o6nllfoj0%3D&tabid=36>

Implementation Plan Status

None.

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NATIONAL LABOR RELATIONS BOARD (NLRB)

Consultation Policy Status

A National Labor Relations Board official has informed NCAI that it does not have a consultation policy because E.O. 13175 does not apply to independent regulatory agencies. However, the agency has a long tradition of meeting with parties to discuss issues of mutual concern and is open to meeting with tribes when appropriate.

Implementation Plan Status

None.

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NATIONAL SCIENCE FOUNDATION (NSF)

Consultation Policy Status

None.

Implementation Plan Status

None.

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NATIONAL TRANSPORTATION SAFETY BOARD

Consultation Policy Status

None.

Implementation Plan Status

None.

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SECURITIES AND EXCHANGE COMMISSION (SEC)

Consultation Policy Status

None.

Implementation Plan Status

None.

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SMALL BUSINESS ADMINISTRATION (SBA)

Consultation Policy Status

Draft (not public).

Implementation Plan Status

Draft (not public).

Progress Report

Submitted to OMB in August 2010 and August 2011.

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

Since 2009, SBA has conducted five on-site tribal consultations on proposed and final changes to the Agency's 8(a) Business Development Program regulations. Consultations on the proposed regulatory changes were held in Seattle, WA and Albuquerque, NM on 12/16/09 and 1/13/10, respectively. Consultations on the final regulatory changes were held in Las Vegas, NV, Milwaukee, WI and Anchorage, AK on 3/17/11, 6/15/11 and 6/23/11, respectively.

In addition, SBA assisted OMB with its consultations on the 2010 Defense Authorization Act. These consultations took place in Washington, DC, Albuquerque, NM and Fairbanks, AK in October 2010.

SOCIAL SECURITY ADMINISTRATION (SSA)

Consultation Policy Status

Final as of February 2010. (2 pages)
<http://www.ssa.gov/aian/tribal-con-plan.pdf>

Implementation Plan Status

Submitted.

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Highlights of Major Consultation Efforts Since 2009 (Submitted by the Agency)

Over the past year, the SSA has:

- Partnered with Native American Community Clinics and the regional Indian Health Boards to identify and inform underserved tribal populations about our programs and services;
- Provided training to our local managers and public affairs personnel about effective outreach methods and educational resources for Indian tribes;
- Collaborated with Indian tribes and tribal social service agencies to identify and enroll eligible elders for Medicare benefits;
- Worked with State Disability Determination Services administrators to present program information at the Empowerment Conference for Native Americans with Disabilities;
- Participated in the Denver Indian Center Job Fair and shared information on available agency positions;

- Aired a radio program on the availability for vocational rehabilitation services, Social Security and Supplemental Security Income Disability work incentives for an Native American radio station, KILI 90.1 FM, in Porcupine, South Dakota;
- Published benefit-related articles in the Char-Koosta News publication of the Flathead Indian Nation in Montana;
- Presented an agency recruitment seminar about internship opportunities for Native American students at American University in Washington, D.C. and,
- Installed over 20 video service delivery terminals on Indian reservations throughout Arizona, Montana, New Mexico, North Dakota, Oregon, South Dakota, and Texas. These remote service locations enable individuals to easily file for Social Security benefits and access other critical agency services. See our American Indians and Alaska Native Website. www.ssa.gov/aian

Continuing Outreach and Tribal Consultation Efforts

The SSA has accomplished the following:

1. Seek Input from Tribes

In May 2011, we sent a letter to each tribal leader of the 565 federally recognized Indian tribes and included an overview of our Tribal Consultation and Coordination Plan. We requested that each tribal leader review and submit comments on our Tribal Consultation and Coordination Plan. To facilitate potential tribal leader responses and comments, we established an agency tribal e-mail, SSA.Tribal.Communications@ssa.gov. We received a response from the Confederated Tribes of Grand Ronde Oregon, who recommended that we post our Tribal Consultation and Coordination Plan on the American Indians and Alaska Natives (AIAN) website. We have met this request.

2. Develop Core Consultation Issues

The core issues for pursuing a consultation with an Indian tribe are program entitlement, benefit eligibility, and legislative or regulatory changes. We have not had any issues requiring a consultation with an Indian tribe. We will continue to seek feedback from the Indian tribes on the consultation process.

3. Staff Training and Awareness

We established a Tribal Outreach and Education Workgroup. The workgroup is creating an intranet site to house information on tribal communities and best practices with regard to outreach services. When we launch the site, we will share it with our employees nationwide.

We are working on developing training based on Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments, for our staff that will educate our employees on relationships with Indian tribes.

4. Consult Regularly with Tribes

We are available to work with tribal leaders and members. We have improved access to our services for Indian tribes. We:

- conducted programmatic seminars with tribal leaders and members,
- provided program publications to tribal benefit specialists,
- created training guides about program benefits and services (for distribution to third parties who work with Indian tribes), and
- provided additional Video Service Delivery Terminals on Indian reservations.

5. Communications between SSA and Tribal Governments

Since August 2010, we have participated on Indian tribal boards and committees. We also served as participants, speakers, and provided program materials at a number of Indian tribal events, including (these are some but not all the events):

- Interior Region Tribal Outreach Training (Fairbanks, Alaska, August 2010)
- National Indian Council on Aging Conference (Traverse City, Michigan, September 2010)
- Round Valley California Tribal Health Fair (Round Valley, California, September 2010)
- Alaska Federation of Natives Elders & Youth Conference (Fairbanks, Alaska, October 2010)
- National Congress of American Indian Conference (Albuquerque, New Mexico, November 2010)
- Centers for Medicare and Medicaid Services Health Summit (Seattle, Washington, November 2010)
- Coeur d'Alene Idaho Tribe Disability Workshop (Coeur d'Alene, Idaho, December 2010)
- Tulalip Tribe Briefing (Everett, Washington, January 2011)
- Northwest Indian College Presentation (Bellingham, Washington, February 2011)
- Inter Tribal Council Family Caregiver Conference (Fountain Hills, Arizona, February 2011)
- 37th Annual Denver, Colorado Pow Wow (Included Indian tribes from 33 States and several Indian tribes from Canada, March 2011)
- American Indian Business Leaders/AIBL National Tribal Youth Business Conference (Gila River, Arizona, March 2011)
- National Native HIV/AIDS Awareness Day Conference (Phoenix, Arizona, March 2011)
- National American Indian Girl and Woman HIV/AIDS Day Conference (Phoenix, Arizona, March 2011)
- Department of Health and Human Services Denver Region Tribal Consultation meeting. We met with the Secretary of Tribal Relations and shared information on our outreach with Indian tribes. The secretary praised our approach for

strengthening our relationships with tribal leaders and members (Rapid City, South Dakota, March 2011)

- National Indian and Native American Employment Training Conference (Scottsdale, Arizona, April 2011)
- Tribal Outreach Health Fair (Scottsdale, Arizona, April 2011)
- Indian Health Service Tribal Consultation Summit (Bethesda, Maryland, July 2011)
- American Indian Science and Engineering Society Government Relations Conference at NASA (Greenbelt, Maryland, July 2011)

6. Additional activities in support of Executive Order 13270 - Tribal Colleges and Universities

As part of our outreach and communications efforts with tribal governments and Tribal Colleges and Universities, we donated excess computer equipment to Indian reservations and Tribal Colleges and Universities in Arizona, New Mexico, and South Dakota. Our Tribal Outreach and Education Workgroup plans to expand the computer donation to other states in Fiscal Year 2012.

7. Additional activities underway:

- We will be participating at the 68th NCAI national conference and will regional coverage to staff our agency booth (October/November).
- Developing a National Native American Heritage Month Poster (will be made available on our website to order in November)
- Post an introductory video of our agency Tribal Consultation Official on the Social Security American Indians and Alaska Natives (AIAN) website (November 2011)
- Post a video on Tribal Communities How we Work Together by Social Security (November 2011)
- Send a Dear Tribal Leader letter out promoting the newly updated AIAN site (November 2011)
- Solicit to provide informational kits from Social Security to NCAI committees for distribution (pending)
- Promoting Tribal Employer Networks throughout Indian Country (coordinating with Jim Warne –Warrior Foundation CESSI/MAXIMUS- Ticket to Work initiative)
- Promoting Social Security Expediting Disability applications for Wounded Warriors throughout Indian Country