

July 18, 2011

The Honorable Secretary Kenneth Salazar  
United States Department of Interior  
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Dear Secretary Salazar:

Cook Inlet Tribal Council offers the following comments in response to the Proposed Policy on Consultation with Indian Tribes noticed by the Department of Interior on May 17, 2011 in Federal Register 76, 28446. We greatly appreciate the Administration's open approach to working with tribes and the principles embodied in the Consultation Policy. However, the Policy defines Indian Tribe or Tribe as "Any Indian or Alaska Native Tribes, band, nation, pueblo, village or community that the Secretary of Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a," and proposes to establish a separate policy for consultation with Alaska Native corporations. This definition and proposed separate consultation do not effectively represent the service needs of and federal agency interactions with Alaska Native people.

Currently, there are over 40 statutes based on the language of the Indian Self-Determination and Education Act (PL 93-638), which encompasses both Alaska Native villages and corporations in the definition of a tribe, thus assuring eligibility for funding and services. As a result, tribes and tribal organizations in Alaska have implemented federal Indian programs for over thirty years, and provide a key voice for federal Indian programs in Alaska.

In the Cook Inlet Region, including Anchorage, three tribal non-profit organizations (social services, housing and health) serve the 40,000 eligible Alaska Native people. These services are provided without regard to the recipient's home region, tribe or village. Intrastate mobility is a key factor in this inclusive approach, as individuals and families move frequently between Anchorage and the village for education and job opportunities, to escape interpersonal violence, or find relief from high rural fuel and food costs. Many Alaska Native people are not members of federally recognized tribes, while recognized by the Department of Interior and eligible for services.

Because of the unique Alaska landscape, federal programming and funding operates via several channels: tribes at the village and hub level, regional non-profit tribal organizations, and often through federal pass-through state contracts with tribes or

regional tribal organizations. In the areas of workforce development and social services, legal and legislative history has led to a patchwork of service provision. For example, in workforce development, tribes and regional tribal organizations operate Temporary Assistance to Needy Families (TANF) programs, career development, child care, and other community programs along a continuum to bring opportunity to Alaska Native people as well economic development opportunities. Tribes and tribal organizations also administer tribal operations grants and social services programs through the Bureau of Indian Affairs PL93-638 contracts and compacts.

Cook Inlet Tribal Council (CITC) is one of the three Anchorage area tribal non-profit organizations, providing educational, employment, family preservation, and addiction recovery services. CITC's governance consists of representatives of both the regional Alaska Native corporations and the tribes of the region. CITC leverages resources between federal formula funding, competitive grant funding, private sector donors (foundations, corporations, individuals), and earned income derived from social enterprise.

In this unique Alaska context, the federally recognized tribes are first and foremost in the government to government relationship between tribes and the federal government. At the same time, in order to adequately address Alaska Native issues, the Department of Interior needs to recognize that tribes are not the only Native organizations intersecting and contracting with federal agencies to provide services to Alaska Native and American Indian people in Alaska. Implementing a separate consultation process for Alaska Native corporations undermines the unity of experience of Alaska Native and American Indian people.

Alaska Native tribes and tribal organizations recognized under the Self-Determination Act, partner to serve Alaska Native people throughout the state. At both the local, tribal level and regionally, tribes and tribal organizations fulfill the functions of economic development, social services, medical services, and housing for Alaska Native people. It is critical for everyone to have a voice in the decisions that affect what programs and how they will be administered to our people. Alaska offers a prime example of how ownership and control of resources promotes self-determination for Alaska Native people, and the complex interweaving of tribes and tribal organizations, as recognized by PL 93-638 is an essential component of that self-determination.

For example, the success and importance of the 477 Program, within the Office of Indian Energy and Economic Development, cannot be overstated as a workforce development initiative linked to self-determination. During the past fiscal year, 264 tribes and tribal organizations operated 62 separate 477 contracts and compacts, as single-tribe and tribal organization plans. Notably, the Office of Management and Budget has given the 477 Program the highest PART rating of all DOI Indian programs. In FY09, close to \$112 million was funded to 477 programs through the ISDEEA. Since its inception in 1992, 477 program funds have been transferred to

participating tribes either through agreements authorized under Title I (self-determination contracts) or Title IV (self-governance compacts) of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. §§ 450-458aa-hh. Streamlined funding for 477 Plans through transfers under the provisions of ISDEAA is an essential element of the success of the 477 Program.

The Tribal Consultation process is an essential component of ensuring respect for the government to government relationship between the tribes. The Executive Order makes great strides in moving this important opportunity for dialogue forward, but different federal agencies have implemented it in various ways with resulting inconsistencies. Of paramount importance is tribal opportunity to provide input into the work of federal agencies as it affects tribes and tribal organizations. In reaffirming the government to government relationship, it is not sufficient to receive comments from tribes and tribal organizations without subsequent consideration and adjustments in policy or implementation based on those communications. For example, decisions made by DOI in the past two years regarding the 477 program described above, without consultation, such as the method of funding and OMB cross-cutting regulations, have drastically diminished the effectiveness and efficiency of PL 102-477 Tribal TANF programs.

**1) Recognizing that the government to government relationship is between the federally recognized tribes and the federal government, it is important to include all relevant voices in the consultation process: federally recognized tribes as well as tribal organizations at the national, regional and local level; the final Policy on Consultation with Indian Tribes should utilize the definition of tribe in the Indian Self-Determination and Education Assistance Act, 25 USC 450b to be inclusive in the process.**

2) Implementing a separate consultation policy for Alaska Native Corporations disregards the significant role that tribal regional organizations play in the delivery of services to Alaska Native people, as well as the similarity of experience between those organizations and tribes. Dividing the conversation through separate consultations hinders an effective and meaningful consultation process.

Respectfully submitted,

COOK INLET TRIBAL COUNCIL

  
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