

Department of the Interior Plan to Develop a Tribal Consultation and Coordination Policy Implementing Executive Order 13175

PURPOSE: As directed by President Barack Obama in his Memorandum of November 5, 2009, this plan outlines how the Department of the Interior (Interior) will comply with the letter and spirit of Executive Order 13175 of November 6, 2000, *Consultation and Coordination With Indian Tribal Governments*. Through implementation of this plan, Interior will develop a comprehensive, department-wide policy for meaningful tribal consultation. Each bureau and office within Interior will develop a specific, supplemental consultation policy. The department-wide policy will establish uniform standards for government-to-government consultation and ensure consistent application of those standards in accordance with Interior's legal obligations and in fulfillment of the United States trust responsibilities. Interior's policy will support Indian self-determination and self-governance by giving tribes strong voices in shaping the Federal policies that directly affect their ability to govern themselves and to provide for the health, safety, and welfare of their citizens.

GUIDING PRINCIPLES: Interior will develop a policy for "regular and meaningful consultation and collaboration" to improve governmental relationships with Indian tribes and reflect the concerns and responsibilities of Federal and tribal governments. This policy will—

- Recognize the special legal status of tribal governments;
- Respect tribal sovereignty and support self-determination and self-governance;
- Honor the United States trust obligations;
- Demonstrate Interior's commitment to improving communications while maximizing tribal input and coordination;
- Ensure that Interior consults on a government-to-government basis with appropriate tribal representatives;
- Identify appropriate Interior officials who are knowledgeable about the matters at hand and are authorized to speak for Interior;
- Ensure that Interior's bureaus and offices conduct consultation in a manner consistent with the department-wide policy, thus harmonizing the consultation practices of Interior's bureaus and offices;
- Be clear, understandable, workable and compliance-friendly.

NARRATIVE: In keeping with the spirit and intent of both the Tribal Nations Summit held at Interior, and the subsequent Presidential Memorandum on Consultation signed at the Summit, Interior sent a letter on November 23, 2009 to all federally recognized Indian tribes inviting tribal leaders to engage in an interactive dialogue regarding their experiences with consultation, suggestions on Interior's Action Plan, and how to improve its consultation practices. These sessions were full day, face-to-face meetings with senior Interior officials representing all Interior bureaus and offices in seven locations: Anchorage, AK; Portland, OR; Washington, DC; Ft. Snelling (Minneapolis/St. Paul), MN; Oklahoma City, OK; Phoenix, AZ; and Palm Springs, CA.

Interior invited representatives from other Federal agencies to join these sessions in order to create an opportunity for tribes to share their ideas and concerns with multiple agencies, such as the Department of Labor, Environmental Protection Agency, Department of Education and others. Approximately 300 tribal leaders and representatives as well as over 250 Interior and other Federal agency officials attended.

Tribal leaders provided valuable suggestions for Interior's Action Plan and forthcoming consultation policy including inclusion of tribal representatives in the drafting process, alternative communication methods, better collaboration and communication among Federal agencies and application of timelines during the consultation process. These suggestions will be incorporated into Interior's Action Plan and consultation policy, and will contribute to an improved government-to-government relationship with Tribes.

PLAN OF ACTIONS:

- 1. Creation of Tribal Consultation Team.** To ensure transparent and collaborative drafting, Interior will establish a Tribal Consultation Team comprised of a balanced group of senior representatives of Interior and tribal leaders. The Tribes within each of the Bureau of Indian Affairs' twelve regions should identify either elected Tribal officers or their designated employees with authority to act on their behalf for the Tribal Consultation Team.
- 2. Communications.** In furtherance of the President's goal and policy of transparency, Interior will develop a communications plan for informing Tribes and the general public about the progress of Interior and the Tribal Consultation Team in implementing this Action Plan.
- 3. Continuous Review and Evaluation.** Interior will continuously review its regional and national functions, policies, procedures, and practices to identify policies with tribal implications. These reviews will identify opportunities to strengthen and improve the consultation policy. Additionally, Interior will monitor its practices to ensure effective and consistent implementation of the consultation policy.

4. Consultation Policy Development.

- a. **Review of Tribal Comments.** The Tribal Consultation Team will review all consultation policy comments received during the Action Plan consultation sessions as well as any written comments submitted.
- b. **Draft Consultation Policy.** The Tribal Consultation Team will draft Interior's department-wide consultation policy.
- c. **Tribal Review of Draft.** The draft consultation policy will be circulated to Tribes and tribal organizations for review and comment. The Tribal Consultation Team will consider the comments received and revise the draft consultation policy, if necessary, in response to comments.
- d. **Federal Register Notice.** Interior will publish the draft consultation policy in the Federal Register and provide a 60-day comment period. The draft will be circulated to all tribes and posted on Interior's website.
- e. **Review of Comments.** The Tribal Consultation Team will consider the comments received and revise the draft consultation policy, if necessary, in response to comments.
- f. **Final Publication.** Interior will issue the final consultation policy within 90 days of the close of the comment period.
- g. **Secretarial Order.** The Secretary of the Interior will issue a Secretarial Order directing all Interior bureaus and offices to comply with the department-wide consultation policy and its guiding principles.

5. **Interior Point of Contact.** Interior designates the Associate Deputy Secretary as the responsible official for submitting progress reports and ensuring Interior's compliance with the Action Plan and the Final Interior Tribal Consultation Policy.

6. **Supplemental Bureau Consultation Policies.** The Tribal Consultation Team will work with each Interior bureau and office to develop supplemental consultation policies specific to the functions, practices, and unique legal obligations of the bureau or office.

7. **Cross-department Collaboration.** Interior will seek opportunities to collaborate and coordinate with other Federal agencies subject to Executive Order 13175 regarding issues affecting tribes in order to streamline the consultation process, create consistency and effective communications with tribes.