

United States Department of Housing and Urban Development

Plan to Revise Tribal Consultation and Coordination Policy Implementing Executive Order 13175

Purpose: On November 5, 2009, President Obama signed an Executive Memorandum on Tribal Consultation (President's Memorandum) directing all Executive Departments and Agencies to engage in regular and meaningful consultation and collaboration with tribal officials of federally recognized Indian tribes when developing Federal policies that have tribal implications. The President's Memorandum further directed each Federal agency to establish an initial plan of actions to accomplish this by February 3, 2010. By August 2, 2010, and annually thereafter, all Agencies are to report their progress on implementing the action plans.

The President's Memorandum refers to Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (EO 13175), which was signed on November 6, 2000, by former President Clinton. To ensure complete and consistent implementation of EO 13175, the President's Memorandum directed all Agencies to follow its provisions as they developed their tribal consultation policies.

In 1994, HUD adopted an American Indian and Alaska Native Policy Statement. On June 28, 2001, the Department issued a more comprehensive Tribal Government-to-Government Consultation Policy (66 FR 49784, Sept. 28, 2001) that comports with the enhanced consultation and coordination requirements expressed in EO 13175. HUD is now reassessing this policy in response to the President's Memorandum, and will revise it, after appropriate consultation with tribal government officials.

Guiding Principles: The guiding principles that originally shaped HUD's 2001 Government-to-Government Tribal Consultation Policy remain viable today. HUD is cognizant of the unique legal and political relationship that exists between the United States and Indian tribal governments, as established by the U.S. Constitution, treaties, statutes, executive orders, and judicial decisions. HUD strives to honor the government-to-government relationship, promote tribal self-determination, and ensure that communication and consultation between the Department and federally recognized Indian tribes occur on a regular and meaningful basis. Therefore, it is an appropriate time to revisit HUD's existing policy and, in consultation with the stakeholders, revise it.

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Narrative and Plan of Actions: To achieve this objective, HUD adopted a three-phased approach. In Phase I, HUD outlines the steps it took to develop its Plan of Actions. In Phase II, HUD describes its next steps to update and revise the existing Tribal Consultation Policy. In Phase III, HUD communicates how implementation and ongoing monitoring of the policy will occur.

PHASE I

These are the steps HUD took in preparation for the development of its plan of actions.

- HUD's Assistant Secretary for Public and Indian Housing convened a meeting 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 comments from tribal governments, tribal officials and the public (TribalConsultationPolicyComments@hud.gov).
- All comments received will be posted on HUD's website, CODETALK (<http://www.hud.gov/offices/pih/ih/codetalk/>), which is accessible to the public.
- A schedule of HUD-tribal regional consultations was established (see below). The consultation sessions were hosted by 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, EO 13175, HUD's current tribal consultation policy, and a list of questions designed to prompt discussion and focus on the issues.
- 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'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.
- The results of these consultations were consolidated by ONAP.
- HUD carefully reviewed all comments received from all sources, and will continue to do so as additional comments are received.

Listed below are the most recent outreach and consultation sessions.

- Northwest ONAP: January 13 at 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; Anchorage, Alaska (outreach) held in conjunction with an Alaska Association of Regional Indian Housing Authorities meeting. Additional consultation meetings are being scheduled.
- Southern Plains ONAP: January 21; Norman, Oklahoma. Held in conjunction with a Southern Plains Indian Housing Authority meeting.
- Northern Plains ONAP: January 21, Denver, Colorado. A conference call-in number was provided for those that could not attend the session.
- Southwest ONAP: January 25; Scottsdale, Arizona.
- Eastern/Woodlands ONAP: January 28 and 29, Hollywood, Florida. The January 28 session was on Tribal Consultation; the January 29 session was on the American Recovery and Reinvestment Act.
- Initial tribal consultations have been held. Additional consultations are planned.

PHASE II

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

- In Phase II, HUD will examine the existing policy to determine what changes should be made to improve it.
- HUD will establish a tribal consultation policy review team in each of the Area ONAPs.
- After HUD's review of all comments is completed, it will develop recommendations for revisions to the tribal consultation policy.
- Once the recommendations are finalized, HUD will develop a draft of its revised tribal consultation policy and share it with the tribal consultation policy teams and the tribes.
- The regional consultation policy teams will report their recommendations to the ONAP DAS.
- The ONAP DAS will review the comments and revise the policy as necessary.
- The Assistant Secretary for Public and Indian Housing will share the revised draft policy with all offices within HUD, and request their comments.
- HUD will then finalize the draft policy for publication in the *Federal Register*.
- HUD will publish a *Federal Register* notice that provides a 60-day public comment period.
- There will be clear timelines in the notice that will establish the process for publication of the final tribal consultation policy.
- HUD's website CODETALK will provide information on the policy's progress, and it will contain all comments and all versions of the revised tribal consultation policy.
- The revised consultation policy will become final after HUD reviews all public comments, and incorporates any additional changes. It will be published in the *Federal Register* within 90 days of finalization.

PHASE III

HUD implementation and ongoing monitoring of the policy will occur as follows.

- HUD will establish an ongoing evaluation process, using the regional tribal consultation policy review teams, to ensure effective and consistent implementation of the revised policy.
- HUD will continue to monitor its intra-agency coordination and collaboration efforts to ensure effective and consistent implementation of the policy throughout the Department.
- HUD will seek interagency collaboration with appropriate partners on similar policy objectives.