

NAVAJO HOUSING AUTHORITY
(A TDHE OF THE NAVAJO NATION)

RECOMMENDATIONS & COMMENTS TO THE
HUD TRIBAL GOVERNMENT-TO-GOVERNMENT CONSULTATION POLICY

A. II – DEFINITIONS

1. Section A. Add “and their interpretation thereof” after “...regulatory policies...” So, this section will read “Consultation” means the direct and inter-active (i.e., collaborative) involvement of tribes in the development of regulatory policies and their interpretation thereof on matters that have tribal implications.” **COMMENT:** There have been conflicting interpretations of policies, rules and regulations from one HUD Office to another. HUD should consult with tribes on how the policies, rules and regulations are to be interpreted and applied consistently among Tribes/TDHES across the nation.
2. Section A. Strike out “community groups and individuals” in second sentence. **COMMENT:** This policy is a Government-to-Government Consultation Policy and unless the community groups and individuals are recognized as a “government” and authorized to speak on behalf of the tribal government by the Tribes themselves, then any reference to “community groups and individuals” should be omitted.
3. Section B. Strike out “combination of” so the sentence will read: “Exigent situation” means an unforeseen circumstance or the resulting state that calls for immediate action in order to preserve tribal resources, rights, interests, or federal funding.” **COMMENT:** One unforeseen circumstance could have a major impact on a Tribe.

B. III. PRINCIPLES:

1. Section F. Insert “its internal departments/programs and” after “HUD shall work with.” The sentence will read: “HUD shall work with its internal departments/programs and other federal departments and agencies to enlist their interest and support in cooperative efforts to assist tribes to accomplish their goals within the context of all HUD programs.” **COMMENT:** Over the past year, NHA has been working with the HUD Fair Housing Equal Opportunity (FHEO) program to develop a Voluntary Compliance Agreement (VCA) for retrofitting NHA homes and offices that meet handicapped accessibility. During the actual negotiations in developing the VCA, the NHA legal counsel reminded FHEO of HUD’s tribal government-to-government consultation policy. However, the FHEO officials stated the policies were irrelevant when negotiating the VCA. FHEO is a program within HUD, therefore, this policy is applicable.
2. Section G. **COMMENT:** The annual HUD budget is contained in the President’s budget, without consulting tribes. It is recommended that tribes be consulted when HUD is preparing its annual budget prior to submitting their proposal to the President and OMB. HUD should also be aggressive in its efforts during the congressional appropriations process to have any language stricken on the prohibition of use of Indian Health Service funds for Indian Housing construction projects. OMB should also sit at

the consultation table alongside the Federal agency as it is the authority on budget matters and needs to hear from Tribes directly and not decide unilaterally to set budgets for Tribes.

C. IV. TRIBAL COORDINATION, COLLABORATION AND CONSULTATION:

1. **COMMENT:** When conducting tribal consultations, HUD comes to the table with predetermined issues and answers, and tribes are expected to provide comments to this “pre-written agenda.” A Government-to-Government consultation should consist of a true consultative process where ideas are discussed and decisions are made from these discussions. It is recommended that HUD invites tribes to the table to discuss matters at hand, without a prepared document from which to start deliberations.

D. VI. UNFUNDED MANDATES:

1. **COMMENT:** HUD has imposed substantial compliance costs on Navajo Nation communities. The NHA has a full fledged Compliance & Monitoring Department staffed with seven (7) full-time Compliance Auditors to monitor its programs and subrecipient program. This compliance activity is costing the NN over \$500,000 a year, funds which could have been used to maintain and repair NHA housing units. It is recommended that HUD directly funds NHA’s compliance and monitoring program cost or establish a Navajo ONAP on the Navajo Nation. Additionally, as NAHASDA-funded rental units are constructed, there is no commensurate funding for its operation and maintenance over its useful life. Currently, Tribes have to take part of the formula funding to offset such costs adversely impacting dollars to use towards additional new construction to address the critical housing shortage on Indian reservations.