

SUMMARY OF COMMENTS/RECOMMENDATIONS PROVIDED BY
ALASKA TRIBES REGARDING HUD'S GOVERNMENT TO GOVERNMENT TRIBAL
CONSULTATION POLICY

Comments/Recommendations Provided by Tribes in response to Tribal Consultation Questionnaire:

1. What actions or events should trigger the consultation process?

- a. *Any Federal and State action or event that involves tribal sovereignty over culture, human remains, land, members, statutory entitlements, Acts of US Congress, treaties, Executive orders, or Supreme Court decisions. Anything that the Tribe has an interest in preserving.*
- b. *Actions or any resolutions submitted by Tribes that call for addressing a need deemed by a crisis situation, a disaster, or seemingly a situation where solutions to a need may require multiple agencies to address. As to an event, the trigger for the consultation process would be after a catastrophic event, like a large earthquake or a tsunami.*
- c. *Consultation should occur when issues are directly or will directly impact Tribes.*
- d. *Consultation should take place when HUD is determining funding formulas or there are significant increases or decreases in funding that affect Tribes.*
- e. *All Congressional and Senatorial action, proposed action and exigent situations that will have a negative effect to the tribal governments, whether through policy and/or unfunded mandates. Including issues that will be favorable to Tribes, quick support should be given priority. Break down of Tribal issues vs. housing authority's issues.*
- f. *Inform Tribes who don't know the process of consultation. What is it for?*
- g. *When new programs are offered to Tribes is when the official consultation process should be triggered, along with how the current programs enable tribes to provide comments.*

2. At what point in a particular action or event should the Tribal Consultation process be initiated?

- a. *Tribal consultation must proceed immediately prior to any encroachment of Federal and state agencies that may preempt the Trust Responsibility of the Federal government who has a fiduciary duty as a guardian to ward trust relationship.*
- b. *The initiation of Tribal Consultation should occur once a resolution is considered and that the major players have been identified that are suited to a particular situation.*
- c. *At the point that a Tribal Official, Councils are required, during discussions, relating to a particular recognized Tribe.*

- d. *Every proposed federal government policies, programs, actions, rules and regulations by either the U.S. Congress and/or U.S. Senate that will significantly impact Tribes. Giving the Tribes the maximum time needed to prepare responses, either in support of, or against certain proposed regulations/legislation.*

3. How much advance notice should Tribes receive prior to consulting?

- a. *There should be a hard set date for which information is made available to affected Tribes concerning consultation for Tribes of a represented region. Waivers could be allowed to appeal any decisions made during a time of “exigent situations” for which each waiver comes with the condition of some type of veto process (inter-tribal government veto power through a vote maybe?) The way it is written now kind of sounds like “we will say we will try to make it by 60 days but at our discretion we can make it as little as two weeks. We are worried that “exigent situations” will become the norm, especially when the current policy discussion which we are commenting on now, has a reply deadline of less than 3 weeks.*
- b. *Tribes need to be informed early such as, but not limited to, an introduction of new policy that affects the wellbeing of the Tribe, before any infringement of the Federal Trust responsibility.*
- c. *Two to three weeks is an ample time to prepare for Tribal Consultation.*
- d. *90-120 days, or maximum days allowed for matters on a national scale.*

4. Who should participate in the consultation process and how should they be selected?

- a. *Throughout the proposed policy there are many references to “Indian Self Governance” and “Tribal Sovereignty” suggesting that the proposed policy takes into consideration the wishes of Tribes individually adopted standards as the way in which policy is created and enforced. However, there is no clear method by which each Tribe can designate or elect their own representatives. Throughout history, including the way in which policy was “negotiated” with the Cherokee nations during the infancy of the United States; the federal government has appointed “leaders” for decision making purposes that they knew would support the development of policy that would best benefit the federal government to the exclusion of already established leadership councils. We think that it is pertinent to the accomplishment of Indian Self-Determination, that Tribes should be allowed to pick the leaders and/or committee members that will develop the policy in our government to government relationship. The policy also states that the amount of representation will be considered based on the “...establish standard of geographically diverse small, medium and large Tribes, whenever possible.” What is this standard? What happens when it is not possible? Will it be the federal government’s discretion? Does this mean that Central Council of Tlingit & Haida Indian Tribes of Alaska, who already has been known to under-*

serve the native villages for which they represent, will have the greater share of representatives and voting power?

- b. *Tribal governments, local governments, Tribal members, religious denominations, native Corporations and any other person defined by Congress as an "Indian Tribe".*
- c. *The agency that is most familiar with a certain situation should take the lead to initiate the process and then identify other who may have the necessary resources to address the crisis whatever it may be.*
- d. *Tribal Officers in order: 1. President, 2. Vice-President, 3. Secretary, 4. Treasurer, 5. Council members.*
- e. *Commissioners and Executive Directors of TDHE's should be part of the consultation process.*
- f. *Tribes and/or their designee.*
- g. *Tribal presidents and administrators.*

5. How should consultations be structured to ensure a meaningful and timely consultation? (Should they be held locally, regionally, statewide, etc?)

- a. *Consultations should be continuous before introduction of policy and after the policy has taken effect to ensure the Federal Trust responsibility to Tribes is met.*
- b. *I think the group that is putting together the consultation should cooperate with other agencies to decide where it should be held.*
- c. *Current outreach with emails, phones, faxes seems to be ok. In consideration that visits to all federally recognized Tribes is cost prohibitive.*
- d. *Consultations should take place on a State-wide basis, preferably in Anchorage so more Tribes can attend. Having consultations during meeting such as the BIA Providers Conference is not effective. Consultations could be held if we are referring to the ANCSA regions, not Region 10.*
- e. *Government to government consultations must be on a local level first prior to regional and national levels. Preference should be given to Tribes over housing authorities. Break down of Tribal issues vs. housing authority issues.*
- f. *Regionally for Alaska only.*

6. How should consultations occur? Are there different levels for different issues?

- a. *Consultations start as the policy begins to mold on to Tribes that gives time for the Tribes to react to introduction of the policy through phone, correspondence, regular meetings or email.*
- b. *The first consultation should keep in mind the holistic view of a situation and to identify the inter-agency groups that may contribute to the resolution of a problem. All levels of issues should be equally addressed by the consultation process.*
- c. *Emails, phones, and fax. Personnel should go out to the field if required by the Tribe. Face to face consultation is more productive. I think that for each issue that is not related to a particular or certain issue, there would be a different level of consultation for different departments of Tribal Governments.*

- d. *The consultations should incorporate all available methods of communications to ensure maximum Tribal participation with special regard to smaller Tribes that may not be able to participate in each of the consultations. Communication methods including email, postal service mail, teleconferences, multimedia, internet, and faxes must be incorporated to ensure Tribal input in each of the consultation subject matters. Again Tribal issues vs. housing authority issues. Tribes should be given priority over housing authorities.*

7. How can we deal with short deadlines? Should consultation via electronic communications be considered (teleconferences, email responses) to address short deadlines on specific issues?

- a. *In the Klukwan Tribal Community, the Tribal government consults with the community that they represent for every major decision that will affect the place in which they live. Is it possible to develop an internet-based communication system for all Tribes that would allow this communal based approach to take place? Our Tribal government has had to make many technological upgrades to our reporting methods, especially for ARRA sequestered funding, and it should be within the ability of HUD to provide this technological enhancement. Policies could be disseminated over the internet on HUD's website for all Tribal members to see. You could also provide a built-in comment section for both official Tribally designated representatives and Tribal citizens, whereby the Tribally designated representatives could view the Tribal citizen's comments before responding to ensure the Tribal community's wishes are being met.*
- b. *Deadlines are easier to handle by being informed early in the process to have Tribal governments react to any introduction of policies that affect Tribal sovereignty. It is the fiduciary duty of the Federal government to inform Tribes when deadlines are placed. Delay of deadlines is also crucial for Tribes that have to understand more about a policy before it's applied to Tribes.*
- c. *With careful scrutiny. Yes, electronic communications should be considered.*
- d. *Emails, teleconferences, fax notices (from 24 to 72 hrs. notice) are available avenues for the Stebbins IRA. Short deadlines should be extended if and when Tribes require it.*
- e. *In addition to current communications methods, notices of consultation should be emailed to the Tribes whenever possible.*
- f. *Shorter deadlines must incorporate additional efforts to increase communication and information to the Tribes. Utilizing all methods of communications to ensure contact and information delivery. Maximum efforts to ensure small tribe participation.*
- g. *Teleconference.*

8. How should follow up after consultation be documented and communicated?

- a. *Documentation is the only way for Tribes to identify what has happened since policy is enacted and provides testimony to Federal agencies to fully understand if the policy works or causes harm to the Tribes.*

- b. *The follow up should be whether or not there was a resolution to the specific issue that called for consultation.*
- c. *Provide written summary reports to affected Tribal Councils. This would be beneficial for individuals preparing reports.*
- d. *Written notices via postal mail, electronic mail or facsimile with regard to address any concerns and if further discussion and/or consultations are warranted from Tribes due to any protests and/or appeals that may be needed within a certain timeframe. Consultation follow-ups to include various modes of communication. Tribal implications of various policies vs. housing authorities.*
- e. *Email.*

9. When are alternatives to formal consultation, such as conferences, workshop sessions, or task forces, appropriate?

- a. *Consultation is crucial for Tribes to use for the government to government process.*
- b. *When there is not an imminent threat, disaster, or high risk to human life.*
- c. *When issues affecting Tribes need to be addressed timely, are required/mandated. Stebbins IRA and Stebbins Housing Authority now have a close working relationship with HUD/AONAP. I think that HUD/ONAP is thorough enough in consulting and working with Tribes of Alaska.*
- d. *Conferences and workshops should be incorporated as a regular occurrence to address concerns during regional and national consultation meetings. Local and/or regional meetings needed for the purposes of consensus, information exchange, information, advice and recommendations should include webcasts to ensure Tribal participation from smaller Tribes that may not be able to travel on a consistent basis. Issues that will be favorable to Tribes regarding regulations and governmental policies should be fast-tracked through and Tribes given feedback of various discussions of policy change.*
- e. *BIA meetings in Anchorage.*