

APPENDIX F: DRAFT AMERICAN INDIAN AND ALASKA NATIVE POLICY STATEMENT

Federal Register Notice/Vol. 72, No. 99/Wednesday, May 23, 2007/Notices
Request for comment on the Draft American Indian and Alaska Native Policy Statement
for the U.S. Census Bureau

This Federal Register Notice was presented to tribal participants during the 2007 meeting. Original deadline for comment was July 23, 2007. The Draft AIAN Policy Statement is under current final review at the time of this publishing and is anticipated to be published as a final document in the Federal Register early fall 2008.

DEPARTMENT OF COMMERCE **Bureau of the Census**

[Docket Number: 070404074-7075-01]

American Indian and Alaska Native Policy Statement

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: In preparation for the 2010 Census, the Bureau of the Census (Census Bureau) has drafted an American Indian and Alaska Native (AIAN) policy statement and is requesting public comment on it. This proposed policy outlines the principles to be followed in all Census Bureau interactions with federally- recognized American Indian and Alaska Native tribal governments. The policy reaffirms the unique government-to-government relationship that exists between American Indian and Alaska Native tribal governments and the Census Bureau and is consistent with the AIAN policy statement adopted by the Department of Commerce (DOC) on March 30, 1995. The Census Bureau believes that the adoption of the proposed AIAN policy would satisfy a long-standing request from AIAN populations and would encourage and facilitate greater cooperation from these populations during decennial censuses and help us to better communicate with and enumerate these difficult-to-count populations.

DATES: Written comments must be submitted on or before July 23, 2007.

ADDRESSES: Direct all written comments to Dee Alexander, Program Analyst, Decennial Management Division, Outreach and Promotions Branch, U.S. Census Bureau, Room 3H166, 4600 Silver Hill Road, Stop 7100, Washington, DC 20233-7100. Written comments may also be submitted via fax at (301) 763-8327, or e-mail to: dee.a.alexander@census.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed policy should be directed to Dee Alexander, Program Analyst, Decennial Management Division, Outreach and Promotions Branch, U.S. Census Bureau, Room 3H166, 4600 Silver Hill Road, Stop 7100, Washington, DC 20233-7100, telephone (301) 763-9335.

SUPPLEMENTARY INFORMATION:

Background

The government-to-government relations with Native American tribal governments policy (adopted by previous administrations) was reaffirmed by President George W. Bush in a White House Memorandum dated September 23, 2004. Among other things, this memorandum directs the heads of executive agencies to continue to ensure that, to the greatest extent practicable and permitted by U.S. law, the agency's working relationship with federally-recognized tribal governments fully respect the rights of self-government and self-determination due tribal governments. Pursuant to an earlier White House Memorandum of April 29, 1994, DOC adopted an AIAN policy statement on March 30, 1995. The Census Bureau proposes to adopt an AIAN policy statement that is consistent with the previously cited Presidential Memoranda and the DOC policy statement. The proposed policy statement is intended only for internal management purposes and does not create any right, benefit, or trust responsibility enforceable against the United States, its agencies, entities, or instrumentalities, its officers or employees, or any other person. The Census Bureau believes that the proposed policy statement will contribute to the accuracy of the 2010 decennial census by improving communications and encouraging greater cooperation with difficult-to-count populations.

Request for Comments

Comments are invited on: (a) The policy's nine principles that provide guidance to the agency and its employees when communicating with federally recognized tribes on a government-to-government basis in recognition of their sovereignty; (b) the policy as it relates to protected tribal resources, tribal rights, and Indian lands.

Executive Order 12866

This notice has been determined to be not significant under Executive Order 12866.

May 17, 2007

Charles Louis Kincannon, *Director, Bureau of the Census*

Proposed American Indian and Alaska Native Policy Statement for the U.S. Census Bureau

I. Introduction

The Census Bureau hereby proclaims its American Indian and Alaska Native policy. This policy outlines the principles to be followed in all Census Bureau interactions with federally recognized AIAN tribal governments. It reaffirms the unique government-to-government relationship that exists between AIAN tribal governments and the Census Bureau. This relationship is based on the U.S. Constitution, federal treaties, policy, law, court decisions, and the ongoing political relationship among tribes and the federal government. The relationship results in a federal trust responsibility to federally-recognized tribal governments. The foundation for this policy statement is the White House Memorandum of September 23, 2004, "Government-to-Government Relations with Native American Tribal Governments" and the AIAN policy of the DOC of March 30, 1995. This policy is for internal management only and does not grant or vest any right to any party in respect to any federal action, not otherwise granted or vested by existing law or regulations.

II. Definitions

Federally recognized Indian Tribe: Any AIAN, Band, Nation, Pueblo, or other organized group or community, including any Alaska Native village, as defined or established pursuant to the Alaska Native Claims Settlement Act (Title 43, United States Code (U.S.C.), Chapter 33, Section 1601 et seq.), acknowledged by the federal government to constitute a tribe with a government-to-government relationship with the United States and eligible for the programs, services, and other relationships established by the United States for indigenous people because of their status as American Indian and Alaska Native tribes, Bands, Nations, Pueblos, or communities. **American Indian or Alaska Native Tribal Government:** The recognized government of an Indian tribe and any affiliated or component band government of such tribe that has been determined eligible for specific services by Congress or officially recognized by the U.S. Department of the Interior in a Notice (“Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs”) published in the Federal Register on November 25, 2005 (70 FR 71194). **Trust Responsibility:** Includes, but is not limited to: promotion and protection of tribal treaty rights, federally recognized reserved rights, and other federally recognized interests of the beneficiary American Indian and Alaska Native governments; determining, documenting, notifying, and interacting with tribal governments with regard to the impact of Census Bureau programs, policies and regulations to protect American Indian and Alaska Native traditional and cultural life ways, treaty, and other federally recognized and reserved rights.

III. Policy Principles

The following policy statements provide general guidelines to Census Bureau employees for actions dealing with AIAN governments. 1. The Census Bureau recognizes the unique government-to-government relationship between the United States and federally recognized AIAN tribal governments, as affirmed by the September 23, 2004, White House Memorandum for the Heads of Executive Departments and Agencies, and the American Indian and Alaska Native Policy of the DOC. 2. The Census Bureau recognizes each tribal government as a functioning governing body that the Census Bureau will work with to count and collect data as accurately as possible, of all residents living in AIAN areas. 3. The Census Bureau recognizes and invites tribal governments’ involvement in the Census Bureau planning process for censuses and surveys toward ensuring the most accurate counts and data for the AIAN populations. 4. The Census Bureau’s procedures for outreach, notice, and consultation will ensure involvement of AIAN tribal governments, to the extent practicable and permitted by law, before making decisions or implementing policies, rules, or programs that affect federally recognized tribal governments. 5. The Census Bureau will continue its partnerships with tribal governments to enhance awareness of all censuses, surveys, and geography programs—particularly those including residents living in AIAN areas. 6. The Census Bureau recognizes that there are distinct cultural practices, religious beliefs, traditions, climate conditions, as well as a tribe’s authority over its land areas that must be considered and abided by when conducting any censuses or survey in AIAN areas. 7. The Census Bureau recognizes the importance of effective and efficient coordination with other federal agencies in the planning process of any censuses or surveys that will include AIAN tribal governments. 8. The Census Bureau acknowledges its responsibility to provide accurate demographic and economic data on AIAN populations and their businesses. The Census Bureau will work with tribal governments and other partners to encourage the participation of every resident. 9. The Census Bureau will consult with AIAN tribal governments before making decisions or implementing programs that may affect tribes to ensure that tribal rights and concerns are addressed. Consultation will provide, but is not limited to, mutually agreed upon protocols for timely communication, coordination, cooperation, and collaboration. Therefore, the Director of the Census Bureau hereby directs all directorates and their components (divisions, branches, and offices) to implement this policy by incorporating all of the above principles in their interactions with federally recognized AIAN tribal governments.