



Turtle Mountain Band of Chippewa Indians

Tribal Administration

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TRIBAL CONSULTATION POLICIES AND PROCEDURES MEETING

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TALKING POINTS

WHAT FEDERAL ACTIONS SHOULD INITIATE CONSULTATION?

- Identify and seek input from appropriate tribal governing bodies and housing staff, **and** tribal community groups and individuals.
- HUD should solicit comment from tribes on issues that tribes deem important for consultation.
- Tribes should utilize regional tribal meetings to identify and address issues the tribes may have in common.
- Tribes should also use the regional meetings to meet **with** HUD representatives to address issues relevant to HUD policies, regulations, and statutes.
- HUD staff can discuss these issues and evaluate the tribal comments, identify procedural and substantive issues, refine the HUD's proposal and compile **its** list of HUD issues **in addition to** the identified tribal issues.
- All issues should be then disseminated to tribal leaders for review **prior to** face-to-face consultation.

HOW FAR IN ADVANCE SHOULD THE DEPARTMENT AND ITS AGENCIES GIVE NOTICES OF CONSULTATION?

- Notification to tribes of consultation should be sufficient for Tribes to prepare input on all of the identified issues generated from the Tribes and HUD and should be given at least three months prior to the proposed consultation so the comment period and review can take place.

WHO SHOULD BE INVITED TO PARTICIPATE IN CONSULTATION?

- HUD should invite Tribal Chairpersons, Councils and/or designates to participate in the consultation.
- Tribal housing directors/staff should also be invited to participate—but **government-to-government consultation** mandates that the consultation is with and **between HUD and** tribal governments.

HOW SHOULD CONSULTATION OCCUR?

- At least one national tribal consultation meeting should be held by HUD and tribal governments each year.
- HUD should disseminate a letter to all federally recognized tribal governments regarding the HUD's proposed tribal consultation, and request their participation at least three months prior to the consultation.
- At this same time, HUD should solicit comments from tribes to initiate the consultation process.
- A national summit can be planned and conducted for tribes and HUD to discuss the issues which are identified through the comment process.
- HUD should consult with tribal governments **prior** to taking any action that may potentially have substantial direct effects on federally recognized tribes; and in order to ensure that the rights of sovereign tribal governments are fully respected, all such consultations should include all identified issues so that tribal governments may evaluate for themselves the potential impact of HUD's proposed action(s).

SHOULD TIMELINES BE CONSIDERED IN THE CONSULTATION PROCESSES?

- Yes, timelines for consultation outreach will depend on the need to act quickly. For significant issues not less than 90 days should be observed for consultation process (notice of comment to tribes through face-to-face consultation).
- Review timeline for final draft should be established; as well as for all HUD and tribal responses and decisions (generally acceptable at 30 or 60 days).
- However, mechanism to lessen time lines should be identified in the event the issue(s) need to be expedited.

HOW SHOULD FOLLOW-UP CONSULTATION OCCUR?

- Regional consultations should be held in all of HUD's regions to seek tribal input on the proposed consultation issues.
- HUD staff and a tribally appointed committee should meet to compile the comments received after the regional consultations and develop final draft.
- All final draft (recommendations) should be circulated to tribal leaders for review and comment.
- The final draft should note the issues raised by tribes, what issues HUD is studying related to consultation, and other matters.
- Once, HUD has reviewed the results of the consultations, it should make its decision(s) related to consultation; and notify tribes accordingly of the HUD decision.
- This notification should specifically include a discussion of the basis for the HUD decision, including public comments received and relationship to the concerns raised in consultation, **and** direction regarding method for eliciting further discussion and/or protest or appeal of the HUD decisions.

HOW SHOULD THE DEPARTMENT COORDINATE AMONG ITS AGENCIES AS WELL AS WITH OTHER FEDERAL DEPARTMENTS?

- The **primary focus** for consultation activities of HUD should be with individual tribal governments.

- However, if necessary and reasonable, HUD should (at a minimum meet) with national tribal organizations/committees to solicit tribal advice and recommendations, and for outreach to involve tribes in decision-making and policy development.
- HUD should work with other federal departments and agencies (such as BIA and IHS) to enlist their interest and support to assist tribes to accomplish their goals within the context of all HUD programs
- In consultation with elected tribal governments, tribes should approve tribal advisory organizations/committees for which HUD may coordinate to obtain advice and feedback. Such coordination **should not** be misconstrued as tribal consultation.
- Further, to promote coordination in addressing issues arising from tribal consultation events at both the national and local level, comments made during national and regional consultations should be made available to **all** tribes.

WHAT OTHER OPPORTUNITIES OR ALTERNATIVES ARE APPROPRIATE TO IMPROVE COMMUNICATION AND COORDINATION WITH TRIBES (E.G. CONFERENCES, WORKSHOP SESSIONS, OR TASK FORCES)?

- HUD **is active** with regional organizations and generally coordinates with tribes at conferences and workshops.
- The tribes also provide a lot of direct feedback via NAIHC to HUD regarding tribal housing issues.
- The breakdown in communication appears to be on the government-to-government front.
- Although coordination with regional and national tribal housing organizations is necessary, HUD needs to ensure its communications relating to consultation are held with the various individual tribal governments.
- On issues relating to tribal self-government, tribal trust resources, or treaty and other rights, HUD should continue, and where appropriate, use consensual means for developing regulations, such as negotiated rulemaking as the process has proven effective.
- HUD should establish a tribally appointed committee, consisting of representatives of tribal governments to **consult on the appropriateness** of using negotiated rulemaking procedures on particular matters.
- The procedures governing such a committee would be established through the **mutual** agreement of HUD and tribal governments.
- HUD should also establish task force(s) to develop recommendations on certain issues and not solely rely on national organizations for input.
- Communication can be conducted via the internet; fax; USPS, FedEx, UPS; telephone-conference calls; meetings' etc—the means by which the communication occurs should be determined by the significance of the consultation matter, the need to act quickly or other relevant factors such as cost.