

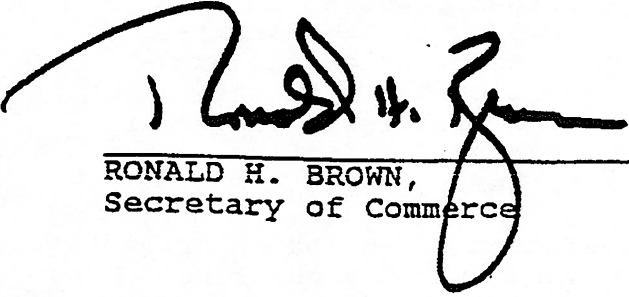
AMERICAN INDIAN AND ALASKA NATIVE POLICY  
OF THE  
U.S. DEPARTMENT OF COMMERCE

"All men were made by the Great Spirit Chief. They are all brothers. The earth is the mother of all people, and all people should have equal rights upon it....Let me be a free man-free to travel, free to stop, free to work, free to trade, where I choose, free to choose my own teachers, free to follow the religion of my fathers, free to think and talk and act for myself and I will obey every law, or submit to the penalty."

Chief Joseph, Nez Perce Nation

From the Secretary of Commerce:

In the great mosaic of our country, we all know it takes work, cooperation, and knowledge to make our dreams reality. This policy offers cooperation, access to information, which is knowledge, and my pledge to create an environment that will foster dreams, free will, and productivity. It is time for our nations to realize that we are interdependent. With that wisdom, we must work together to build a strong future for all of us.

  
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RONALD H. BROWN,  
Secretary of Commerce

Date: March 30, 1995

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INTRODUCTION

In recognition of the unique status of American Indian and Alaska Native tribal governments, the Department of Commerce hereby proclaims its American Indian and Alaska Native Policy. This policy outlines the principles to be followed in all Department of Commerce interactions with American Indian and Alaska Native tribal governments. This policy is based on the United States Constitution, Federal treaties, policy, law, court decisions, and the ongoing political relationship among the tribes and the Federal government.

Acknowledging the government wide fiduciary obligations to American Indian and Alaska Native tribes but also supporting tribal autonomy, the Department of Commerce espouses a government-to-government relationship between the Federal government and American Indian and Alaska Native tribes.

This policy pertains to Federally recognized tribes and provides guidance to Commerce personnel for issues affecting American Indians and Alaska Natives. This policy does not apply to Commerce interactions with state recognized tribes, Indians, or Alaska Natives who are not members of tribes with respect to matters provided for by statute or regulation.

This policy is for internal management only and shall not be construed to grant or vest any right to any party in respect to any federal action not otherwise granted or vested by existing law or regulations.

DEFINITIONS

Indian tribe (or tribe). Any Indian tribe, band, nation, Pueblo, or other organized group or community, including any Alaska Native village (as defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is 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 Indians because of their status as Indians and tribes.

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 inclusion in 25 CFR part 83, "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," as printed in the Federal Register.

## POLICY PRINCIPLES

The following policy statements provide general guidance to U.S. Department of Commerce employees for actions dealing with American Indian and Alaska Native governments.

1. THE DEPARTMENT RECOGNIZES AND COMMITS TO A GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH AMERICAN INDIAN AND ALASKA NATIVE TRIBAL GOVERNMENTS.

Commerce recognizes that the tribal right of self-government flows from the inherent sovereignty of tribes and nations and that Federally recognized tribes have a unique and direct relationship with the Federal government. Commerce further recognizes the rights of each tribal government to set its own priorities and goals for the welfare of its membership and that Commerce will deal with each tribal government, when appropriate, to meet that tribe's needs.

2. THE DEPARTMENT ACKNOWLEDGES THE POLICY COMMITMENTS OF THE U.S. CONGRESS AND THE CHIEF EXECUTIVE AS PRECEDENCE.

Commerce recognizes the U.S. Congress passed House Concurrent Resolution #331, in 1988, declaring the Policy "To Acknowledge the Contribution of the Iroquois Confederacy of Nations to Reaffirm the Continuing Government-to-Government Relationship between Indian Tribes and the United States Established in the Constitution." And, additionally, incorporates the Policy Memorandum of the White House, issued April 29, herein, as so much guides the Executive Departments and Agencies in the "Government-to-Government relations with Native American tribal Governments."

3. THE DEPARTMENT ACKNOWLEDGES THE TRUST RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT AND AMERICAN INDIAN AND ALASKA NATIVE TRIBES AS ESTABLISHED BY SPECIFIC STATUTES, TREATIES, COURT DECISIONS, EXECUTIVE ORDERS, REGULATIONS, AND POLICIES.

Commerce, in keeping with the fiduciary relationship, recognizes its trust responsibility and will consult and work with tribal governments prior to implementing any action when developing legislation, regulations, and/or policies that will affect tribal governments; their development efforts, and their lands and resources.

4. THE DEPARTMENT ACKNOWLEDGES THE COMMERCE CLAUSE OF THE UNITED STATES CONSTITUTION IS ALSO KNOWN AS THE "INDIAN COMMERCE CLAUSE."

Commerce recognizes the "Commerce Clause" of the United States Constitution (Article I, Section 8, Clause 3) is also known as the "Indian Commerce Clause" and states: "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;". Commerce

understands that trade and commerce were the original building blocks that established government-to-government relationships with the Indian Tribes. Commerce pledges to honor the constitutional protections secured to Indian Commerce.

5. THE DEPARTMENT WILL CONSULT AND WORK WITH TRIBAL GOVERNMENTS BEFORE MAKING DECISIONS OR IMPLEMENTING POLICY, RULES OR PROGRAMS THAT MAY AFFECT TRIBES TO ENSURE THAT TRIBAL RIGHTS AND CONCERNS ARE ADDRESSED.

Commerce recognizes that as a sovereign government, the tribe is responsible for the welfare and rights of its membership and has the right to regulate commerce within its tribal boundaries. Therefore, Commerce will involve tribes and seek tribal input at the appropriate level on policies, rules, programs, and issues that may affect a tribe.

6. THE DEPARTMENT WILL IDENTIFY AND TAKE APPROPRIATE STEPS TO REMOVE ANY IMPEDIMENTS TO WORKING DIRECTLY AND EFFECTIVELY WITH TRIBAL GOVERNMENTS.

Commerce recognizes there may be legal, procedural, organizational, and other impediments that affect its working relationship with tribes. Commerce will apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") and the "Regulatory Flexibility Act" to design solutions and tailor Federal programs, when appropriate, to address specific or unique needs of tribal communities. Commerce will use the National Performance Review and government reorganization to implement effective means for direct cooperation with tribal governments.

7. THE DEPARTMENT WILL WORK COOPERATIVELY WITH OTHER FEDERAL DEPARTMENTS AND AGENCIES, WHERE APPROPRIATE, TO FURTHER THE GOALS OF THIS POLICY.

Commerce recognizes the importance of interagency cooperation. Therefore, Commerce will encourage and strive for communication, coordination, and cooperation among all governmental agencies to ensure that the rights of tribal governments are fully recognized and upheld.

8. THE DEPARTMENT WILL WORK WITH TRIBES TO ACHIEVE THEIR GOAL OF ECONOMIC SELF-SUFFICIENCY.

Commerce recognizes the importance of economic independence to tribal self-determination and tribal self-sufficiency and pledges to assist tribes with developing strong and stable economies to participate in today's national and global marketplace. Therefore, Commerce will make every effort to ensure that eligible tribes have access to Commerce programs that will help them meet their economic goals.

9. THE DEPARTMENT WILL INTERNALIZE THIS POLICY TO THE EXTENT THAT IT WILL BE INCORPORATED INTO ONGOING AND LONG-TERM PLANNING AND MANAGEMENT PROCESSES, AS WELL AS DAY-TO-DAY OPERATIONS.

Commerce recognizes that policies are not relevant or successful unless they are acted upon and properly implemented. Commerce will effectively and fully incorporate all of the principles of this policy into all operations and basic tenets of its mission. Commerce will identify the office or individual to coordinate this policy and act as liaison with American Indian and Alaska Native tribes in implementing and working with the policy and principles.

10. THE EFFECTIVE DATE OF THIS DEPARTMENTAL POLICY IS UPON SIGNING BY THE DEPARTMENT OF COMMERCE AFTER CONSULTATION WITH TRIBAL GOVERNMENTS.

Therefore, the Secretary of the Department of Commerce hereby directs all Commerce agencies, bureaus, and their components to implement this policy by incorporating all the above principles in their planning and management activities, their legislative and regulatory initiatives, as well as their policy development.