



U.S. Interagency Council on Homelessness

Action Plan for Tribal Consultation and Collaboration

Introduction and Background

The U.S. Interagency Council on Homelessness (“USICH”) leads and coordinates the federal response to prevent and end homelessness in America. We drive action among our 19 federal member agencies and foster the efficient use of resources in support of best practices at every level of government and with the private sector.

Our Council is made up of leadership within our member agencies and meets quarterly to advance federal collaboration and support state and local activities. In addition, USICH leads interagency working groups to design and implement federal strategies and provides expert guidance that empowers communities to end homelessness.

Contained within this document is USICH’s Action Plan in response to President Joseph R. Biden, Jr.’s Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships dated January 26, 2021. For the purposes of implementation and reporting, the effective date of this Action Plan is April 26, 2021.

Designated Official

The Chief of Staff is USICH’s Designated Official responsible for implementation of this plan, and related policies and requirements. The Designated Official will advise and make recommendations to the USICH Executive Director on federal policies, issues, programs, and activities with tribal implications. The Designated Official will also update this plan as necessary.

Commitment to Respecting Tribal Sovereignty and the Nation-Nation Relationship

USICH recognizes that the United States government and the governments of American Indians and Alaska Natives have a unique government-to-government relationship based on U.S. constitution, treaties, federal statutes, court decisions, and executive branch policies, as well as moral and ethical considerations. This special relationship has emphasized self-determination for Indigenous people and meaningful involvement by Indigenous people in federal decision-making (consultation) where such decisions affect Indigenous people, either because of their status as Indigenous people or otherwise. As an executive branch agency, USICH has a responsibility and is committed to working with tribal governments in this unique relationship, respecting tribal sovereignty and self-determination.

Consultation Participants and Roles

Tribes¹: The government-to-government relationship between the U.S. and federally recognized Tribes dictates that the principal focus for USICH Consultation is Indian Tribes, individually or collectively.

USICH Chief of Staff: The USICH Chief of Staff is responsible for agency-wide implementation and monitoring of EO 13175 for USICH Tribal consultation. The Chief of Staff serves as the agency’s point of contact for accessing agency-wide

¹ “Indian tribe” means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, [25 U.S.C. 479a](#).

information and will coordinate with other agency personnel to develop and submit progress reports to the Director of OMB as required by the Presidential Memorandum.

USICH Executive Director: To the extent practicable, the USICH Executive Director will be present for all formal consultations with Tribes. If the Executive Director is not available, that person may delegate to an appropriate member of staff with decision-making authority.

Director of Policy Initiatives: To the extent practicable, the USICH Director of Policy Initiatives will be present for all formal consultations with Tribes. If the Director of Policy Initiatives is not available, that person may delegate to the Policy Director or another appropriate member of senior staff with decision-making authority.

Director of National Initiatives: To the extent practicable, the Director of the USICH National Initiatives Team will be present for all formal consultations with Tribes. If the Director of National Initiatives is not available, that person may delegate to a Regional Coordinator.

Note on Consultation With American Indian and Alaska Native Organizations: At times it's useful for USICH to communicate with organizations that serve or represent the interests of AI/AN communities (e.g., National Congress of American Indians, National American Indian Housing Council). The federal government doesn't participate in government-to-government consultations with these entities; however, these organizations serve and advocate Tribes' issues/concerns and shouldn't be excluded from the process. As such, USICH will convene separate listening sessions.

Tribal Consultation Process and Procedures

An effective consultation between USICH and Tribes requires trust between all parties which is an indispensable element in establishing a good consultative relationship. Tribal consultation involves regular consultation, and case-by-case consultation as the need arises. For USICH, consultation consists of four phases: Identification, Notification, Tribal Input, and Follow-Up.

- A. Identification:** Identification of an item for consultation may occur in two ways: (1) USICH may identify a policy or action that is appropriate for consultation; or (2) a tribe may request that USICH consult on a specific policy or action. When a Tribe requests consultation with USICH, the request should be made in writing to the Designated Official and should describe the specific agency action and its possible tribal implications. USICH will make proactive efforts to identify policies appropriate for consultation and will not rely solely on tribal requests for consultation to trigger consultation.

Determining if consultation is appropriate:

1. Under EO 13175, a policy with tribal implications is defined as "regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." USICH will implement this definition in

accordance with the provisions of this document.

2. USICH may also consult with Tribes on an action or policy that does not have explicit tribal implications. When there are significant changes or additions proposed to the agency's policies or priorities that affect people experiencing homelessness but are not focused solely on American Indians and Alaska Natives, USICH will make a serious effort to include Tribes in the outreach normally conducted with other stakeholders who are affected by the action.

It is important to note that USICH does not possess regulatory or rulemaking authority, nor does the agency administer funding, grants, or programs. As such, agency actions that would be appropriate for Tribal consultation may be more limited than they would be for larger agencies that possess these authorities. Nevertheless, USICH remains committed to the spirit of the Presidential Memorandum and will make every effort to ensure regular, meaningful opportunities for consultation.

B. Notification of Tribal Consultation Opportunity: USICH will notify potentially affected Tribe(s) in writing as soon as possible after determining that a proposed action or initiative has tribal implications. USICH will use a "Dear Tribal Leader Letter" (DTLL) format to notify individual Tribes of consultation activities. USICH is a small agency that has not had a formal tribal consultation policy in the past. As such, we will rely on larger agencies, including HUD's Office of Special Needs Assistance Programs and Office of Native American Programs, the Bureau of Indian Affairs, and the White House Domestic Policy Council, to identify contact information for tribal leaders and to assist with the dissemination of Dear Tribal Leader Letters.

USICH will give the tribes at least 30 days in which to provide comments or prepare for a consultation activity, unless there are circumstances that preclude such a time period, in which case, USICH will provide a written explanation for the shorter time period. The notification will include, to the extent feasible, the following information:

1. A description of the proposed policy or action
2. A description of the potential tribal impacts
3. An expected timeline for agency action
4. Contact information for appropriate USICH staff
5. Instructions for providing feedback or asking questions about the consultation process, in accordance with this policy
6. The tribes' ability to request additional information on consultation topics
7. The date and location of the consultation opportunities, if applicable

C. Tribal Input: Tribes may ask questions and provide USICH with their concerns, interests, and recommendations during a formal consultation opportunity. Tribes may propose and comment on topics other than those raised by USICH.

Possible consultation mechanisms may include one or more of the following, or another appropriate means of communication:

1. Face-to-face meetings at the local, regional, and national levels
2. Roundtables
3. Teleconferences, videoconferences, and webinars
4. Electronic Mailings
5. Site visits by USICH staff to reservations, villages, and other tribal communities
8. Other regular or special consultation sessions that conform to the processes and procedures of this policy

USICH will keep a record of information provided and comments made during the consultation, and participants will be informed of how the consultation will be documented.

Documentation will include, at a minimum, a list of participants, a summary of the issues discussed, and a thorough description of the input received from the participating Tribes. Examples of documentation may include notes of the discussion taken by a USICH employee, a video or voice recording, a professional transcript, and written comments submitted in response to a solicitation for tribal input. If USICH creates voice or video recordings of the meetings, the facilitator will notify all participants that the meeting will be recorded. The facilitator should make an announcement at the beginning of the meeting that the meeting will be recorded by a specific medium (such as voice or video).

Tribal views may be shared informally with USICH at any time in recognition of the government-to-government relationship.

- D. Follow-Up:** After a consultation, USICH will consider the input that was received. Consultation may continue after the end of formal input from tribes. USICH will work to integrate tribal priorities and input into the agency's priorities, decisions, guidance, and messaging, with the goal of reaching solutions that are consistent with the vision and spirit of EO 13175.

USICH will make every effort to report on the outcomes of the consultation within 90 calendar days of final consultation. For ongoing issues identified during the consultation, USICH will communicate with the Tribe(s) throughout the year.

Waivers and Flexibilities

USICH is not a regulatory or rulemaking agency and does not administer programs, funding, or grants, thus, we do not have the ability to grant waivers to established regulations. However, we recognize the critical importance of flexible funding for tribes and will continue to encourage our 19 member agencies to ensure maximum flexibility in their programs and policies.

Legislative Proposals

USICH does not generally submit legislative proposals to Congress. However, through the OMB-led process, we have opportunities to comment on legislative proposals from other agencies. When we receive legislative proposals that will affect one or more Tribe(s), we will continue to encourage our member agencies to ensure there is a mechanism for tribal input.

USICH Action Plan

The Action Plan outlined herein is intended to be dynamic and iterative. The ideas and initiatives contained within are meant to serve as a starting point and will undergo continued review and evaluation to improve consultation efforts and adapt to changing priorities and circumstances within USICH and our 19 member agencies. USICH will implement this plan to establish meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and to strengthen the government-to-government relationship between the United States and American Indians, Alaska Natives, and tribal governments. Specifically, USICH will:

Foster meaningful government-to-government relations by:

- a. To the extent practicable, participating in national tribal conferences, tribal/state meetings, summits, and conferences discussing tribal issues.
- b. Establishing direct contact with tribal governments, including, to the extent practicable, visiting tribal governments at reservations, Native Villages, and communities.
- c. Seeking tribal government representation in meetings, conferences, summits, advisory committees, and other forums concerning issues with tribal implications.

Ensure meaningful tribal input into future policies and actions by:

- d. Developing policy and initiatives using input, guidance, and recommendations from tribal leaders.
- e. Seeking and responding to comments from tribal governments.
- f. Soliciting tribal comments in the development of the next iteration of the *Federal Strategic Plan to Prevent and End Homelessness*.

Assist efforts to coordinate tribal housing and homelessness policy and programs within the Federal government by:

- g. Re-instituting the Interagency Working Group on Ending Homelessness among American Indian and Alaska Native Homelessness, which consists of representatives from DOI, HUD, VA, USICH, HHS, ED, USDA, and others, within 90 days of the effective date of this Action Plan.

Increase the knowledge and cultural competence of USICH staff by:

- h. Within 180 days of the effective date of this Action Plan, providing at least one training for all USICH staff on the history of tribes in the United States, the federal trust responsibility, Nation-Nation relationships, and American Indian and Alaska Native culture.

Accountability

Plan Transmission: In accordance with President Joseph R. Biden, Jr.'s Memorandum on Tribal Consultation, the Designated Official will submit to the Director of the Office of Management and Budget (OMB) this detailed plan by April 26, 2021.

Progress Reports: The Designated Official will submit to the Director of OMB a progress report on the status of each action included in this plan, together with any proposed updates to this plan, within 270 days (by October 26, 2021). The Designated Official will submit such progress reports annually thereafter.