

NCAI Webinar: Planning for President's Meeting with Tribal Leaders

and E.O. 13175 Consultation and
Coordination with Indian Tribal
Governments

October 6, 2009 - 2:05 – 3:30 EASTERN

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BARACK OBAMA'S PRINCIPLES FOR STRONGER TRIBAL COMMUNITIES

SOVEREIGNTY, TRIBAL-FEDERAL RELATIONS AND THE TRUST

RESPONSIBILITY: Native American tribal nations are sovereign, self-governing political entities and enjoy a government-to-government relationship with the United States federal government that is recognized expressly in the U.S. Constitution.

Self-Determination: Barack Obama supports the principle of tribal self-determination, with recognition that the federal government must honor its treaty obligations and fully enable tribal self-governance.



Consultation and Inclusion: In furtherance of the government-to-government relationship, Barack Obama will include tribal leadership in the important policy determinations that impact Indian Country. Obama will appoint an American Indian policy advisor on his senior White House staff so that Indian Country has a direct interface at the highest level of the Obama Administration. In addition, Obama will host a White House “Tribal G8” – an annual meeting with Native American leaders to develop a national Indian policy agenda.

Honoring the Trust Responsibility: Barack Obama recognizes that honoring the government-to-government relationship requires fulfillment of the United States’ trust responsibility to tribes and individual Indians. More specifically, Obama is committed to meaningful reform of the broken system that manages and administers the trust lands and other trust assets belonging to tribes and individual Indians. Further, he is committed to resolving equitably with both tribes and individual Indians litigation resulting from the past failures in the administration and accounting of their trust assets.

Tribal Expectations for Meeting with President

1. Policy Direction from President on Respecting Tribal Sovereignty and the Tribal-Federal Relationship
2. Progress on Key Tribal Issues
3. Dialogue with Administration
4. Opportunity to Educate Administration, Congress and General Public - Media

Likely Issues for President's Meeting

- Consultation and the Tribal-Federal Relationship
- Health Care
- Public Safety and Law Enforcement
- Renewable Energy Development

Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments

NCAI Process to Gain Tribal Leader Direction:

- NCAI Presidential Transition Plan in 2008-09
- White House Staff met with Tribal Leaders at NCAI Midyear
- Conducted review of tribal comments
- Developed Background Paper in August
- Developed Notes from August White House Meeting
- Pending NCAI Resolution for Annual Meeting

Presidential Documents

Title 3—**Executive Order 13175 of November 6, 2000****The President****Consultation and Coordination With Indian Tribal Governments**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) "Policies that have tribal implications" refers to 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.

(b) "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.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. Fundamental Principles. In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

Three Recommendations

- 1. Refocus the Executive Order on Tribal Sovereignty, the Trust Responsibility and Building Consensus Between Nations**
2. Develop Effective Accountability
3. Increase Opportunities for Dialogue

Sec. 3. *Policymaking Criteria.*

In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

- (a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.
- (b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.
- (c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:
 - (1) encourage Indian tribes to develop their own policies to achieve program objectives;
 - (2) where possible, defer to Indian tribes to establish standards; and
 - (3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

Three Recommendations

1. Refocus the Executive Order on Tribal Sovereignty, the Trust Responsibility and Building Consensus Between Nations
2. **Develop Effective Accountability**
3. Increase Opportunities for Dialogue

Sec. 7. Accountability.

- (a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.
- (b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.
- (c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Three Recommendations

1. Refocus the Executive Order on Tribal Sovereignty, the Trust Responsibility and Building Consensus Between Nations
2. Develop Effective Accountability
3. **Increase Opportunities for Dialogue**

Three Proposed NCAI Resolutions

- **PSP-09-008 - Requests to Obama Administration on Nation to Nation Relationship and Related Issues**
- **PSP-09-032 - President Obama's Executive Order on Nation to Nation Relationships**
- **PSP-09-038 - Developing a Tribal Strategy for Meeting with President Obama**

Questions? Comments?

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To ask a question
on the phone, press *1
on your keypad.

You’ll be put into a queue and the
operator will un-mute your line at
the appropriate time.

