



EXTERNAL AFFAIRS POLICY

- I. **TITLE:** FEMA Tribal Policy
- II. **DATE OF ISSUANCE:** December 30, 2013
- III. **POLICY STATEMENT:** The FEMA Tribal Policy establishes a commitment by the Department of Homeland Security's Federal Emergency Management Agency (FEMA) to enhance its relationship with the Nation's American Indian and Alaska Native Tribal communities to ensure we work together to build, sustain, and improve capacity to prepare for, protect against, respond to, recover from, and mitigate against, all hazards.
- IV. **PURPOSE:** This document responds to the Presidential Memorandum that directed each department and agency to develop a detailed plan of action for compliance with Executive Order (E.O.) 13175. Both the White House and the U.S. Department of Homeland Security (DHS) are committed to increasing nation-to-nation relationships with Tribal communities nationwide.

As a result, DHS and its components remain committed to increased consultation and coordination with Federally recognized Tribes across the United States building on current Tribal partnerships in an effort to protect the safety and security of all individuals on tribal lands through the DHS Tribal Consultation Policy and resulting Implementation Plan.

- V. **SCOPE AND EXTERNAL AUDIENCE:** This policy applies to all Federally-recognized tribes and outlines how FEMA personnel will provide consultation and coordination guidance to tribal communities across the United States.
- VI. **AUTHORITY:** The Homeland Security Act of 2002, as amended (6 U.S.C. 101 *et seq.*), the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*), the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a), E.O. 13175, Consultation and Coordination With Indian Tribal Governments, and the President's Memorandum of November 5, 2009, Tribal Consultation.



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- VII. OBJECTIVES:** The main objectives of this policy are to build strong and lasting partnerships with American Indian and Alaska Native Tribal governments, direct the Agency's interactions with American Indian and Alaskan Native Tribal governments, and mirror DHS's commitment to implementing E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, and the President's Memorandum of November 5, 2009, *Tribal Consultation*.

FEMA also recognizes the sovereign rights, authority, and unique status of Tribal Governments and is committed to working in partnership with Indian Tribes on a nation-to-nation basis. The Agency is aware that a concerted effort between the Agency and American Indian and Alaska Native Tribal governments is needed to establish regular and meaningful consultation and collaboration in the development of policies that have implications for Tribal communities. This effort is needed to strengthen the nation-to-nation relationships with Indian Tribes and to minimize the imposition of unfunded mandates upon Federally-recognized tribes.

VIII. DEFINITIONS, ABBREVIATIONS, AND FORMATTING:

Indian Tribal Government: Any Federally-recognized governing body of an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian tribe under the Federally Recognized Tribe List Act of 1994, 25 U.S.C 479a. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

- IX. POLICY DETAILS:** FEMA recognizes that the participation of American Indian and Alaska Native Tribal Governments is vital to enhancing nation-to-nation relations and will continue to seek their consultation through the revision of this policy originally dated 2010.

FEMA is committed to enhancing the implementation of this policy by working closely with our governmental partners in the Nation's American Indian and Alaskan Native Tribal communities and echoes the sentiment expressed by former Secretary Napolitano that this partnership will lead to "better policy outcomes" and will ultimately assist FEMA in achieving its mission.



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FEMA's public policy commitment to American Indian and Alaska Native Tribal Governments are as follows:

1 In the spirit of community, FEMA commits itself to building a strong and lasting partnership with American Indians and Alaska Natives to assist them in preparing for the hazards they face, reducing their disaster vulnerabilities, responding quickly and effectively when disasters strike, and recovering in their aftermath.

2 FEMA also recognizes the need to support the unique status of the American Indian and Alaska Native Tribal governments by engaging in meaningful dialogue when developing and implementing policy guidance that will assist the Tribal community with their emergency management needs that fall under the auspices of FEMA. This includes, but is not limited to, the building, sustaining, and improvement of Tribal nations' capability to prepare for, protect against, respond to, recover from, and mitigate all hazards.

3 This policy is intended to be flexible and practical providing for the evolution of partnerships among FEMA, American Indian and Alaska Native Tribal governments, state and local governments, and other Federal agencies. FEMA will strive for consistency in the Agency's interactions with American Indian and Alaska Native Tribal governments nationwide, working within existing statutes and authorities.

4 This policy outlines the guiding principles and establishes implementation objectives under which all employees of FEMA are to operate with regard to Federally-recognized American Indian and Alaska Native Tribal governments. FEMA acknowledges the inherent sovereignty of American Indian and Alaska Native Tribal governments, the trust responsibility of the Federal government, and the nation-to-nation relationship between the U.S. Government and American Indian and Alaska Native Tribal governments as established by specific statutes, treaties, court decisions, executive orders, regulations, and policies. FEMA further acknowledges the precedents of the Constitution, the President of the United States, and the U.S. Congress as the foundation of this policy's content.



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5 This policy is consistent with existing law and does not alter or supersede the authorities of FEMA or those of any other Federal agencies. Further, this policy does not diminish or modify existing Tribal government authority in any way, nor does it suggest recognition of Tribal authority that does not currently exist beyond inherent tribal sovereignty. FEMA has authority to work with American Indian and Alaska Native Tribal governments under existing law.

X. ROLES & RESPONSIBILITIES:

- a. *FEMA commits to nation-to-nation relationships with American Indian and Alaska Native Tribal governments. FEMA recognizes that the Tribal right of self-government stems from the inherent sovereignty of American Indian and Alaska Native Tribes as nations and that Federally-recognized Tribes have a unique and direct relationship with the Federal government. Native American and Alaska Native Tribal governments are not political subdivisions of States, but are recognized by the United States as distinct sovereign entities.*
- b. *To ensure that Tribal rights and concerns are addressed, FEMA will consult with American Indian and Alaska Native Tribal governments before taking a proposed FEMA action that will have a substantial direct effect on: one or more Indian tribe; the relationship between the Federal government and Indian tribes; or the distribution of power and responsibilities between the Federal government and Indian tribes. FEMA recognizes that, as a sovereign government, each Tribal government sets its own priorities and goals for the welfare of its membership, which include the considerations Tribal governments make to fulfill their responsibilities to their non-Tribal residents, relatives, employees, and neighboring jurisdictions. FEMA will involve Tribal governments in consultations to seek their input on policies, programs, and issues so that they may evaluate the potential impacts for their communities.*
- c. *FEMA acknowledges the trust responsibility of the Federal Government to American Indian and Alaska Native Tribal governments as established by specific treaties, court decisions, statutes, executive orders, regulations, and policies. In recognition of this trust responsibility, FEMA will evaluate the impact of policies, programs, and activities on Tribal trust resources and consider the*



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rights and concerns of Tribal governments in its decision-making. FEMA will also assist Tribal governments, should they seek assistance, in setting priorities for the interests of their community members as it relates to FEMA programs.

- d. *FEMA will identify and take reasonable, appropriate steps to eliminate or diminish procedural impediments to working directly and effectively with Tribal governments.* FEMA recognizes there may be legal, procedural, organizational, or other impediments that affect its working relationships with Tribes. FEMA will apply the requirements of Executive Order (E.O.) 13175, Consultation and Coordination With Indian Tribal Governments, the "DHS Plan to Develop a Tribal Consultation and Coordination Policy," E.O. 12875, "Enhancing the Intergovernmental Partnership," and E.O. 12866, "Regulatory Planning and Review," to design solutions and tailor Agency programs to address specific or unique needs of Tribal governments, as permitted by law.
- e. *FEMA will work in partnership with other Federal departments and agencies to enlist their support of cooperative efforts to further the goals of this policy.* FEMA recognizes the importance of interagency communication, coordination, and cooperation to pursue and implement its Tribal policy to fulfill the Agency's commitment to work with Tribal governments in a nation-to-nation relationship. Advisory councils within the Executive Branch have proven valuable to understanding the views and opinions of our tribal partners within the homeland. Through the Federal Advisory Committee Act (FACA), these bodies enable the Secretary and other Departmental leadership to routinely hear firsthand from those on the front line of state, local, and tribal government. The FEMA National Advisory Council (NAC), established by the Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006 (Public Law 109-295), advises the FEMA Administrator on all aspects of homeland security and emergency management. The NAC incorporates stakeholder input in the development and revision of the National Preparedness Guidelines, the National Incident Management System (NIMS), the National Response Framework (NRF), and other related plans and strategies. The NAC has both an elected Federally-recognized



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tribal official and a non-elected tribal government representative on the council.

- f. *FEMA will encourage cooperation and partnership between and among Federal, Tribal, State, local governments, and public and private entities. Effective homeland security and emergency management require the cooperation, partnership, and mutual consideration of neighboring governments, which include Tribal, State, or local governments. Accordingly, FEMA will encourage partnerships in the interest of implementing effective homeland security and emergency management practices. The Agency's support is not intended to lend Federal support to any one party that would place the interests of another in jeopardy. In these fields, issues are often shared and the principle of partnership between equals and neighbors often serves the best interests of both.*
- g. *FEMA acknowledges as precedents, the policy commitments and decisions of the Executive, Legislative, and Judicial branches of the United States Government. This policy reinforces the commitments contained in various Presidential policies emphasizing that such a nation-to-nation relationship be pursued. The Agency's policy also recognizes the 1988 U.S. House of Representatives Concurrent Resolution #331, which declared the policy "To acknowledge the contribution of the Iroquois Confederacy of Nations... and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution." Further, this policy acknowledges the importance and precedence of treaties, court decisions, statutes, executive orders, and regulations regarding Tribal policy.*

- XI. MONITORING AND EVALUATION:** FEMA will incorporate this policy within the fundamental tenets of the Agency's mission. As such, FEMA will integrate the guiding principles of this policy into the Agency's daily activities and operations, as needed. This policy is intended to reflect a continuous and long-term planning engagement and management effort. To that end, FEMA has designated a Special Advisor on National Tribal Affairs to engage American Indian and Alaska Native Tribal governments on policy issues and maintains Regional Tribal Liaisons in each of the ten (10) geographic FEMA Regions across the United States. FEMA is also working collaboratively with our tribal partners to finalize and adopt a FEMA



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Tribal Consultation Policy and FEMA Tribal Declarations Policy that will expand on the goals expressed in this FEMA Tribal Policy.

- XII. RESPONSIBLE OFFICE:** FEMA Office of External Affairs (OEA)
- XIII. SUPERSESSION:** This updated policy supersedes the FEMA Tribal Policy dated June 29, 2010, and all previous guidance on this subject.
- XIV. REVIEW DATE:** This policy is valid through December 2015 at which time it will be reviewed and adjusted, as needed.

A handwritten signature in blue ink, appearing to read "W. Craig Fugate", written over a horizontal line.

W. Craig Fugate
Administrator
FEMA