



FEMA POLICY: FEMA Tribal Policy

FEMA Policy #305-111-1

BACKGROUND

This policy applies to all Federal Emergency Management Agency (FEMA) programs and headquarters and regional employees. FEMA's Tribal Policy outlines the commitment by the Agency to enhance its nation-to-nation relationship with federally recognized Indian tribal governments (tribal governments), and to ensure FEMA works together to build, sustain, and improve every tribal governments' capacity to prepare for, protect against, respond to, recover from, and mitigate against all hazards.

This updated policy supersedes the FEMA Tribal Policy dated December 30, 2013, and all previous guidance on this subject. 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.

PURPOSE

This policy establishes how FEMA operates with regard to tribal governments, and outlines a framework for nation-to-nation relations with tribal governments that recognizes tribal sovereignty, self-governance, and FEMA's trust responsibility that is consistent with applicable authorities.

PRINCIPLES

- A. Recognizing the unique nature of each tribal community and the need to work with all members of tribal communities, FEMA commits to building strong and lasting partnerships with tribal governments to assist in preparing for all threats and hazards, including those unique to tribal communities.
- B. FEMA will respect and support the unique status of sovereign tribal governments by engaging in meaningful dialogue that will assist tribal communities with any emergency management needs, which fall under the authority of FEMA.
- C. FEMA acknowledges the inherent sovereignty of tribal governments, the trust responsibility of the federal government, and the nation-to-nation relationship between the U.S. Government and tribal governments as established by the U.S. Constitution, statutes, treaties, court decisions, executive orders, regulations, and policies as the foundation of this policy.



REQUIREMENTS

A. NATION-TO-NATION RELATIONSHIPS

Outcome: FEMA maintains nation-to-nation relationships and engagement with tribal governments.

1. FEMA recognizes that the tribal right to self-governance stems from the inherent sovereignty of Indian tribes as nations and that tribal governments have a unique and direct relationship with the federal government. Tribal governments are not political subdivisions of states, but are recognized by the United States as distinct sovereign entities.
2. FEMA will work in partnership with other federal departments and agencies to enlist their support with cooperative efforts to further the goals of this policy.
3. FEMA will maintain a distinct policy guiding the Agency's process to consult and collaborate with tribal governments on the development and implementation of policies that have tribal implications.

B. CONSIDERATION OF THE UNIQUE CIRCUMSTANCES THAT AFFECT TRIBAL GOVERNMENTS

Outcome: FEMA considers the unique circumstances of agency programs and disaster assistance that affect the general welfare of tribal governments.

1. FEMA will consult with tribal leaders and officials when developing policies, guides and implementing programs and projects that have tribal implications that have substantial direct effects on tribes and will maintain a distinct policy guiding the Agency's consultation process that reflects the unique circumstances affecting tribal governments.
2. FEMA actions that may affect the unique circumstances of a tribal community, include but are not limited to: cultural and religious interests, sacred, historical and cultural sites, resources, and preservation, location, infrastructure, and economic status.
3. 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.

C. BUILDING TRIBAL CAPACITY

Outcome: FEMA will work in collaboration with tribal governments to further develop tribal education and training curriculum.

1. FEMA will provide tribal governments with information necessary to participate in educational and technical assistance programs to support, develop, and enhance tribal expertise to build, sustain, and improve the capacity to prepare for, protect against, respond to, recover from, and mitigate against all hazards.
2. FEMA, working through the National Tribal Affairs Advisor and the Regional Tribal Liaisons, will work with Agency program areas to develop and structure tribal educational and technical assistance programs to be flexible to the unique circumstances of tribal



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governments (e.g., variation in size, financial circumstances, cultural, and other unique circumstances).

A handwritten signature in blue ink, appearing to read "W. Craig Fugate".

W. Craig Fugate
Administrator
Federal Emergency Management Agency

December 27, 2016
Date



ADDITIONAL INFORMATION

REVIEW CYCLE

FEMA Policy 305-111-1, FEMA Tribal Policy, will be reviewed, reissued, revised, or rescinded within four years of the issue date.

AUTHORITIES

- A. The Homeland Security Act of 2002, as amended (6 U.S.C. 101 *et seq.*)
- B. The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*)
- C. The Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a)
- D. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
- E. Presidential Memoranda of November 5, 2009, Tribal Consultation
- F. FEMA Policy 101-002.01: *Tribal Consultation*

REFERENCES

- A. Department of Homeland Security Tribal Consultation Policy
- B. FEMA Tribal Consultation Policy, August, 2014.
- C. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*
- D. Presidential Memoranda: *Government-to-Government Relations with Native American Tribal Governments*; April 29, 1994. *Government-to-Government Relationship with Tribal Governments*; September 23, 2004. *Tribal Consultation*; November 5, 2009.

DEFINITIONS

Consultation: See FEMA Policy 101-002.01: *Tribal Consultation*.

Indian Tribal Government (tribal government): The governing body of any 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 Indian Tribe List Act of 1994. (25 U.S.C. §§ 479a to 479a-1) (42 U.S.C. § 5122(6)).

MONITORING AND EVALUATION

FEMA's National Tribal Affairs Advisor (NTAA) advises the FEMA Administrator and other senior FEMA leaders on tribal issues and engages tribal governments on policy issues from FEMA Headquarters. FEMA's Regional Tribal Liaisons (RTLs) support tribes in each of the ten (10) geographic FEMA Regions across the United States. The NTAA will evaluate the national implementation and effectiveness of this policy across the FEMA Regions and programs, with the help of FEMA's RTLs. In addition, the NTAA and RTLs will continually monitor FEMA programs and projects that affect tribal interests to ensure they support this policy. If there are disagreements regarding the implementation of this policy, FEMA and tribal governments will work to resolve them on a nation-to-nation basis.

QUESTIONS

Direct questions to the Office of External Affairs at FEMA-ActionOffice-EA@fema.dhs.gov.