Strategies for Effectively Working with American Indian and Alaskan Native (AI/AN) Communities
Background

In January 2016, the Mountain West Preparedness and Emergency Response Learning Center (MWPERLC), housed at the University of Arizona’s Mel and Enid Zuckerman College of Public Health (MEZCOPH), was awarded a cooperative agreement by the Association of Schools and Programs of Public Health (ASPPH) and the Center for Disease Control and Prevention (CDC) Office of Public Health Preparedness and Response (OPHPR). The grant is focused on the translation, dissemination, and evaluation of research products and trainings to improve public health preparedness and response practice, policies, and programs. The overall goal of the MWPERLC project is centered on “Building an Effective Tribal and Multijurisdictional Response Network to Improve Preparedness and Response” by providing tailored and adapted training, technical assistance, and exercise support.

In an effort to achieve the goal of the project, a MWPERLC Advisory Board (MAB) was created. The MWPERLC MAB consists of two separate advisory boards: the Tribal Advisory Board (TAB) and the State-Local Advisory Board (SLAB). The MAB includes representatives from federal, tribal, state, and local agencies who have a comprehensive range of knowledge and expertise in public health emergency preparedness. These individuals represent a wide array of agencies and jurisdictions and provide the MWPERLC team with multiple perspectives on the preparedness challenges within their respective jurisdictions and diverse communities. The MAB supports the Center’s preparedness training and education efforts to advance emergency preparedness programs. The MAB’s role includes providing the MWPERLC with consistent input, advice, and recommendations to inform the strategic direction of the Center’s activities and collaboratively enhance tribal and multijurisdictional response efforts to improve practice across public health and healthcare sector partners. In an effort to improve collaboration between tribal and state-local preparedness partners, the MWPERLC developed a document for its SLAB members that included strategies for effectively working with American Indian and Alaska Native (AI/AN) communities. That document was disseminated to the MWPERLC MAB during the Annual Board Meeting that convened in April 2016.

The purpose of this document is to expand on the original strategies document and provide state, local, and federal agencies with further strategies to effectively work with AI/AN communities in emergency preparedness and response efforts. Multiple references were consulted in the development of each strategy.
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Section I. Highlights of American Indian and Alaska Native Demographics in the United States

The definitions, graphs, and following information provide a general overview of AI/AN statistics as of the 2010 Census and the National Congress of American Indians.

**Federally Recognized Tribes:** There are 567 federally recognized tribal nations within the United States. These tribal nations have formal nation-to-nation relationships with the federal government.

**States with Federally Recognized Tribes:** The 567 tribal nations are located in 35 states across the United States.

**Reservations:** There are 334 federal-and-state-recognized reservations in the United States.

**Total Land:** The total landmass under AI/AN control covers approximately 100 million acres with 260 miles of international borders with Canada and Mexico. If all tribal lands were amassed together, it would be the fourth largest state.

**States with the highest proportion of AI/ANs:** Alaska (19.5%), Oklahoma (12.9%), and New Mexico (10.7%).
Figure 1: History of AI/AN Population and Future Population Projections

A HISTORY OF POPULATION

PRE-CONTACT
1.5-20 MILLION
Scholarly estimates range from 1.5 million–20 million Indigenous peoples in North America.

1890-1910
BELOW 250,000

2010
5.2 MILLION

2050
8.6 MILLION

Figure 2: Growth of AI/AN Population

A FAST-GROWING POPULATION

TOTAL US POPULATION

IN 2010, 5.2 MILLION PEOPLE (OR 1.7% OF THE US POPULATION) IDENTIFIED AS AMERICAN INDIAN/ALASKA NATIVE (AI/AN) ALONE OR IN COMBINATION WITH OTHER RACES, WHILE 0.9% IDENTIFIED AS AI/AN ALONE.

1.7% AI/AN ALONE/IN COMBINATION
0.9% AI/AN ALONE
2.9 MILLION
Figure 3: Age of American Indians and Alaska Natives within the United States

**INDIAN COUNTRY IS YOUNG**

- **32%**
  - About 32% of Natives are under the age of 18.
- **24%**
  - Compared to only 24% of the total US population.

**MEDIAN AGE**

- **26**
  - Natives on reservations.
- **37**
  - Total US population.

Some states have even higher proportions of young Native people. For example, in South Dakota nearly 40% of the 71,817 American Indians are under 18 years old.

Figure 4: American Indian and Alaska Native Family, Income, Housing and Poverty Demographics

**FAMILIES, HOUSING, & QUALITY OF LIFE**

- **$35,062**
  - Income: The median income of AI/AN households. This compares with $50,046 for the nation as a whole.
- **54%**
  - Housing: The percentage of AI/AN households who owned their own home in 2010. This is compared with 65% of the overall population.
- **557,185**
  - Families: The number of AI/AN families in 2010.
- **28.4%**
  - Poverty: The percentage of Native peoples that lived in poverty in 2010. For the nation as a whole, the corresponding rate was 15.3%.

References:

United States Census Bureau
https://www.census.gov/newsroom/facts-for-features/2015/cb15-ff22.html

National Congress of American Indians, Demographics
http://www.ncai.org/about-tribes/demographics
Section II. Strategies for Effectively Working with American Indian and Alaskan Natives

Enhancing public health emergency preparedness and response among all partners is an undertaking that requires effective communication and collaboration. That communication and collaboration can only be enhanced by taking into account the cultural and social differences present when working with disparate groups. Emergency Managers at the federal, state, and local level often face challenges when trying to connect with tribal communities within their jurisdictions to coordinate emergency planning and response. This document will attempt to provide insight into how some of those challenges can be overcome.

The strategies presented can serve as a general overview that will enhance public health emergency preparedness communication and collaboration, as well as cultural and societal competency, when working with tribes. This list of approaches is not intended to be all-inclusive, as each tribe, and tribal member, are unique and have their own perspective on issues related to tribal history, governance, trust, communication, and etiquette. The only way to truly understand these perspectives is to spend adequate time working within native communities.

Nonetheless, being aware of the following seven critical strategies can help federal, state, and local partners work more effectively with their tribal partners.

1. Understand the history of AI/ANs in the U.S.
2. Recognize the different structures of tribal governments among AI/ANs.
3. Acknowledge all AI/AN communities are different.
4. Establish trust with AI/ANs and their communities.
5. Develop effective communication with AI/ANs.
7. Understand key definitions that apply to AI/ANs.

The following sections will present an overview of each of the seven strategies to enhance your understanding of the tribal perspective when working with native communities.
1. Understand the History of American Indians and Alaska Natives in the United States

AI/ANs have been influenced by historical and current policies of the United States government. When working with AI/AN communities, it is important to understand their deep rooted and complex history. Many of our tribal preparedness partners have different histories that have subsequently affected how they run their public health preparedness and response efforts.

Prior to European contact, millions of Indigenous people inhabited North America. Many of these Indigenous communities had their own complex societies equipped with their own government system. Upon European contact, AI/ANs have been influenced by historical and current policies of the United States (U.S.) government. Early federal policies stressed the removal, elimination, genocide, and/or containment of AI/ANs, while post-1920s policies concentrated on assimilation. More than 600 treaties and agreements between the U.S. and AI/AN tribes, villages, and nations have had a profound effect on AI/AN societies.

Table 1: Timeline of Federal Indian Policies

<table>
<thead>
<tr>
<th>Time Period</th>
<th>Dates</th>
<th>Dates</th>
<th>Time Period</th>
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<tbody>
<tr>
<td>Pre-Columbian Period</td>
<td>Pre-1492</td>
<td>AI/ANs lived in organized societies with their own governments.</td>
<td></td>
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<tr>
<td>Colonial Period</td>
<td>1492-1828</td>
<td>The explosion of European colonies created a presence on the east coast of North America and some acquired Indian lands under the doctrine of discovery. Colonial governments maintained that Indian tribal governments are foreign governments. After the Revolutionary War, the U.S. maintained its relationships with tribal governments on a government-to-government basis.</td>
<td></td>
</tr>
<tr>
<td>Removal, Reservation and Treaty Period</td>
<td>1828-1887</td>
<td>As the U.S. grew in population the pressure to assume more Indian lands grew and eastern tribes were pressured to move west. With help from the military, the U.S. started a campaign to seek more Indian land and began relocating tribes to Indian Reservations. These reservations were established through treaties which required tribes to trade large amounts of land for the right to self-govern under the protection of the U.S.</td>
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<tr>
<td>Allotment and Assimilation Period</td>
<td>1887-1934</td>
<td>An increased desire to obtain more land from the tribes and a push to assimilation AI/ANs into mainstream American life led to the General Allotment Act of 1887. This Act forced conversion of community held tribal lands to individual Indian ownership. Roughly 90 million acres were taken</td>
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from tribes and given to settlers.

<table>
<thead>
<tr>
<th>Period</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>Indian Reorganization Period</strong>&lt;br&gt;1934-1945</td>
<td>The Reorganization Act of 1934 ended the discredited policy of allotment. This Act began to restore Indian lands and attempted to assist tribes reform their governments through the creation of programs to help rehabilitate Indian economic life.</td>
</tr>
<tr>
<td><strong>Termination Period</strong>&lt;br&gt;1945-1968</td>
<td>The U.S. Congress decided to terminate all federal recognition and assistance to more than 100 tribes and passed Public Law (PL) 280. PL 280 imposed state criminal and civil jurisdiction on many tribes in California, Minnesota, Nebraska, Oregon and Wisconsin. These policies created economic disasters for tribes resulting in acres of land with natural resources being lost. Federal policy also emphasized the physical relocation of Indians from reservations to urban areas.</td>
</tr>
<tr>
<td><strong>Self-Determination Period</strong>&lt;br&gt;1968-2000</td>
<td>The termination period ended with a resurgence of tribal government involvement in the development of federal policies and the development of a policy of self-determination and self-governance. Policies such as the Self-Determination and Education Assistance Act of 1975 emerged favoring tribal control over their own destinies. With a newfound control over their lands and resources, tribes were able to improve their economies and revive their cultures and societies.</td>
</tr>
<tr>
<td><strong>Nation-to-Nation Period</strong>&lt;br&gt;2000-Present</td>
<td>Tribal governments have made substantial gains in self-governance. Executive Order 13175 for Consultation and Coordination with Tribal governments was issued to bolster government-to-government relationships.</td>
</tr>
</tbody>
</table>

Reference:
Tribal Nations and the United States
http://www.ncai.org/tribalnations/introduction/Tribal_Nations_and_the_United_States_An_Introduction-web-.pdf
2. Recognize the Different Structure of Tribal Governments among AI/ANs

Tribal governments existed prior to European contact and have changed over time. Self-governance is essential for tribal communities to continue to protect their cultures and identities. Federally recognized tribes are diverse in structure and decision making processes. In response to the Indian Reorganization Act (IRA) some tribal constitutions were modeled after the constitution developed by the Bureau of Indian Affairs (BIA). Specific to public health emergency preparedness, it is important to keep in mind that tribal nations represent a unique part of U.S. emergency management system and tribal governments are often the only governmental presence on tribal lands and their roles and responsibilities must be understood.

### Tribal Viewpoint

Lack of understanding of how tribal governments work creates problems when obtaining information that could be useful to partners.

One of the issues observed during actual incidents is that responders do not know what to do about tribal sovereignty. They ask ‘what am I allowed to do?’, ‘who do I ask for help?’. This is an example of lack of understanding of how tribal governments work and how they function.

**Governing Authority:** Most tribes give legislative authority to a tribal council. The councils generally have authority to write laws and, in some tribes, council members have administrative duties. Additionally, most tribes have executive officers referred to as a ‘tribal chairman’, ‘president’, ‘governor’ or ‘chief’ and the role of these executive officers varies from tribe to tribe. Depending on the tribe, executive leaders and council members are elected by district or at large. It is important to keep in mind that while 60% of the federally recognized tribes within the U.S. have tribal governments based on the IRA constitution, 40% operate under a more traditional government system. For example, the Navajo Nation has no written constitution but functions under a detailed tribal code and has an elected council and president, while the Pueblos in New Mexico function exclusively under unwritten, customary law, with traditional leadership and a unique government structure.

A limited understanding of how tribal governments function can impede the ability of preparedness partners and responders to adequately respond to the needs of a disaster occurring on tribal lands. Emergency response is a collaborative effort that requires preemptive planning, collaboration, and coordination among partners at all levels. While the diversity of governmental structures can present challenges in public health emergency preparedness and response, it is necessary to understand how each tribal government functions.
There are numerous resources that can be tapped in your attempt to understand the governance structure of a particular tribe. Most tribes in today’s interconnected world have websites that provide details on their history, government, culture, geography, and other relevant information. Their websites also usually include a list of tribal departments with current contacts that can be used as a starting point. An additional resource for information about a particular tribe is the Indian Health Service or the Bureau of Indian Affairs. These agencies work closely with tribes within their districts/areas and can provide insights about challenges and best practices that they have developed in working with various groups. Finally, there is no better way to learn about a tribe than to participate in their meetings and events. This can be accomplished by asking to attend a tribal council meeting, attending ceremonies, and visiting businesses, museums, or other venues operated by the tribe.

Reference: Tribal Nations and the United States

http://www.ncai.org/tribalnations/introduction/Tribal_Nations_and_the_United_States_An_Introduction-web-.pdf
3. Acknowledge all AI/AN Communities are Different

AI/AN communities are geographically different and while it is important to know that many AI/AN communities share similar values, ways of life, and historic and present day situations, **every community is different.** Cultural customs vary significantly between different AI/AN communities. This can play a critical role in how a community responds to a disaster and in their perspectives on emergency preparedness.

**Cultural Orientation of AI/AN Communities:** For most AI/AN communities, culture is described as a way of life and includes values, belief systems, and behaviors. Cultural factors may differ greatly from one AI/AN community to another. These factors include: language, spirituality, social and government structures, traditional values and history, and their relationship to land.

**Cultural Customs of AI/AN Communities:** Customs are influenced by a number of different factors that include: ethnicity, origin, language, religious/spiritual beliefs, socioeconomic status, gender and geography. These customs are observed through food, dress, dance, drumming, ceremonies, songs, stories and other things that are visible for others to see. For example, each AI/AN group has a specific type of traditional dress that is different from other AI/AN communities. Foods native to each AI/AN community depend on the environment where the community lives and takes into account how relocation has changed their access to traditional foods.

**Cultural Identity of AI/AN Communities:** It is important to understand that each person who identifies as AI/AN has experienced their cultural connection in different ways. A person’s cultural identity is determined by their own personal and family histories. This can change throughout one’s lifetime as they continue to have different life experiences. Additionally, many AI/AN families are multicultural and may have adapted to their surrounding cultures.

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**Tribal Viewpoint**

One of our tribal partners pointed out that their tribe has reservation lands that span a vast region leading to a difference in emergency preparedness priorities and varying cultural traditions. This affects how different regions respond to public health preparedness planning and response. For instance, within some tribal communities, the belief is that speaking about disasters might make them more likely to happen. They are therefore reluctant to do so, which hinders planning efforts.

Knowledge about tribal-specific belief systems and practices is important for successfully assisting AI/AN communities in public health emergency management and preparedness. Preparedness partners should not only understand the cultural customs, orientation, and identity of the community they are working in, but should also be cognizant of their own cultural values that may create potential biases.
In order to better understand the cultural orientations, customs, and identity of individual tribes there are numerous resources available to assist you. As stated previously many tribes have websites that provide cultural information about the tribe. Additionally, there are many library resources that can be utilized to gain more information about a tribe’s traditions and culture. Equally important, you can gain a better understanding of a specific tribe’s culture by attending ceremonies, visiting businesses, museums, or other venues operated by the tribe and speaking with tribal members.

In addition to having different cultural orientations, customs, and identities, AI/AN communities also have different perspectives on preparedness. Some things to consider are:

- In times of disaster, tribal communities traditionally care for their own people. This may make them reluctant to ask for help from outside agencies to receive needed resources such as food and water.
- Many tribal communities have connections to the land and resources that surround them and it is important to understand traditional AI/ANs view of the environment in terms of response. This was evident in the tribal response to the Gold King Mine spill as well as the current reaction to the Dakota pipeline project.
- Tribal Public Health Preparedness priorities may differ from federal, state, and local preparedness priorities. For example, in mass fatality events, some native families may have a hard time giving up personal possessions of the deceased to aid in identification.
- Given the rural location of many tribal lands, tribal communities have broad emergency and first-responder responsibilities. For instance, in the event of a flash flood or severe blizzard, it may take emergency responders several hours or even days to reach affected communities if they can reach them at all.

References:
Culture Card: A Guide to Build Cultural Awareness
http://store.samhsa.gov/shin/content/SMA08-4354/SMA08-4354.pdf

Working Effectively with Tribal Governments
https://www3.epa.gov/air/tribal/WETG.html

FEMA IS-650: Building Partnerships with Tribal Governments
4. Establish Trust with AI/ANs and their Communities

In order to work effectively with AI/AN communities it is important to establish trust. Historically, there has been a long history of distrust among AI/AN and the federal government. Government and church run boarding schools were used to assimilate AI/AN people and children were forcibly removed from their homes to attend these schools. Federal policies like the Termination Policy ended relationships between the federal government and tribal nations and the Relocation Policy moved AI/AN to urban areas to find housing and jobs. These various acts have led AI/AN communities to be cautious of people outside of their communities. Establishing trust between local, state, and federal agencies and AI/ANs is a critical step in emergency preparedness efforts to ensure collaboration is maintained across multiple jurisdictions.

**Tribal Perspective**

Developing trust between AI/ANs and local, state, and federal agencies can help foster government-to-government relationships.

There is less than effective collaboration across all preparedness partners because there is a common thread of historical mistrust.

Emergency preparedness partners are encouraged to engage with their AI/AN communities and work patiently to establish trust within the community.

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**Approaches to Take with AI/AN Communities to Help Establish Trust**

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<tr>
<th>Approaches</th>
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<tbody>
<tr>
<td>Acknowledge personal and institutional histories</td>
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<tr>
<td>Understand the historical context of the community</td>
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<tr>
<td>Be present in the community</td>
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<tr>
<td>Listen to community members</td>
</tr>
<tr>
<td>Acknowledge the expertise of all partners</td>
</tr>
<tr>
<td>Be upfront about expectations and intentions</td>
</tr>
<tr>
<td>Create an ongoing awareness of emergency preparedness and response efforts and match words to action</td>
</tr>
</tbody>
</table>

**References:**

*Building and Maintaining Trust in a Community-Based Participatory Research Partnership*

http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2446462/

*Culture Card: A Guide to Build Cultural Awareness*

http://store.samhsa.gov/shin/content//SMA08-4354/SMA08-4354.pdf
5. Communication

Effective communication is the key to success when working with AI/ANs in preparedness and response efforts. The key to cross-cultural communication is knowledge. AI/ANs place an emphasis on personal humility, respect for elders, learning through storytelling, intuitiveness, prefer to keep a low-key profile, group harmony, flexibility of rules and simplifying problems which directly influence their communication styles (Chiang, 1993). In order to maintain effective communication with tribal preparedness partners, it is important to maintain communication skills and patterns that are relevant to each AI/AN community.

**Language:** In the United States there are about 600 distinct tribal languages belonging to 10 or more language families. Approximately 26% of AI/ANs speak a language other than English at home. To enhance understanding, make sure there is a fluent AI/AN speaker available for interpretation.

**Demonstrating Respect:** It is important to keep in mind that many historical federal policies resulted in a general distrust toward the federal government. Due to this distrust, it is important your interactions and communication with AI/AN communities is respectful.

**Communication Style:** AI/ANs have different communication styles. These styles include nonverbal messages, use of humor, indirect communication, and storytelling.

**Animation/Emotion:** In most AI/AN cultures, communication style is restrained so others do not impose on someone’s energy or on the emotions of others. Many times AI/ANs appear to speak dispassionately about something that is extremely important and meaningful to them.

**Eye Contact:** Direct and prolonged eye contact is usually seen as disrespectful and invasive. AI/ANs typically use eye contact that is fleeting and the gaze of listeners and speakers will often remain around the mouth, forehead, throat, or ears. Direct gaze at an elder or a much respected person is seen as extremely rude. It is important to note that if a person is listening to a speaker, or listening to a story being told, it is acceptable for listeners to look at the speaker more directly without violating their personal space by eye contact.

**Turn taking and pause time:** In group settings each person present has an opportunity to speak and no one speaks until the previous speaker is finished and a brief moment of silence has been observed. In most AI/AN cultures, speaking quickly after a person is done speaking indicates you are someone who does not think before he or she speaks. This can also be taken as a sign of disrespect for what the previous person had to say. Additionally, interrupting another speaker is considered extremely rude and may lead to social consequences if the speaker interrupted is an elder.
Touch: In most AI/AN cultures touch is reserved for family and close friends. Many AI/ANs have adopted the American custom of handshaking. But handshaking among AI/ANs is much different. Typically an AI/ANs handshake is very light and fleeting.

Table 2: Communication Patterns

<table>
<thead>
<tr>
<th>Nonverbal Messages</th>
<th>Humor</th>
</tr>
</thead>
<tbody>
<tr>
<td>AI/AN people communicate through non-verbal gestures. It is important to be cognizant of their non-verbal communication to avoid misinterpretation of non-verbal behavior. Nonverbal communication: -operates outside of the awareness level and is hard to manipulate or falsify -carries a greater impact than words and reveals emotion</td>
<td>AI/AN people typically convey truth or difficult decisions by using humor. They might mask great pain with a smile or tell jokes. Additionally, it is important to listen carefully to their humor as it may be inappropriate to ask directly for clarification about sensitive topics.</td>
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<table>
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<tr>
<th>Indirect Communication</th>
<th>Storytelling</th>
</tr>
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<tbody>
<tr>
<td>In most AI/AN cultures, it is unacceptable to directly criticize another person and indirectness is preferred. This is important to understand especially when AI/ANs are asked to speak out or testify against another person. There is a common belief that people who have acted wrongly will pay for their acts one way or another.</td>
<td>Conveying messages through telling a story is common among AI/ANs. These stories are typically traditional teachings and personal stories.</td>
</tr>
</tbody>
</table>

Essential Etiquette Do’s and Don’ts when Working with AI/AN Communities

The Substance Abuse and Mental Health Service Administration (SAMHSA) has provided a list of essential Do’s and Don’ts when working with AI/AN communities. These Do’s and Don’ts are vital to maintaining relationships with AI/AN communities.
<table>
<thead>
<tr>
<th>Etiquette Do’s</th>
<th>Etiquette Don’ts</th>
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<tbody>
<tr>
<td>Learn how the community refers to itself as a group of people</td>
<td>Avoid stereotyping based on looks, language, dress, and other outward appearances.</td>
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<tr>
<td>Be honest and clear about your role and expectations and be willing to adapt to meet the needs of the community.</td>
<td>Avoid intrusive questions early in conversation.</td>
</tr>
<tr>
<td>Show respect by being open to other ways of thinking and behaving.</td>
<td>Do not interrupt others during conversation or interject during pauses or long silences.</td>
</tr>
<tr>
<td>Listen, and observe more than you speak.</td>
<td>Do not stand too close to others.</td>
</tr>
<tr>
<td>Learn to be comfortable with silence and long pauses in conversation (by observing community members’ typical length of time between turns at talking).</td>
<td>Do not talk too loud or fast.</td>
</tr>
<tr>
<td>Casual conversation is important to establish rapport, so be genuine and use self-disclosure.</td>
<td>Be cognizant not to impose your personal values, morals, or belief.</td>
</tr>
<tr>
<td>Avoid jargon. Some AI/AN community members may nod their heads politely but not understand what you are saying.</td>
<td>Be careful about telling stories of distant AI/AN relatives in your genealogy as you try to establish rapport unless you have maintained a connection with that AI/AN community.</td>
</tr>
<tr>
<td>Admit limited knowledge of AI/AN culture and welcome others to educate you about specific cultural protocols within the community.</td>
<td>Be aware about pointing with your finger. It can be interpreted as rude behavior in many AI/AN communities.</td>
</tr>
<tr>
<td>If you are visiting the home of an AI/AN family, you may be offered food and/or drink; and it is important to accept it as a sign of respect.</td>
<td>Do not rush things and avoid frequently looking at your watch to keep time.</td>
</tr>
<tr>
<td>Explain what you are writing when making clinical documentation or charting in the presence of the AI/AN individuals and/or family.</td>
<td>Avoid pressuring all family members to participate in a formal interview.</td>
</tr>
<tr>
<td>During formal interviews, it may be best to offer general invitations to speak then remain silent and listen. Allow the person to tell their story before asking specific questions.</td>
<td>If you are conducting a formal interview and the person you are interviewing becomes emotional, support the individual and do not ask further questions until the individual has composed themselves and are ready to speak.</td>
</tr>
<tr>
<td>Be willing to be open and allow things to proceed according to the idea that “things happen when they are supposed to happen”</td>
<td>Do not touch sacred items (hair, ceremonial items, jewelry).</td>
</tr>
<tr>
<td>Respect confidentiality.</td>
<td>Do not take pictures without permission.</td>
</tr>
<tr>
<td>Respect the right of the tribe to control information, data, and public information.</td>
<td>Never use any information gained by working in AI/AN communities for personal presentations, case studies, and research without the consent from the tribal government.</td>
</tr>
</tbody>
</table>
Effective communication skills are essential to have when working with tribal public health emergency preparedness and response partners. These communication skills will help break down existing barriers between preparedness partners, show respect to AI/AN tribal collaborators, as well as facilitate relationship building among all parties.

Reference:
Culture Card: A Guide to Build Cultural Awareness
http://store.samhsa.gov/shin/content//SMA08-4354/SMA08-4354.pdf
Communication Patterns and Assumptions of Differing Cultural Groups in the United States
Native American Communication Styles, University of South Dakota
https://www.youtube.com/watch?v=_8EKdoAZG
6. Solicit Tribal Consultation

According to the Secretary of the Interior’s Standards and Guidelines, consultation means “the process of seeking, discussing, and considering the views of others, and where feasible, seeking agreement with them on how historic properties should be identified, considered, and managed’. Executive departments and agencies are required to engage in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications. In 2009, President Obama held a meeting with tribal leaders and promised to improve the relationships between the federal government and tribal nations. To fulfill this promise President Obama issued an Executive Memorandum that ordered all federal agencies to develop a plan within 90 days to consult and coordinate with tribal governments under President Clinton’s Executive Order 13175 “Consultation and Coordination with Indian Tribal Governments’ (To view this please refer to Appendix A).

Additionally, the Centers for Disease Control and Prevention/Agency for Toxic Substances and Disease Registry (CDC/ATSDR) has a tribal consultation policy that requires all agency programs to consult with tribal governments when developing programs, policies, and activities that will impact the health of AI/ANs. (To view this please refer to Appendix B). The CDC/ATSDR also has a Tribal Advisory Committee (TAC) whose primary responsibility is to advise the CDC/ATSDR on policy issues and broad strategies that may significantly impact the health AI/AN communities.

To adhere to the standards and guidelines of their tribal consultation policy, the Federal Emergency Management Agency (FEMA) routinely seeks input from tribal governments, officials and other important stakeholders to address current public health emergency preparedness issues that affect AI/ANs (To view this please refer to Appendix C). Most recently FEMA has sought tribal consultation on the following topics: Tribal Mitigation Plan Review Guide (Please refer to Appendix D) and Procedures to Request Emergency or Major Disaster Declarations. Additionally, it is equally important to seek permission from AI/AN communities before making assumptions regarding what is best for individual communities.

References:
Presidential Memorandum on Tribal Consultation
Consultation with Tribal Nations: An Update on the Implementation of Executive Order 13175
http://www.ncai.org/attachments/Consultation_hxjBLgmqyYDiGehEwgXDsRIUKvwZZKjOJwUnKjSQeoVaGO
Centers for Disease Control and Prevention, Tribal Support
https://www.cdc.gov/tribal/index.html
7. Understand Key Definitions that Apply to AI/ANs

Working effectively with AI/AN communities requires familiarity with the concepts and terms that are specific to each group. Below are common terms and concepts used when working with AI/AN communities.

**Alaska Native:** This term is used to include all Indigenous peoples in Alaska and is used in place of the word Indian.

**Allotted Land:** This refers to land owned by individual Indians that is either held in trust by the U.S. or is subject to a statutory restriction on sale or other forms of alienation. Many of the allotted lands are the results of allotment laws that the federal government passed in the last 1800s and early 1900s that ordered reservations be broken up and divided into land parcels or allotments to be assigned to heads of Indian households or single individuals.

**American Indian and Alaska Native (AI/AN):** Persons belonging to the Indigenous tribes of the continental US and Indigenous tribes and villages of Alaska.

**Ceded Territory:** This refers to land located within the former boundaries of a reservation.

**Checkerboard Land:** This refers to a combination of Indian trust parcels and non-tribal fee simple parcels which result in a checkerboard pattern of ownership within the boundaries of reservations.

**Dependent Indian:** These communities are included within the 18 U.S.C. section 1151 definition of Indian country as a result of the Supreme Court decision in the United States v. Sandoval, 231 U.S. 28, that held the New Mexico Pueblos that hold their lands in fee simple are dependent Indian communities.

**Federal Recognition:** This is the U.S. acknowledgment of a tribe’s political status as a government. It also means that tribes have a legal relationship with the U.S. government.

In order for tribes to become federally recognized by the U.S. there is a long and complex process they must go through which can take years before a decision is made. There are three ways that a tribe can become federally recognized:

I. An Act of Congress.
II. A decision by a U.S. court.
III. An administrative procedure set forth in part 86 of the Code of Federal
Regulations titled ‘Procedures for Establishing that an American Indian Group Exists as an Indian Tribe’. Applicants must submit an application responding to the seven criteria laid out by the Bureau of Indian Affairs.

**Federal Trust Responsibility:** One of the most important doctrines in federal Indian law; it is the obligation of the federal government to protect tribal self-governance, lands, assets, resources and treaty rights. This has been defined by the Supreme Court as a moral obligation of the highest responsibility and trust.

The trust responsibility can be divided into two related areas:
- **Property protection:** This refers to the mandate that the federal government must protect tribal property and assets when the title is held in trust by the U.S. government.
- **Land preservation:** This refers to the federal obligation to guarantee tribal lands and resources as a base for distinct tribal cultures.

**Fee Land:** This refers to a parcel located outside of the boundaries of a reservation whose title is owned in fee simple. Fee simple land means that the parcel of land can be sold without the U.S. government’s approval. Non-tribal members own a majority of fee land.

**Government-to-Government Relationship:** The relationship between AI/ANs and the U.S government is ingrained in the signing of treaties, the passage of laws, and federal recognition. This relationship provides a framework for the interaction between the U.S. government and tribes. It is important to note that AI/AN communities also have government-to-government relationships with state governments. Federal recognition of tribal nations designates that the U.S. government acknowledges the sovereignty of each tribe that leads to the obligation to conduct business with each tribal nation’s leadership on a government-to-government basis.

The government-to-government relationship between the U.S. and tribal nations has been reaffirmed by President George W. Bush’s Presidential Memorandum titled “Government-to-Government Relationship with Tribal Governments” (Please refer to Appendix E) in which the federal responsibilities set forth in Executive Order 13175 titled “Consultation and Coordination with Tribal Governments” are established. This Executive Order specifically states that each federal agency must ensure that it operates through a government-to-government relationship with federally recognized tribes.

Additionally, tribal nations also have government-to-government relationships with state governments. Tribal law, federal law, and state laws define the responsibilities, powers, limitations, and obligations between these governments. Together these governments form an American family of governments.
Indian Country: Legal term referring to the lands set aside for federally recognized tribes. This includes reservations, fee land within reservation boundaries, dependent Indian communities, Indian allotments, and trust land. Additionally, the designation of land as Indian country means that both the federal government and tribes have jurisdictional authority within the boundaries of the land and individual states do not have jurisdictional authority within these boundaries.

Indian Reservations: This refers to land established by treaty, statute, executive order, or administrative procedure for a designated tribe. A majority of the tribal nations reserved portions of land for themselves when they relinquished other lands to the U.S. government. There are approximately 275 Indian land areas that are administered as Indian reservations.

Native Americans: All Native peoples from the US and its trust territories including persons from Canadian First Nations and Indigenous communities in Mexico and Central and South American who are US residents.

Restricted Land: This refers to land that is held in fee simple by tribal members but still have certain restrictions on their title.

Tribal Governance: The ability of tribes to maintain power to determine their own governance structures and enforce laws through police departments and courts. Tribal governments are also responsible for the development of their different forms of government, determining citizenship, establishing civil and criminal laws, taxing, licensing, regulating, and maintaining and exercising their power to prosecute those who commit crimes on their lands.
Tribal Sovereignty: The authority for AI/ANs to self-govern. This means that federally recognized tribal governments can set their own priorities and goals for their communities.

1. Tribal sovereignty is recognized as being inherent, which means that the traditional authority of tribal leaders to govern their own people and lands has been in place prior to European contact and interaction with the federal government.

2. It is also important to understand that tribal sovereignty has not been granted but rather retained and was reaffirmed in the cases of Cherokee Nation v. Georgia and Worcester v. Georgia. These monumental cases held that tribal nations retained their nationhood status and powers to self-govern.

3. Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975 is an example of the recognition of the power for tribal nations to self-govern.

Trust Land: This refers to land whose title is held by the U.S. government ‘in trust’ for an Indian tribe or an individual tribal member. The tribe or individual tribal member is the beneficial owner of the land and the land cannot be conveyed, sold, assigned or transferred without federal approval. Some tribal nations have trust land outside of their reservation boundaries.

References:
Working Effectively with Tribal Governments  
Tribal Nations and the United States  
http://www.ncai.org/tribalnations/introduction/Tribal_Nations_and_the_United_States_An_Introduction-web-.pdf
An Introduction of Indian Nations of the United States  
Section III. Conclusion

This document serves as a guide for state, local, and federal emergency preparedness and response partners to better understand effective ways to work with AI/AN communities. The above-mentioned strategies have been identified as useful and effective ways to assist tribal preparedness partners in the planning, coordination, and execution of their preparedness efforts. It is important to note that this document is not an all-inclusive list of effective strategies used to work with tribal partners, but serves as a guide to building collaborative relationships between tribal and non-tribal preparedness partners across many different jurisdictions. As emphasized throughout this guide, the best strategy to establish effective interactions with tribal communities is to get to know them on their own terms, in their own time, and in their own surroundings.

MWPERLC Content Disclaimer
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The Mountain West Preparedness and Emergency Response Learning Center (MWPERLC) has adapted a variety of sources and condensed best practices into this document for use as guidance and reference.
Executive Order 13175 - 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:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes. (b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights. (c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

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.

Sec. 4. Special Requirements for Legislative Proposals. Agencies shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in Section 3.

Sec. 5. Consultation. (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.
(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. Increasing Flexibility for Indian Tribal Waivers.

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.
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.

Sec. 8. Independent Agencies. Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 9. General Provisions. (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

Sec. 10. Judicial Review. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

(Presidential Sig.)

THE WHITE HOUSE,

November 6, 2000.
Appendix B: CDC Tribal Consultation Policy
1. PURPOSE

This document establishes policy and guidance regarding consultation between the Centers for Disease Control and Prevention (CDC\(^1\)) and the Agency for Toxic Substances and Disease Registry (CDC/ATSDR) and Indian Tribes.

CDC and Indian Tribes share the goal of establishing clear policies that further the government-to-government relationship between the U.S. Federal Government and Indian Tribes. True and effective consultation shall result in information exchange, mutual understanding, and informed decision-making on behalf of the Tribal governments and the Federal Government. The importance of consultation with Indian Tribes was affirmed through Presidential Memoranda in 1994, 2004 and 2009, and Executive Order (EO) 13175 in 2000.

The goal of this policy includes, but is not limited to, assisting in eliminating the health disparities faced by Indian Tribes, ensuring that access to critical health and human services and public health services is maximized to advance or enhance the social, physical, and economic status of Indians; and promoting health equity for all Indian people and communities. To achieve these shared goals, it is essential that Indian Tribal governments and CDC/ATSDR engage in open, continuous, and meaningful consultation.

The U.S. Department of Health and Human Services (HHS) Tribal Consultation Policy requires that all operating divisions of the department develop and implement Tribal consultation policies that are in compliance with the HHS Tribal Consultation Policy, effective December 14, 2010.

\(^1\) References to CDC also include the Agency for Toxic Substances and Disease Registry (ATSDR).
2. BACKGROUND

Founded in 1946, CDC is the leading public health agency in the United States. The CDC collaborates with stakeholders and partners to develop expertise, information, and tools to promote healthy people and communicates through health promotion, prevention of disease, injury and disability, and preparedness for new and emerging health threats. CDC seeks to accomplish its mission by working with partners to monitor health, detect and investigate health problems, conduct research to enhance prevention, develop and advocate sound public health policies, implement prevention strategies, promote healthy behaviors, foster safe and healthful environments, and provide leadership and training. These functions are the backbone of CDC’s mission. Each CDC Center, Institute, and Office (CIO) undertakes these activities to conduct CDC’s specific programs. The steps that are needed to accomplish this mission are based on scientific excellence and require well-trained public health practitioners and leaders dedicated to high standards of quality and ethical practice.

CDC shares its focus on health protection with its sister agency ATSDR. First organized in 1985, ATSDR was created by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, more commonly known as the Superfund law. In 1986, Congress passed the Superfund Amendments and Reauthorization Act (SARA). The agency’s mission is to serve the public through responsive public health actions to promote healthy and safe environments and prevent harmful exposures.

A. INTRODUCTION

Tribal consultation between CDC and Indian Tribes is built on two core principles, which are summarized below. Each of these principles supports the unique circumstances for who is engaged, why the engagement is significant, and guidance for how to engage. This relationship is derived from the unique political and legal relationship that Indian Tribes have with the Federal Government and is not based on race or ethnicity.

- **Tribal Sovereignty**: Since the formation of the Union, the United States has recognized Indian Tribes as sovereign nations. As sovereign nations, Indian Tribes exercise inherent sovereign powers over their members, territory, and lands. CDC recognizes that each Indian Tribe sets its own priorities and goals, including those that establish a safe and healthy environment for its members and territory.

- **Government-to-Government Relationship**: A unique government-to-government relationship exists between Indian Tribes and the Federal Government. This relationship is grounded in the U.S. Constitution, numerous treaties, statutes, Supreme Court decisions, and Executive Orders that establish and define a Federal trust relationship with Indian Tribes. This relationship is derived from the political and legal relationship that Indian Tribes have with the Federal Government and is not based upon race. CDC/ATSDR is committed to continuing to work with Federally recognized Tribal
governments on a government-to-government basis and strongly supports and respects Tribal sovereignty and self-determination in the United States.

This special relationship between the Federal Government and Indian Tribes is affirmed in statutes and various Presidential Executive Orders including, but not limited to the following:

- Older Americans Act, P.L. 89-73, as amended;
- Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended;
- Native American Programs Act, P.L. 93-644, as amended;
- Indian Health Care Improvement Act, P.L. 94-437, as amended;
- Presidential Executive Memorandum to the Heads of Executive Departments dated April 29, 1994;
- Presidential Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000;
- Presidential Memorandum, Government-to-Government Relationship with Tribal Governments, September 23, 2004;
- Presidential Memorandum, Tribal Consultation, November 5, 2009;
- Children's Health Insurance Program Reauthorization Act of 2009, P.L. 111-3, 123 Stat. 8 (Feb. 4, 2009);

As a Federal Government entity, CDC/ATSDR will comply, to the extent practicable and permitted by law, with all provisions in the HHS Tribal Consultation Policy to ensure meaningful consultation and timely input from Indian Tribes before actions are taken that will significantly affect Indian Tribes.

B. PHILOSOPHY

Indian Tribes have an inalienable and inherent right to self-government. Self-government means government in which decisions are made by the people who are most directly affected by the decisions. As sovereign nations, Indian Tribes exercise inherent sovereign powers over their members, territory, and lands. As a Federal organization, CDC recognizes its special commitment and unique relationship with Indian Tribes and is committed to fulfilling their critical role in promoting the health and safety of Indian Tribes.
3. POLICY

CDC policy on Tribal consultation will adhere to all provisions in the HHS Tribal Consultation Policy as revised on December 14, 2010.

CDC will honor the sovereignty of Indian Tribal governments, respect the inherent rights of Indian Tribal self-governance and continue to work on a government-to-government basis. Government-to-government consultation will be conducted with elected Indian Tribal Leaders or their designated representatives, to the extent practicable and permitted by law, before any action is taken that will significantly affect Indian Tribe(s).

CDC will employ a process to ensure meaningful and timely input by CDC/ATSDR and Indian Tribes in the development of policies that have Tribal implications. This Tribal consultation policy does not waive any Tribal governmental rights, including treaty rights, sovereign immunities or jurisdiction; and nothing in this policy waives the U.S. Federal Government’s deliberative process privilege. Nothing in this policy may be interpreted as diminishing or eliminating the rights of American Indians or Alaska Natives (AI/ANs) or entities under U.S. Federal law, contained in treaties, agreements and other constructive arrangements.

A. TRIBAL CONSULTATION PROCESS

An effective consultation between CDC and Indian Tribes requires information exchange, mutual understanding, full and equitable participation, building and maintaining trust between all parties, which is an indispensable element in establishing an effective consultative relationship. CDC will adhere to the consultation process as outlined in Section 8 of the HHS Tribal Consultation Policy. Upon identification of an action (policy, funding/budget development, and program services, functions, and activities) significantly affecting Indian Tribes, CDC will initiate consultation regarding the event through communication methods as outlined in the HHS Tribal Consultation Policy.

B. BUDGET FORMULATION

HHS conducts annual Department-wide Tribal budget and policy consultation sessions to give Indian Tribes the opportunity to present their budget recommendations to the Department to ensure Tribal priorities are addressed. CDC will comply with Section 11 on Budget Formulation of the HHS Tribal Consultation Policy.

C. PERFORMANCE MEASURES AND ACCOUNTABILITY

CDC will utilize the HHS and CDC Tribal Consultation Policies to address CDC’s missions and performance objectives with respect to: assisting in eliminating the health disparities faced by Indian Tribes; ensuring that access to critical health and human services and public health services is maximized to advance or enhance the social, physical, and economic status of Indians; and helping promote health equity for all
Indian people and communities. CDC/ATSDR will measure and report results and outcomes of the Tribal consultation performance and will follow the goals and objectives of the seated Secretary and Administration according to Section 12 on Tribal Consultation Performance and Accountability in the HHS Tribal Consultation Policy.

**D. EVALUATION AND REPORTING**

The consultation process and activities conducted according to the policy should result in meaningful outcomes for CDC and for the affected Indian Tribes. To effectively evaluate the results of consultation activity and CDC’s ability to incorporate Indian Tribes’ consultation input, CDC will measure the level of satisfaction of Indian Tribes on an annual basis as outlined in Sections 12 (Tribal Consultation Performance and Accountability) and Section 13 (Evaluation, Recording of Meetings, and Reporting) of the HHS Tribal Consultation Policy.

**E. CONFLICT RESOLUTION**

The intent of this policy is to promote partnerships with Indian Tribes that enhance CDC’s ability to address issues, needs and problem resolution. CDC shall consult with Indian Tribes to establish a clearly defined conflict resolution process under which Indian Tribes bring forward concerns that have a substantial direct effect. However, Indian Tribes and CDC/ATSDR may not always agree, and inherent in the government-to-government relationship, Indian Tribes may elevate an issue of importance to a higher or separate decision-making authority.

Nothing in this Policy creates a right of action against the CDC/ATSDR or the Department of Health and Human Services for failure to comply with this Policy.

**F. TRIBAL WAIVER**

CDC will fully comply with Section 15 of the HHS Tribal Consultation Policy on Tribal waivers, and process all requests routinely received for waivers under existing program authorities with the statutorily set timeframes.

**G. EFFECTIVE DATE**

This policy is effective on the date of the signature by the CDC Director/ATSDR Administrator.

This policy updates the Tribal Consultation Policy signed on October 18, 2005 and it applies to all CDC CIos.
4. RESPONSIBILITIES

A. CONSULTATION PARTICIPANTS AND ROLES

The government-to-government relationship between the U.S. and Federally recognized Indian Tribes dictates that the principal focus for consultation by CDC is with Indian Tribes, individually or collectively. Consultation parties include:

- Indian Tribes represented by the Tribal President, Tribal Chair, or Tribal Governor, or an elected or appointed Tribal Leader, or their authorized representative(s)
- CDC Director, ATSDR Administrator, CDC Deputy Director for State, Tribal, Local and Territorial Support, or their designee(s)

CDC/ATSDR may gather information from Indian organizations in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, or with the “Unfunded Mandates Reform Act Exemption” to FACA found in the Unfunded Mandates Reform Act, P.L. 104-4, Section 204. The government does not participate in government-to-government consultation with these entities; rather the government communicates with these organizations in the interests of Indian Tribes and Indian People. CDC may also communicate with Native-serving organizations, including urban and rural Indian organizations, in the interests of Indian communities and Indian people. Government-to-government consultation at CDC will occur as outlined in the HHS Tribal Consultation Policy.

B. ROLE OF CDC/ATSDR OFFICE OF THE DIRECTOR (OD), TRIBAL SUPPORT

The CDC Office of the Director, through the Deputy Director for State, Tribal, Local and Territorial Support will designate the Tribal Support Unit with the responsibility for implementation, coordination and agency-wide adherence to CDC/ATSDR and HHS Tribal Consultation Policies.

C. ROLE OF CDC/ATSDR TRIBAL ADVISORY COMMITTEE (TAC)

The TAC serves as an advisory committee to CDC/ATSDR providing input, guidance, and advice on policies, guidelines, and programmatic issues affecting the health of Indian Tribe(s). The TAC will either comply with the requirements of the FACA, 5 U.S.C. App. 2, or with the “Unfunded Mandates Reform Act Exemption” to FACA found in the Unfunded Mandates Reform Act, P.L. 104-4, Section 204.

D. CONSULTATION PROCEDURES AND RESPONSIBILITIES

The CDC Tribal consultative process shall consist of direct communications with Indian Tribes and Indian organizations as applicable, in various ways as provided in Section 9 on Consultation Procedures and Responsibilities of the HHS Tribal Consultation Policy.

5. REFERENCES


6. ACRONYMS

AIAN- American Indian and Alaska Native
ATSDR - Agency for Toxic Substances and Disease Registry
CDC - Centers for Disease Control and Prevention
CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act
CIO - Centers, Institutes and Offices
EO - Executive Order
HHS - U.S. Department of Health and Human Services
OD - Office of the Director
SARA - Superfund Amendments and Reauthorization Act
U.S. - United States
USC - United States Code

7. DEFINITIONS

Agency – Any authority of the United States that is an “agency” under 44 USC 3502(1) other than those considered to be independent regulatory agencies, as defined in 44 USC 3502 (5).

Communication – The exchange of ideas, messages, or information, by speech, signals, writing, or other means.

Consultation – An enhanced form of communication, which emphasizes trust, respect and shared responsibility. It is an open and free exchange of information and opinion among parties, which leads to mutual understanding and comprehension. Consultation is integral to a deliberative process, which results in effective collaboration and informed decision making with the ultimate goal of reaching consensus on issues.

Deliberative Process Privilege – Is a privilege exempting the government from disclosure of government agency materials containing opinions, recommendations, and other communications that are part of the decision-making process within the agency.

Executive Order – An order issued by the Government’s executive on the basis of authority specifically granted to the executive branch (as by the U.S. Constitution or a Congressional Act).
Federally Recognized Tribal governments – Indian Tribes with whom the Federal Government maintains an official government-to-government relationship; usually established by a Federal treaty, statute, executive order, court order, or a Federal Administrative Action. The Bureau of Indian Affairs (BIA) maintains and regularly publishes the list of Federally recognized Indian Tribes.

Indian – Indian means a person who is a member of an Indian tribe as defined in 25 U.S.C. 479a. Throughout this policy, Indian is synonymous with American Indian or Alaska Native.

Indian Organizations – 1) Those Federally recognized Tribally constituted entities that have been designated by their governing body to facilitate HHS communications and consultation activities. 2) Any regional or national organizations whose board is comprised of Federally recognized Indian Tribes and elected/appointed Tribal leaders. The government does not participate in government-to-government consultation with these entities; rather these organizations represent the interests of Tribes when authorized by those Tribes.

Indian Tribe – 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.

Policies with Tribal Implications – Refers to regulations, statutes, 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.

Self-Government – Government in which the people who are most directly affected by the decisions make decisions.

Sovereignty – The ultimate source of political power from which all specific political powers are derived.

Treaty – A legally binding and written agreement that affirms the government-to-government relationship between two or more nations.

Tribal Government – An American 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 USC 479a.

Tribal Officials – Elected or duly appointed officials of Indian Tribes or authorized inter-Tribal organizations.

Tribal Organization – The recognized governing body of any Indian Tribe; any legally
established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, that in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian Tribe, the approval of each such Indian Tribe shall be a prerequisite to the letting or making of such contract or grant.

**Tribal Self-Governance** – The governmental actions of Indian Tribes exercising self-government and self-determination.
Appendix C: FEMA Tribal Consultation 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.

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.
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.
This policy is consistent with existing law and does not alter or supersedes 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
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
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
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.
Appendix D: FEMA Mitigation Plan Review Guide
FEMA

Tribal Mitigation Plan Review Guide: Key Concepts

Draft for Tribal Outreach & Consultation

Information contained in this draft document is intended for comment by Indian tribal governments and will be used to update future policy documents.

The final policy will be posted in the FEMA Library, when available.

(Draft Version dated 4/19/16)
Table of Contents

- Background
- Purpose
- Concepts and Questions

List of Acronyms and Abbreviations

- 44 CFR Part 201 – Title 44, Chapter 1, Part 201 of the Code of Federal Regulations
- FEMA – Federal Emergency Management Agency
- HMGP – Hazard Mitigation Grant Program
- Stafford Act – Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288)

Background

Hazard mitigation is the effort to reduce loss of life and property by lessening the impact of disasters. Mitigation activities are most effective when implemented consistent with risk reduction priorities developed under a comprehensive, long-term mitigation plan. State, Indian tribal, and local governments engage in hazard mitigation planning to identify risks and vulnerabilities associated with natural disasters, and to develop long-term strategies for protecting people and property from future hazard events. A FEMA-approved mitigation plan is a condition for receiving certain types of non-emergency disaster assistance, including funding for mitigation projects. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act; Public Law 93-288), as amended by the Disaster Mitigation Act of 2000, provides the legal basis for this requirement. Title 44, Chapter 1, Part 201 of the Code of Federal Regulations (44 CFR Part 201) establishes the responsibilities of FEMA and state, Indian tribal, and local governments in mitigation planning, as well as specific requirements applicable to each type of government. FEMA’s Tribal Multi-Hazard Mitigation Planning Guidance (Tribal Guidance) issued in 2010 interprets the regulatory requirements to inform Indian tribal governments in developing mitigation plans, as well as assist FEMA officials in their review and approval of the plans. The Local Mitigation Plan Review Guide (2011) and State Mitigation Plan Review Guide (2015) similarly address local and state hazard mitigation planning.

FEMA is currently updating the Tribal Guidance to simplify the document, address key policy questions, and better align with similar FEMA policies on state and local hazard mitigation planning. The title of the updated policy will be the “Tribal Mitigation Plan Review Guide.” The underlying tribal mitigation planning requirements in 44 CFR Part 201 have not changed, though the updated policy may revise FEMA’s interpretation of some regulatory provisions. The result of the update will be a document that is easier to use, with fewer redundancies, more clarity regarding FEMA plan reviewers’ expectations, and a simplified plan review tool. FEMA expects the updated policy to facilitate Indian tribal governments’ development and adoption of mitigation plans.

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1 According to 44 CFR 201.2, Indian tribal government means 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 Indian 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.
Consistent with FEMA’s Tribal Consultation Policy (2014), the Agency is committed to a thorough, meaningful outreach and consultation process with Indian tribal governments and tribal associations in the spring of 2016 to inform the updated Tribal Mitigation Plan Review Guide. Following this tribal consultation period, FEMA will release a more detailed draft document for public comment via the Federal Register, and anticipates release of the policy in 2017. A one-year transition period will follow, allowing Indian tribal governments to become familiar with the new policy before it goes into effect. For more information on FEMA’s tribal outreach efforts around the Tribal Mitigation Plan Review Guide, please visit: http://www.fema.gov/fema-tribal-affairs. Note that this effort builds on an earlier process to update the policy in 2013 and 2014 that FEMA put on hold amid significant changes in the Agency’s authorities and policies related to Indian tribal governments.\(^2\) In that first phase, FEMA received regular input from a focus group of tribal officials, particularly in drafting Guiding Principles and reducing redundancies among different mitigation plan requirements. In resuming the policy update now, FEMA is building directly on the earlier focus group’s input and seeking wider comment from Indian tribal governments through outreach and consultation.

**Purpose**

This draft document highlights concepts and questions that FEMA intends to address in the updated Tribal Mitigation Plan Review Guide. FEMA will use this document during outreach and consultation to seek discussion and input from Indian tribal governments and tribal associations on these points. The Agency will collect and analyze the feedback received to inform the policy update. This draft Tribal Mitigation Plan Review Guide: Key Concepts document does not supplant the 2010 Tribal Guidance, which will remain FEMA’s official interpretation of the tribal mitigation planning requirements in 44 CFR Part 201 until the Agency adopts the updated policy and that policy becomes effective.

Key concepts and questions under consideration include:

- Focusing the policy on how FEMA plan reviewers should interpret the existing regulatory requirements
- Introducing a set of Guiding Principles to inform review of tribal mitigation plans
- Clarifying the existing requirement to address “the probability of future hazard events”
- Interpreting requirements for approval of enhanced tribal mitigation plans

**Concepts and Questions**

**Focusing the policy on how FEMA plan reviewers should interpret the existing regulatory requirements**

The current Tribal Guidance contains both policy provisions interpreting 44 CFR Part 201 and other guidance, best practices, and examples. In recent years, when updating similar guidance for

\(^2\) The Sandy Recovery Improvement Act of 2013 amended the Stafford Act to provide Federally-recognized Indian tribal governments the option to make their own request for a Presidential emergency or major disaster declaration independently of a state or to seek assistance under a declaration for a state. Additionally, FEMA issued the FEMA Tribal Policy in 2013, and the FEMA Tribal Consultation Policy in 2014.
local and state mitigation planning, FEMA separated policy provisions from other guidance and best practices. For example, the Local Mitigation Plan Review Guide is a policy guiding the review and adoption of local mitigation plans. The Local Mitigation Planning Handbook is a complementary resource for local officials engaged in mitigation planning, offering practical approaches, tools, worksheets, and examples while referencing policy provisions in the Local Mitigation Plan Review Guide. Likewise, FEMA intends to make the Tribal Mitigation Plan Review Guide a simplified policy interpreting the regulatory requirements for review and approval of tribal mitigation plans. The Agency will develop accompanying materials on how to develop tribal mitigation plans to comply with the updated policy, tailoring them in content and format to tribal officials’ needs. These resources will be available from FEMA’s Hazard Mitigation Planning webpage.

---|---
• A detailed policy interpreting the regulatory requirements in 44 CFR Part 201 and providing additional guidance  
• Guides FEMA officials in their review and approval of tribal mitigation plans  
• Alongside requirements, offers other guidance, best practices, and examples to tribal officials developing plans | • A simplified policy interpreting the regulatory requirements in 44 CFR Part 201  
• Guide FEMA officials in their review and approval of tribal mitigation plans  
• (Offer additional guidance, best practices, and examples through supporting materials better tailored to tribal officials’ needs)

Key Question for Tribal Officials

➢ Any comments or concerns regarding FEMA’s intent to simplify the Tribal Mitigation Plan Review Guide?

Introducing a set of Guiding Principles to inform review of tribal mitigation plans

FEMA’s Local Mitigation Plan Review Guide released in 2011 contains a set of Guiding Principles that underscore essential aspects of the hazard mitigation planning process, including how FEMA relates to local governments. FEMA proposes to include a set of Guiding Principles in the updated Tribal Mitigation Plan Review Guide as well. These principles reinforce the key aspects of plan development that FEMA encourages, and how FEMA and the Federal government relate to Indian tribal governments in this and other matters. When FEMA engaged a focus group of tribal officials around mitigation planning policy questions back in 2013 and 2014, they provided input to shape the following list of Guiding Principles:

- **Nation to nation, government to government.** In compliance with the FEMA Tribal Policy and in the spirit of community, FEMA commits itself to building a strong and lasting partnership with Indian tribal governments 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.
- **Focus on mitigation strategy.** Plan reviews will emphasize actions and implementation of the hazard mitigation strategy.
Review for intent, as well as compliance. Plan reviews will focus on whether the mitigation plan meets the intent of the law and regulation.

Emphasis on the planning process. FEMA will accept the planning process as defined by the Indian tribal government.

This is the Indian tribal government’s plan. Plan reviews will recognize the effort and interest of each Indian tribal government that develops a mitigation plan.

Foster cooperative relationships. FEMA is committed to communicating plan reviews in a constructive and positive manner.

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<tr>
<td>On page 2 of the Introduction, recognizes FEMA’s government-to-government relationship with Indian tribal governments</td>
<td>Call out prominently in the opening of the policy a set of Guiding Principles that underscore how FEMA relates to Indian tribal governments as well as key aspects of plan development</td>
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<td>On page 4 of the Introduction, highlights two critical elements of a successful mitigation plan (comprehensive risk and capability assessments and participation by a wide range of tribal members)</td>
<td>Mirror the format of the State Mitigation Plan Review Guide (2015) and Local Mitigation Plan Review Guide (2011)</td>
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Key Question for Tribal Officials

- What suggestions do you have for improving the draft Guiding Principles above, whether by adding to, clarifying, or reframing them?

Clarifying the existing requirement to address “the probability of future hazard events”

A risk assessment is a key component of every hazard mitigation plan, informing understanding of vulnerabilities, development of the mitigation strategy, and identification and prioritization of appropriate mitigation actions. According to 44 CFR 201.7(c)(2)(i), “the risk assessment shall include … a description of the type, location, and extent of all natural hazards that can affect the tribal planning area. The plan shall include information on previous occurrences of hazard events and on the probability of future hazard events.” Past occurrences are important to a factual basis of hazard risk; however, the challenges posed by climate change, such as more intense storms, frequent heavy precipitation, heat waves, drought, wildland fire, extreme flooding, and higher sea levels, could significantly alter the types and magnitudes of hazards impacting tribes in the future. Therefore changes in the probability of future hazard events may include changes in location, increases or decreases to the impacts, and/or extent of known natural hazards, such as floods or droughts. In some cases, such changes may also include novel hazards such as thawing permafrost, subsidence, or rapid coastal erosion.

The FEMA Climate Change Adaptation Policy Statement (2011-OPPA-01) directs the Agency to integrate climate change adaptation considerations into programs and policies. Consistent with
that policy, FEMA is considering clarifying in the Tribal Mitigation Plan Review Guide that in order to adequately address the probability of future hazard events, risk assessments must consider changing future conditions, including the effects of long-term changes in weather patterns and climate on the identified hazards.

|-------------------------------|-----------------------------------|
| • On page 24 of the Risk Assessment section, references the regulatory requirement under 44 CFR 201.7(c)(2)(i) that “the risk assessment shall include … information on previous occurrences of hazard events and on the probability of future hazard events.” | • Reference the regulatory requirement under 44 CFR 201.7(c)(2)(i) that “the risk assessment shall include … information on previous occurrences of hazard events and on the probability of future hazard events.”
| • On page 24 includes a policy provision stating that “The description of each hazard shall include a narrative (and an optional map and/or table) of the following information: … the location … the extent … [and] the probability of the potential occurrence of a hazard event.” | • Add a policy provision clarifying that in order to adequately address the probability of future hazard events, risk assessments must consider changing future conditions, including the effects of long-term changes in weather patterns and climate on the identified hazards. |

Key Questions for Tribal Officials

- In what ways do Indian tribal governments already consider long-term changes in weather patterns, climate, and the natural environment in their hazard mitigation planning and other decision making contexts?
- Are there unique aspects of Indian tribal governments’ exposure or vulnerability to natural hazards or capacity for mitigation planning that FEMA should consider in interpreting the “probability of future hazard events” requirement?
- Should FEMA proceed with clarifying that Indian tribal governments’ risk assessments must consider changing future conditions in order to adequately address the requirement to assess “the probability of future hazard events”?

Interpreting requirements for approval of enhanced tribal mitigation plans

As noted in the current Tribal Guidance, the provisions of 44 CFR 201.5 “Enhanced State Mitigation Plans” are available to Indian tribal governments as well. Specifically, Indian tribal governments intending to apply directly to FEMA for assistance as applicants\(^3\) may elect to develop enhanced mitigation plans which meet all of the requirements of a tribal mitigation plan outlined in 44 CFR 201.7, plus the requirements for an enhanced plan outlined in 44 CFR 201.5.

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\(^3\) Indian Tribal governments also have the option of applying for FEMA assistance through a state as a sub-applicant, provided they coordinate development and review of their tribal mitigation plan with the state.
When an Indian tribal government with a FEMA-approved enhanced tribal mitigation plan receives a Presidential major disaster declaration, it is eligible to receive Hazard Mitigation Grant Program (HMGP) funds based on 20 percent of the estimated aggregate amount of disaster assistance, as opposed to the 15 percent maximum possible with a standard tribal mitigation plan. An Indian tribal government with an approved standard tribal mitigation plan under 44 CFR 201.7 could receive approval of an enhanced plan under 44 CFR 201.5 by demonstrating:

- integration with other tribal planning initiatives;
- eligibility and ranking criteria for hazard mitigation measures and a system for determining cost-effectiveness;
- grant program management and environmental review capabilities based on past performance;
- a system for evaluating completed mitigation actions and tracking cost avoidance data; and
- a commitment for a comprehensive program.

FEMA is considering including more detailed policy provisions in the updated Tribal Mitigation Plan Review Guide to interpret how the enhanced mitigation plan requirements in 44 CFR 201.5 apply to Indian tribal governments. Such provisions would closely parallel those applicable to states in the “Enhanced State Plan Requirements” section of the State Mitigation Plan Review Guide (2015).

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<td>• On page 4 of the Introduction, includes a call-out box on “Meeting Requirements for an Enhanced Tribal Plan”</td>
<td>• A new “Enhanced Tribal Plan Requirements” section of the policy would guide how FEMA officials interpret the requirements of 44 CFR Part 201 in their review of enhanced tribal mitigation plans</td>
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<td>• The call-out box briefly describes the enhanced mitigation plan option for Indian tribal governments</td>
<td>• The section would include several new policy elements detailing the capabilities an Indian tribal government would need to demonstrate to receive FEMA approval of an enhanced plan</td>
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<td>• Bullets outline the types of capabilities an Indian tribal government would need to demonstrate to receive FEMA approval of an enhanced plan</td>
<td>• Such policy provisions would closely mirror those applicable to states</td>
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Key Questions for Tribal Officials

- What are the potential challenges for Indian tribal governments in preparing enhanced mitigation plans? What are the potential benefits?
- Would your Indian tribal government consider preparing an enhanced mitigation plan? Why or why not?
- In updating the policy, should FEMA keep the discussion of enhanced tribal mitigation plans high level, or instead include detailed requirements in the document?
Appendix E: Presidential Memorandum for Government-to-Government Relationships with Tribal Governments

This government-to-government relationship is the result of sovereign and independent tribal governments being incorporated into the fabric of our Nation, of Indian tribes becoming what our courts have come to refer to as quasi-sovereign domestic dependent nations. Over the years the relationship has flourished, grown, and evolved into a vibrant partnership in which over 500 tribal governments stand shoulder to shoulder with the other governmental units that form our Republic.

This is now a relationship in which tribal governments may choose to assume the administration of numerous Federal programs pursuant to the 1975 Indian Self-Determination and Education Assistance Act.

This is a partnership in which an Office of Self-Governance has been established in the Department of the Interior and given the responsibility of working with tribes to craft creative ways of transferring decision-making powers over tribal government functions from the Department to tribal governments.

An Office of American Indian Trust will be established in the Department of the Interior and given the responsibility of overseeing the trust responsibility of the Department and of insuring that no Departmental action will be taken that will adversely affect or destroy those physical assets that the Federal Government holds in trust for the tribes.

I take pride in acknowledging and reaffirming the existence and durability of our unique government-to-government relationship.

Within the White House I have designated a senior staff member, my Director of Intergovernmental Affairs, as my personal liaison with all Indian tribes. While it is not possible for a President or his small staff to deal directly with the multiplicity of issues and problems presented by each of the 510 tribal entities in the Nation now recognized by and dealing with the Department of the Interior, the White House will continue to interact with Indian tribes on an intergovernmental basis.

The concepts of forced termination and excessive dependency on the Federal Government must now be relegated, once and for all, to the history books. Today we move forward toward a permanent relationship of understanding and trust, a relationship in which the tribes of the nation sit in positions of dependent sovereignty along with the other governments that compose the family that is America.