

I. Executive Summary

The New Mexico Department of Workforce Solutions (NMDWS), whose mission is to Educate, Empower, Employ, and Enforce, is committed to being a leader in and a facilitator of a competitive workforce for the benefit of all New Mexico. The department's vision is to be a leader in improving employment and poverty rates through workforce development, enhanced services for employers, and ensuring fair labor practices and workforce protections for New Mexicans.

To serve all New Mexicans effectively, the department has various divisions and bureaus which enhance, support, and complement one another. These divisions and bureaus are the Administrative Services Division; AmeriCorps (Serve NM Commission); the New Mexico Commission for Community Volunteerism; Economic Research and Analysis Bureau; Employment Services Division; Labor Relations Division; Unemployment Insurance Division; and Workforce Technology Division.

The federal government provides approximately 80% of the NMDWS total operating budget currently. A combination of General Fund and State Funds makes up the remainder of funds for departmental operations.

A. Agency Overview

Vision Statement

Be a leader in improving employment and poverty rates through workforce development, enhanced services for employers, and ensuring fair labor practices and workforce protections for New Mexicans.

Mission Statement

Educate, Empower, Employ, and Enforce

Department Goals

- Be a business-driven department,
- Understanding the needs of employers with a focus on the employability of all New Mexicans;
- Be an integral part of all economic development and education initiatives;
- Be efficient and responsive to the diverse needs of New Mexico's employers and workforce; and to be a "gateway" to employment.

Department Divisions

Administrative Services Division

The Administrative Services Division Provides leadership, direction, and administrative services support to each agency program to achieve organizational goals and objectives. The division is made up of the following bureaus:

- Financial Management Bureau
- General Services Bureau
- Human Resources Bureau
- Compliance/Monitoring

Employment Services Division

The Employment Services Division (ESD) was created to build a strong partnership between business and the public workforce system. The ESD will use a combination of proven and innovative strategies to provide greater solutions, tools, and services to the business community of New Mexico. Working with Local Workforce Development Boards and their Business Service Units, the department helps disseminate agency policy and employee business-driven best practices. These activities include bi-annual workforce forums and a statewide conference. Additionally, the ESD provides on-going technical assistance.

The ESD includes the following workforce programs: the Workforce Innovation and Opportunity Act (WIOA); Apprenticeship; Be Pro Be Proud; the Energy Transition Act (ETA); Economic Development; Reemployment Services and Eligibility Assessment (RESEA); AmeriCorps (Serve NM Commission); STEP Up; Temporary Assistance for Needy Families (TANF)/New Mexico Works; Trade Adjustment Assistance (TAA); the Work Opportunity Tax Credit (WOTC); Foreign Labor Certification; Migrant Seasonal Farmworker; H-2A/H-2B Visas; Housing Stability (Migrant Seasonal Farmworkers); Pre-Apprenticeship; Rapid Response (RR); and Veteran Services. See [Appendix A](#) for a description of each program.

Labor Relations Division

The Labor Relations Division (LRD) is committed to enhancing the wellbeing of the workforce through education and enforcement of New Mexico labor laws. LRD provides quality investigative services and strives to deter discrimination and harassment, unsafe child labor, paid sick leave violations, and unfair wage practices for New Mexico workers.

Human Rights Bureau (HRB)

Accepts and investigates claims of discrimination based on race, color, national origin, religion, ancestry, sex, age, physical and mental handicap, serious medical condition, disability, spousal affiliation, sexual orientation, and gender identity. The HRB also offers free training and technical advice to employer and employee groups or any other interested groups about preventing discrimination in the workplace and the Human Rights Act

Unemployment Insurance (UI) Division

The Unemployment Insurance (UI) Division administers the employer-financed program that provides temporary, partial income replacement to qualified individuals who are unemployed

through no fault of their own. UI benefits are financed through employer payroll taxes; they are not deducted from employee paychecks. Everyone who collects UI is legally responsible for following the rules according to New Mexico state law.

Workforce Technology Division (WTD)

The Workforce Technology Division (WTD) provides a full range of information technology services and support to NMDWS. Application support is provided to both Tax and Claims Unemployment Systems. WTD also supports Workforce Transition Services' Virtual One-Stop System, Labor and Industrial systems, and various other administrative support applications. WTD hosts a Data Center with mainframe and server hardware, a large network connecting state-wide America's Job Centers, data and network security, help desk, desktop support, and production services. WTD is an important component of NMDWS in that we strive to implement technology which will deliver services to our citizens in a more efficient and timely manner and to extend our services so that every citizen has easy and quick access to these services.

Office of the General Counsel

The General Counsel serves as primary advisor to the Cabinet Secretary on all legal matters, including personnel issues, lawsuits to which the Secretary and/ or NMDWS are parties, disputes concerning federal grant programs, and the administration of federal and state programs administered by NMDWS. The General Counsel also advises the Cabinet Secretary and the Board of Review regarding legal issues pertaining to unemployment insurance claim appeals. Additionally, the General Counsel oversees the Unemployment Insurance Appeals Tribunal.

II. NMDWS Adopted Policy Pursuant to the STCA

In December 2009, the New Mexico Department of Workforce Solutions established and endorsed the agency's State-Tribal Consultation, Collaboration, and Communication Policy, which was a step toward building stronger relationships with tribal communities. This policy is a commitment to improve cooperation, ensure meaningful engagement, and promote effective communication between NMDWS and tribal governments. By signing this policy, NMDWS affirmed its commitment to addressing the unique needs of tribal communities, recognizing and respecting tribal sovereignty, and working collaboratively to create and implement workforce development efforts that benefit all communities in the state. See [Appendix A](#) for NMDWS' policy.

III. Names and Contact Information

Names and contact information for the individuals at NMDWS who are responsible for developing and implementing programs for the state agency that directly affect American Indians or Alaska Natives:

- **Sarita Nair**
Cabinet Secretary
Sarita.Nair@dws.nm.gov

- **Marcos Martinez**
Deputy Cabinet Secretary
Marcos.Martinez@dws.nm.gov
- **Scott Groginsky**
Deputy Cabinet Secretary
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- **Waldy Salazar**
Employment Services Division Director of Programs
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- **Michelle Velarde**
Employment Services Division Director of Operations
Michelle.Velarde@dws.nm.gov
- **Lynne Throop**
Unemployment Insurance Division Director
Lynne.Throop@dws.nm.gov
- **Rosina Espinoza**
Tribal Liaison
Rosina.espinoza@dws.nm.gov

IV. Current and Planned Efforts to Implement Policy

To implement the policy set forth in Subsection A of Section 3 [11-18-3 NMSA 1978] of the State-Tribal Collaboration Act, the New Mexico Department of Workforce Solutions has taken several current and planned efforts:

- **Establishing Tribal Liaison:** NMDWS has appointed a tribal liaison who is responsible for maintaining open lines of communication with tribal governments. This liaison ensures that tribal perspectives and needs are consistently integrated into NMDWS programs and initiatives.
- **Cultural Competency Training:** NMDWS tribal liaison underwent training focused on cultural competency and sensitivity to better understand and respect tribal customs, traditions, and governance structures. This training helps in building mutual respect and effective communication. Additionally, NMDWS houses a Workforce Learning & Development Unit that provides all NMDWS employees with an array of learning opportunities, ranging from micro-learning courses to comprehensive, job-specific trainings. Relative to cultural competency, the NMDWS Workforce Learning & Development Unit offers the following trainings:

- State Tribal Collaboration Act Cultural Competency Training- 5 DWS employees attended the training.
- Emotional Intelligence/Trauma Response/Trauma-Informed – 49 DWS employees and 20 external customers attended this training.
- Diversity, Equity, Inclusion, and Accessibility – 189 internal (DWS staff) and external (partners/providers/public) customers attended this training.
- Communication strategies for serving those whose first language isn't English – 115 employees have attended this training.
- **Interagency Coordination:** NMDWS is collaborating with tribal workforce programs through the Native American Workforce Partner (NAWP) coalition. NMDWS and NAWP meet on a quarterly basis to share best practices, provide updates, and provide mutual support for programming. NMDWS also meets monthly with the co-founders of NAWP to provide updates and provide mutual support for programming in between quarterly meetings.
- In February 2025, WIOA SAE Team held a two-day Youth, Adult and Dislocated Worker Summit in Albuquerque, NM. NAWP and their grantees were invited to attend the summit and around 25 attended the two-day summit. DWS Tribal Liaison is starting to plan a summit between NAWP, grantees and Local Workforce Development Boards.

V. Managers and Employees Who Completed Training

Rosina Espinoza, the NMDWS Tribal Liaison, has completed the training provided by the State Personnel Office, “State Tribal Collaboration Act Cultural Competency Training”. Please see [Appendix C](#) for a copy of certificate of completion. This training supports learning about the State Tribal Collaboration Act, how it applies to agencies and employee work, tribal sovereignty and the relations between state and tribes, and the role of consultation, collaboration, and communication with tribes. NMDWS plans to have all DWS staff and external partners take this training to ensure they are well-prepared to engage with, understand, and serve tribal communities effectively, fostering a more inclusive and responsive approach to their unique needs and circumstances.

VI. Current and Planned Programs for American Indians or Alaska Natives

All the programs outlined in [Appendix A](#) are available to American Indians and Alaska Natives, and they can also be accessed by anyone who qualifies. These current programs and services provide essential resources and opportunities for workforce development, education, and community support, ultimately enhancing the well-being of the entire state. In addition to the ongoing programs and services outlined in [Appendix A](#), NMDWS housed specific programming designed to serve American Indians and Alaska Natives in FY25. These include:

- **Collaboration with Native American Workforce Partners (NAWP):** NAWP is a coalition of programs that include “477 programs”, “166 programs”, and the Navajo Nation’s Department of Workforce Development. The coalition of programs is funded by New Mexico Community Capital and the Los Alamos National Laboratories (LANL) Foundation. Through joint training and collaboration, NMDWS has identified opportunities for collaboration, including referrals, co-enrollment, cross-training, and braided funding. NMDWS is working towards Intergovernmental Agreements (IGAs) with each tribal workforce program to reflect cooperation in those areas.
- **NMDWS is working with the Tribal Libraries** to better serve the constituents living on tribal lands with the resources that our agency provides. NMDWS uploaded an access link of our services to the computer desktops in the 20 Tribal Libraries that are designated as access points to navigate constituents across the state to the NMDWS and America’s Job Center services. The access link showcases multiple videos and provides information on unemployment insurance, youth and adult training resources and employment job seeker services. This access link also directs those who do not want to use self-service features to person-to-person assistance.
- **NMDWS’ Navigator Program** is designed to increase accessibility and knowledge of Unemployment Insurance (UI) and Employment Services (ES) to New Mexico workers living in rural/remote and tribal communities. NMDWS provides training to community health workers and other people and organizations with existing relationships in tribal and rural communities on Unemployment Insurance accessibility and Employment Services that NMDWS offers. The first navigator event occurred on April 15, 2025, at the Indian Pueblo Cultural Center. Seven pueblos participated (Pueblos of Acoma, Sandia, San Felipe, Isleta, Laguna, Pojoaque, and Cochiti) as did the Eight Northern Indian Pueblos Council and the Five Sandoval Indian Pueblos Council. Since the Navigator event, the DWS team has held outreach events with the Pueblos of San Felipe, Isleta, Cochiti, and Acoma, and with the Five Sandoval Indian Pueblos Council.
- NMDWS houses **AmeriCorps (Serve NM Commission) program** which is funded through both the formula and competitive mechanisms. New Mexico AmeriCorps programs that target Native American groups as their member demographic or host sites include the following:
 - NACA Inspired Schools Network has a grant for \$400,000 for members to be placed at tribal schools. They had 25 placements available throughout the program year and have positions in Santa Clara, the Navajo Nation, Acoma, and Las Cruces.
 - Ancestral Lands is part of Conservation Legacy and has an Environmental Stewardship program that has a grant for \$1,027,000 (this is split between the Ancestral Lands program and Conservation Corps NM). They had 31 placements available and had sites that range from the four corners, Acoma, Isleta, and Albuquerque.
- **NMDWS’ pre-apprenticeship program** offers up to 400 hours (or 6 months, whichever comes first) of paid work-based learning opportunities for youth in a variety of jobs and industries. NMDWS acts as the employer, which reduces the burden on employers who host pre-apprentices because the state processes payroll and covers workers compensation insurance. Each pre-apprentice is paired with a career consultant who can

help them learn the skills required in the job, and who works with them at the completion of the program to determine the next steps in their career path. From July 1, 2024, to April 8, 2025, there are 55 Native American Pre-apprentices in the program.

- **Be Pro Be Proud New Mexico** is an initiative led by the New Mexico Department of Workforce Solutions in partnership with the New Mexico Center for Economic Opportunity, the charitable foundation of the New Mexico Chamber of Commerce, spearheading the movement to bring a new generation of pride, progress, and professionals to New Mexico's skilled workforce. Be Pro Be Proud is a national workforce development initiative focused on attracting students and young adults to technical careers through exciting simulation experiences and then connecting them to post-secondary opportunities to include registered apprenticeships and careers. The Be Pro Be Proud New Mexico mobile workshop unit is customized to professions that are most relevant to the industry needs in New Mexico. These professions include automation/robotics, construction, commercial truck driving, electricians, fiber optics, healthcare, heavy equipment operators, HVAC, line workers, plumbers, and welders.

During Summer 2024, Fall 2024, and Spring 2025 semesters, the Be Pro Be Proud mobile workshop unit attended the following events targeting American Indian and Alaska Natives:

- Summer 2024
 - Government-to-Government Indian Education Summit, Farmington, NM
 - State Tribal Leaders Summit, Navajo Preparatory School, Farmington, NM
 - Santo Domingo School Career Day – Santo Domingo Pueblo
 - Southwestern Indian Polytechnic Institute (SIPI) Career Day in Albuquerque, NM
 - San Felipe Pueblo Career Day – Pueblo of San Felipe
- Fall 2024
 - Laguna Acoma High School – Casa Blanca, NM
 - Dulce High School – Jicarilla Apache Nation
 - Shiprock High School – Navajo Nation
 - Kirtland Central High School – Navajo Nation
 - Thoreau High School – Navajo Nation
 - Pojoaque Valley High School – Pueblo of Pojoaque
 - Mescalero Apache School – Mescalero Apache Tribe
- Spring 2025
 - Bond Wilson Technical Center – Navajo Nation
- **Registered Apprenticeship** is an employer- driven, structured program which includes paid full-time employment, on-the-job training, mentorship, related technical instruction, wage progressions, and a nationally recognized certificate of completion. It aids in the development of a highly skilled workforce and provides opportunities for sustainable careers. For FY25, the number of **newly registered** apprentices who were registered from 7/1/25 to present who identified as American Indian/Alaska Native is **93**. The total

number of current **active** apprentices who have identified as American Indian/Alaska Native is **304**.

- **The Energy Transition Act (ETA)**, passed in 2019, created the Displaced Worker Assistance Fund to support New Mexico residents who lost their jobs due to the closure of the San Juan Generating Station in Waterflow, New Mexico. The ETA provides financial assistance to displaced workers and aims to support "affected communities," which are defined as New Mexico counties within a 100-mile radius of a closed electricity-producing facility that results in at least 40 displaced workers.

The closure of the San Juan Generating Station, located at 6800 N County Rd, Waterflow, NM 87421, qualifies as an event under the ETA. The counties within 100 miles of the station, and thus part of the affected community, include San Juan, McKinley, Rio Arriba, and Sandoval. The tribal lands within the affected community include the Navajo Nation and the Jicarilla Apache.

To assist displaced workers, the New Mexico Department of Workforce Solutions (NMDWS) developed a plan that outlines eligibility, created an online application, and manages the distribution of funds. These resources are designed to help individuals and communities impacted by the closure. The program currently has enrolled 30 participants into Post Secondary Educational programs throughout New Mexico and surrounding areas and provides participants with educational funds, living stipends, employment services as well as intensive case management.

NMDWS has an additional agreement with San Juan College to provide education and support services to the affected individuals. San Juan College has enrolled ten participants into 2-year training programs.

As of March 31, 2025, nearly half (49%) of participants in the ETA program self-identified as American Indian/Alaska Native, underscoring the significant impact of the closure on Indigenous communities.

- **Jobs for Veterans State Grant (JVSG)** provides federal funding to support the Disabled Veterans Outreach Program (DVOP) specialist and Local Veterans Employment Representative (LVER) staff. The DVOP specialists focus their role responsibilities to assist veterans with qualifying barriers to employment (disability, homeless, formerly incarcerated, recently separated from active duty, no high school diploma, age 18-24, Vietnam era veterans, referrals from an authorized representative of the U.S. Veterans Administration, and low income) and other designated populations. DVOP specialists use case management to help veterans become job ready and provide outreach to Native American populations to inform eligible veterans that can benefit from DVOP career services. The LVER staff focus their role responsibilities to assist businesses to recruit and hire qualified veterans. LVER staff provide veterans job development and participate in job/career fairs and business and trades events.

There were 297 people enrolled who self-identified as American Indian/Alaska Native veterans and spouses who were eligible to receive JVSG staff services during the year

ending March 31, 2025, of which 85 veterans were assigned to case management for individualized career services, career planning, and for referrals to community-based resources.

The JVSG collaborates with Federal, State, Tribal, and Local government agencies, and non-profit organizations to assist veterans with workforce development, obtain their benefits and referrals to community-based resources.

- **Economic Development:** DWS partners with the New Mexico EDD Tribal Liaison that works with the state's 19 pueblos, the Navajo Nation, and the Apache Nations. Tribal relations are intertwined with the state actively working to improve the quality of life for tribal citizens. The Tribal Liaison Representative with NM EDD works DWS Economic Development Representatives in building collaboration, supporting communities, and creating stronger government-to-government relationships. These state agencies assist with finding resources that Tribes can use for various economic development projects and about how creative entrepreneurs in tribal communities can best take advantage of these resources. The New Mexico Economic Development Department Creative Industries Division foster creative economies supporting tribal entrepreneurs in the crafts & artisan professions including metal, wood, glass, ceramics, & textiles, which is prevalent in the tribal communities.
- **Step-up:** The STEP Up program is a collaboration between the New Mexico Child Support Services Department (CSSD) and NMDWS aimed at assisting both non-custodial and custodial parents who are unemployed in finding suitable employment to support their children. Non-custodial parents facing challenges in meeting their child support obligations due to unemployment or underemployment can participate in the STEP Up program by contacting their Child Support caseworker. Participation may also be required by CSSD to avoid further enforcement actions, such as license suspension or a bench warrant for unpaid child support. Custodial parents can also voluntarily request to join the STEP Up program.
- **WIOA Title I and Title III:** NMDWS receives and administers Title I Adult, Dislocated Worker, and Youth funds, and passes them through to four Local Workforce Development Boards (LWDBs) to provide direct case management services and fund training and employment services and supports for eligible individuals who have barriers to employment. Services coordinated and presented to businesses by the LWDBs are intended to be customized and based on the expressed needs of businesses.

Title III – Wagner-Peyser – NMDWS receives and administers the Title III Wagner-Peyser funds on behalf of the Governor’s office. These funds are used to support state staff salaries and American Job Center infrastructure costs and across the state’s NMWCCs to deliver workforce services. A key role of this program is to improve the state’s economic vitality by matching employers with career-ready individuals.

Number of Participants served under WIOA Title I and III who self-identified as

American Indian/Alaska Native in FY25:

	WP Served	Title I Served	Total Served
Central Area Workforce Development Board	935	21	956
Southwestern Area Workforce Development Board	157	48	205
Northern Area Workforce Development Board	1,593	67	1,660
Eastern Area Workforce Development Board	195		195
Grand Total	2,880	136	3,016

VII. Notification to Employees

The New Mexico Department of Workforce Solutions posts its policies, including the State-Tribal Consultation, Collaboration, and Communication Policy, on an intranet website accessible to all its employees. This intranet serves as a central hub for disseminating important information, ensuring that all staff members are promptly notified of the provisions of the State-Tribal Collaboration Act.

VIII. Appendices

Appendix A: Description of Employment Services Division (ESD) programs

WIOA

The Workforce Innovation and Opportunity Act (WIOA), enacted on July 22, 2014, is an initiative aimed at strengthening and improving the public workforce system in the United States. WIOA's main goal is to promote the inclusion of diverse sectors of the United States populations, such as young people and individuals facing significant barriers to employment, into well-paying professions and long-term employment. WIOA also aims to help employers in recruiting and retaining skilled workers, while also addressing the changing requirements of the workforce. WIOA replaced the Workforce Investment Act (WIA) that was enacted in 1998 as an approach to address the fact that a modern and adaptable framework is needed to navigate the intricacies of the job market of the 21st century. WIOA aims to streamline processes, improve effectiveness, and promote a more coordinated and integrated approach to providing workforce services by bringing together various initiatives under a unified umbrella. WIOA contains the following Titles:

- Title I – Workforce Development Activities – Adult, Dislocated Worker, and Youth. NMDWS receives and administers Title I Adult, Dislocated Worker, and Youth funds,

and passes them through to four Local Workforce Development Boards (LWDBs) to provide direct case management services and fund training and employment services and supports for eligible individuals who have barriers to employment. Services coordinated and presented to businesses by the LWDBs are intended to be customized and based on the expressed needs of businesses.

- Title II – Adult Education and Family Activities (AEFLA)– The Adult Education Division of the New Mexico Higher Education Department (NMHED – AE) oversees the provision of educational services for eligible adults as outlined by the Adult Education and Family Activities Title II of the federal WIOA.
- Title III – Wagner-Peyser – NMDWS receives and administers the Title III Wagner-Peyser funds on behalf of the Governor’s office. These funds are used to support state staff salaries and American Job Center infrastructure costs and cross the state’s NMWCCs to deliver workforce services. A key role of this program is to improve the state’s economic vitality by matching employers with career-ready individuals.
- Title IV – Vocational Rehabilitation (DVR and CFB) – New Mexico has two vocational rehabilitation programs – the New Mexico Commission for the Blind (NMCB) is an independent state agency that serves individuals who are blind or visually impaired; and the New Mexico Division of Vocational Rehabilitation (NMDVR) which is housed within the New Mexico Public Education Department (NMPED) and serves individuals with all other disabilities.

Apprenticeship

Registered Apprenticeship is an employer driven, structured program which includes paid full-time employment, on-the-job training, mentorship, related technical instruction, wage progressions, and a nationally recognized certificate of completion. It aids in the development of a highly skilled workforce and provides opportunities for sustainable careers.

The New Mexico Department of Workforce Solutions is the State Apprenticeship Agency in New Mexico and is responsible for providing technical assistance and guidance to registered apprenticeship programs and industry stakeholders in the development of new apprenticeship programs, the registration process, and assuring adherence of program administration and compliance. NMDWS also engages in education and outreach to increase awareness of registered apprenticeship as a viable and valuable alternative career pathway and skilled workforce pipeline for a variety of industries including, but not limited to, advanced manufacturing, agriculture, construction and building trades, cybersecurity, education, energy, financial services, healthcare, hospitality, information technology, infrastructure, telecom, and transportation.

Be Pro Be Proud

Be Pro Be Proud New Mexico is an initiative led by the New Mexico Department of Workforce Solutions in partnership with the New Mexico Center for Economic Opportunity, the charitable foundation of the New Mexico Chamber of Commerce, spearheading the movement to bring a new generation of pride, progress, and professionals to New Mexico’s skilled workforce. Be Pro

Be Proud is a national workforce development initiative focused on attracting students and young adults to technical careers through exciting simulation experiences, then connecting them to post-secondary opportunities to include registered apprenticeships and careers. The Be Pro Be Proud New Mexico mobile workshop makes tour stops at local middle schools, high schools, and community organizations throughout the state. The mobile workshop unit is customized to professions that are most relevant to the industry needs in New Mexico. These professions include automation/robotics, carpentry, commercial truck driving, diesel technicians, electricians, fiber optics, healthcare, heavy equipment operators, HVAC, line workers, plumbers, and welders.

Energy Transition Act (ETA)

The Energy Transition Act, passed in 2019, established the *Energy Transition Displaced Worker Assistance Fund* under NMSA § 62-18—16(G), (H), and (I). Administered by the New Mexico Department of Workforce Solutions (NMDWS), this fund is designed to support projects that assist displaced workers in communities affected by the closure of energy facilities.

The San Juan Generating Station, a coal-fired power plant located at 6800 N County Rd, Waterflow, NM 87421, was supplied by a coal mine operated by Westmoreland. Units 2 and 3 (369 MW and 555 MW, completed in 1976 and 1979, respectively) were retired in 2017, prior to the passage of the Energy Transition Act. Unit 1 (369 MW, completed in 1973) was retired in June 2022, and Unit 4 (555 MW, completed in 1982) was retired in October 2022. The 2022 closures fall under the purview of the ETA.

To assist workers affected by the closures, the Department's Displaced Worker Assistance Plan includes the following key components:

- **Multiple Rapid Response Sessions:** Offering immediate job search assistance to displaced workers.
- **Streamlined Unemployment Insurance (UI) Process:** Collaborating with employers to create a standardized process for filing UI claims that eliminates the need for multiple verifications of severance packages, making the process more accessible for workers.
- **Bridge Program:** Establishing a support system to help workers transition between their layoff date and their next career opportunity.
- **Direct Assistance:** Providing financial support directly to workers through ETA funds.
- **Training and Apprenticeship Programs:** Creating wage differential programs, direct training, and apprenticeship opportunities to help workers build new skills for future employment, funded by the ETA.

These initiatives aim to provide crucial support and resources to those impacted by the San Juan Generating Station's closure, helping them navigate the transition to new career paths.

RESEA

The reemployment initiative, Reemployment Services Eligibility Assessments (RESEA) administered within the ESD, connects Unemployment Insurance (UI) recipients with in-person

assessments and reemployment services through the AJC's around the state. RESEA is grounded in accountability and is designed to support jobseekers from diverse educational and employment backgrounds in achieving rapid reemployment, thereby minimizing the duration of unemployment. The program has four purposes:

1. Strengthen Unemployment Insurance integrity
2. Reduce Unemployment Insurance duration
3. Promote alignment with the Workforce Innovation and Opportunity Act (WIOA)
4. Establish RESEA as an entry point across workforce system partner

AmeriCorps (Serve NM Commission)

The state AmeriCorps program and the New Mexico Commission for Community Volunteerism are administered within the ESD and include AmeriCorps funds through both the formula and competitive mechanisms. This includes programs implemented by public and nonprofit partners in New Mexico communities. Funding through the grant enables people of various ages and backgrounds to help meet local needs, strengthen communities, and increase civic engagement through national service in New Mexico. Serving with more than 680 national and local nonprofits, schools, faith-based organizations, and other groups, these AmeriCorps members tutor and mentor children, support veterans and military families, provide health services, participate in environmental restoration projects, respond to disasters, increase economic opportunity, and recruit and manage volunteers.

STEP Up

The STEP Up program is a collaboration between the New Mexico Child Support Services Department (CSSD) and NMDWS aimed at assisting both non-custodial and custodial parents who are unemployed in finding suitable employment to support their children. Non-custodial parents facing challenges in meeting their child support obligations due to unemployment or underemployment can participate in the STEP Up program by contacting their Child Support caseworker. Participation may also be required by CSSD to avoid further enforcement actions, such as license suspension or a bench warrant for unpaid child support. Custodial parents can also voluntarily request to join the STEP Up program.

Temporary Assistance for Needy Families (TANF)/ New Mexico Works

New Mexico Works Program

The New Mexico Works program provides TANF (Temporary Assistance for Needy Families) participants a monthly cash benefit used to meet basic family needs such as housing, utilities, and clothing. Case workers in the NM Works program connect participants to exciting career opportunities and support with foundational barrier removal, so self-reliance is possible. New Mexico Works provides eligible TANF participants with paid work experience opportunities and skill-building activities for the ability to up-skill for better career opportunities. Participants can be assigned to work in government agencies or with private-sector employers that partner to provide mentorship, skill building, and support. The Career Link and Wage Subsidy programs under TANF are some common referrals to provide participants and employers flexible hiring

options and a way to grow and give back to their communities. Additionally, the NM Works program partners with the Accelerated College and Career Education (ACCE), Education Works Program, and TANF Vocational Training programs to support educational needs, interest, and opportunities to TANF participants from High School Equivalency to master's degree pursuits.

Education Works Program

The objective of the Education Works Program (EWP) is to provide financial assistance to a benefit group where at least one individual is enrolled in a post-secondary, graduate, or post-graduate institution. The EWP is available to TANF-eligible participants seeking to improve their ability to find gainful employment through educational degree programs. The purpose of the EWP program is to improve the quality of life for parents and children by increasing family income, resources, and support. Education and training are essential to long-term career development. The EWP provides 24 months of TANF-equivalent funding for families to participate in a degree program. Ideal for those currently enrolled in a full time 2- or 4-year degree or master's program. Participants must be able to maintain a 2.0 GPA and apply for financial aid.

Accelerated College and Career Education (ACCE)

Accelerated College and Career Education (ACCE) is open to all TANF participants without a high school diploma. ACCE is an innovative program for TANF participants in New Mexico. It's designed to provide a fast-paced, intensive educational pathway, in a unique blended learning environment, which leads to a High School Equivalency Certificate. The program makes college and career a real possibility for students on TANF. ACCE participants must be on TANF and can only be registered by NMDWS and CWS staff. ACCE is an accelerated instruction targeted at earning a Hi School Equivalency Certificate and includes career planning, financial literacy, and 21st century skills. The ACCE program provides all support and coursework to be able to complete a High School Equivalency Certificate for 10-30 hours per week.

TANF VT

The Temporary Assistance for Needy Families – Vocational Training (TANF VT) funds short term training programs at no cost to the participant as well as individualized case management services. Individuals receiving TANF cash assistance are eligible to apply pending a referral from their TANF consultant to the program. The program assists all individuals identified to be eligible. The TANF VT program provides full tuition for 12 months for those seeking to enroll in a certification/degree/licensure program.

Wage Subsidy

Wage Subsidy candidates are hired into full-time, 40-hour/week jobs within government agencies. Government agencies who partner with Wage Subsidy are provided with a financial incentive to hire eligible participants in ongoing jobs at no cost to the employer. Wage Subsidy participants can help to contribute to the agency and give employers greater flexibility in their hiring options. The Wage Subsidy program is full-time employment with a government agency for a period of no more than twelve (12) months lifetime.

Career Link

Career Link candidates are hired into part-time positions, working 20 hours per week with private industry employers. New Mexico employers that partner with Career Link are provided a financial incentive to hire eligible participants in ongoing jobs at no cost to the employer. Career Link can help to build a business and give employers greater flexibility in their hiring options. The Career Link program is a part-time employment program that offers participants paid work experience in a private sector position for no more than six months.

Transitional Bonus Program (TBP)

The Transitional Bonus Program (TBP) rewards New Mexico Works participants for reaching their goal of working at least 30 hours each week and earning above federal minimum wage to support their family and home. Eligible families who report their new income to New Mexico Works can receive up to a \$200 monthly bonus payment for up to 18 months and remain eligible for New Mexico Works supportive services once employed. Current eligibility determinations are:

- Are a current TANF recipient
- Must have received at least 3 months of TANF
- Must have received at least 1 month of TANF within the last 3 months
- Must be working 30 hours per week at/above federal minimum wage (\$7.25/hr.)
- Must have income less than 150 percent of the Federal Poverty Guidelines (FPG)

Trade Adjustment Assistance (TAA)

The Trade Adjustment Assistance (TAA) program is designed to support workers who have experienced job loss or reduced hours and wages due to increased foreign imports or shifts in production overseas. This federally funded program provides a range of services and benefits to help affected workers secure new employment, retain jobs, and maintain wage comparability.

Offered at no cost to employers, the TAA program aims to assist workers in their transition by offering benefits such as:

- **Reemployment Services:** Support in finding new job opportunities.
- **Relocation Allowances:** Financial assistance for workers who need to relocate for a new job.
- **Job Search Allowances:** Funds to help cover expenses related to searching for new employment.
- **Trade Readjustment Allowances (TRA):** Financial support for workers who are in need of income while retraining or seeking new work.
- **Health Insurance Coverage:** Assistance with maintaining health insurance through programs like the Trade Adjustment Health Coverage Tax Credit (HCTC).
- **Training Services:** Access to job training and skill development programs to help workers qualify for new employment opportunities.

Overall, the TAA program provides comprehensive support to help displaced workers recover and successfully transition into new careers. As of July 2022, the TAA program has operated under termination provisions and no new workers have been certified or determined eligible for TAA. Only those impacted prior to July 1, 2022, may be eligible for benefits and services.

WOTC

The Work Opportunity Tax Credit (WOTC) program is a federal tax credit program that provides Federal Tax Incentives for employers that hire individuals that may have a Significant Barrier to Employment. The tax credit ranges from \$1200 up to \$9,600 dependent on the sought-after tax credit and if criteria are met. The target groups are: TANF recipients; Veterans; formerly incarcerated, high-risk youth living in designated areas; workers referred by summer youth; 18–39-year-old SNAP recipients; supplemental social security income recipients; and long-term family assistance recipients and Long-Term Unemployed Recipients.

Foreign Labor Certification

The United States Department of Labor (USDOL) designed the Foreign Labor Certification (FLC) program to enable U.S. businesses to hire qualified workers from foreign countries on a season and temporary basis. Some employers face difficulty in finding interested and able temporary employees in their local area, and FLC brings in foreign workers that businesses need to keep production at an optimal level. It is important to note, however, that while the FLC program is aimed at helping these businesses, USDOL has put in place conditions that aim to protect the U.S. workforce. Before participating businesses are granted certification and can apply for visas, they must prove that qualified and interested U.S. workers are not available for the occupation requested. To accomplish this, USDOL mandates that businesses maintain an online job advertisement for at least half the duration of the job with the NMDWS Workforce Connection Online System that serves areas that could have a labor supply and accept referrals from the State Workforce Agency (SWA). The SWA is the state coordinator for the federal FLC program. New Mexico's SWA is NMDWS. Employers may hire foreign workers as seasonal and temporary full-time employees in circumstances where there are insufficient U.S. workers who are qualified, available, and willing to accept the job at the prevailing wage in the area of intended employment.

H-2A/H-2B Visas (Migrant Season Farmworkers)

The H-2A/H-2B program allows U.S. employers or U.S. agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural and nonagricultural jobs. Businesses struggling to fill seasonal and temporary positions can file applications to hire guest workers from foreign countries under H-2A or H-2B visa programs, particularly for businesses in search of agricultural workers. The difference between these two types of visas is basic: H-2A is for seasonal agricultural occupations, and H-2B covers all other types of temporary occupations. The applications for both types of visas must go through a process managed by the USDOL to be granted a certification before the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS) can approve the visas.

The State Monitor Advocates have provided important support to agricultural workers and employers throughout New Mexico. The Monitor Advocate System is a federal/state monitoring system that ensures migrant and seasonal farmworkers (MSFW) have equitable access to career services, skill development, and workforce protections offered by American Job Centers, so they may improve their living and working conditions. Key Components: Conducting outreach to MSFWs at their working, living, and gathering places, monitoring services provided to MSFWs at American Job Centers, facilitating the Employment Service and Employment-Related Law Complaint System, which helps resolve labor-related complaints, and promote the Agricultural Recruitment System for U.S. workers, which connects job seekers who need employment to employers who need workers.

Housing Stability

The Housing Stability Program (formerly ERAP) assists those who are experiencing housing instability in overcoming barriers to employment and finding stable employment. NMDWS' housing stability services are for at-risk communities and are focused on one or more of the following:

- Employment services case management
- Job training opportunities
- Housing- and employment-related services for survivors of domestic abuse or human trafficking
- Providing resources to aid clients in their job search
- Referrals to Eviction prevention and eviction diversion programs
- Referrals to emergency shelters

Pre-Apprenticeship

The Pre-Apprenticeship program was created to help establish talent pools and career pathways for pre-apprentices 16-24 years old by receiving pre-apprenticeship training in marketable occupations. Participation provides a pre-apprentice with a gateway to gain full apprenticeship, employment, or enhanced skill set upon completing the program. Local businesses have an opportunity to produce skilled talent for their industry and prepare pre-apprentices for sustainable employment.

- A career consultant will provide workforce labor market information, work skills preparation, and career prospects for pre-apprentices.
- A local business will provide pre-apprentices with opportunities to learn about career pathways within their industry.
- Pre-apprentices will have the opportunity to explore various aspects of the industry they are working in through real-world and hands-on experiences.
- The pre-apprenticeship program provides pre-apprentices wages for up to 400 hours or 6 months, whichever comes first.
- NMDWS covers workers' compensation insurance.

Rapid Response

Rapid Response is an early intervention service that assists both employers and employees affected by layoffs or plant closures. It provides access to user-friendly resources and information to help transition affected workers into re-employment. When a company has to lay off employees it is difficult for both the employer and affected workers. NMDWS provides Rapid Response assistance statewide to help employees gain access to all federal and state programs that have resources available to help them.

The first step usually begins when a Worker Adjustment and Retraining Notification (WARN) notice is issued to NMDWS. It is important to note that an employer can request Rapid Response services even if they do not meet the requirements to file a WARN notice, and any New Mexico employer laying off workers may request Rapid Response services for their employees. A meeting is scheduled with the employer to discuss resources available to assist both the employer and the employees. The next step is the development of a plan of action to deliver the services needed. This step is assisted through the work of the “Rapid Response Team”. The Rapid Response Team is comprised of representatives from the local area and partner agencies. Included in the team are representatives from:

- Unemployment Insurance (UI)
- New Mexico Workforce Connection Center
- WIOA Partner Organization
- Trade Adjustment Assistance (where applicable)
- Veterans Services

The Rapid Response Team will hold meetings and informational sessions onsite at an employer’s location(s) and provide information about resources and services available from partners to assist the employees through the transition of being unemployed to employed. The Rapid Response partners provide information on:

- Education and training opportunities
- Resume writing assistance
- Interviewing skills
- Career assessment
- Job search/placement assistance
- Access to Internet for job search and posting resumes
- Resource rooms for computer, fax, and copies
- Unemployment Insurance
- NAFTA/Trade Adjustment Assistance

Employers can expect the following from Rapid Response:

- Quick response to transition needs
- Pre-layoff aversion assistance with the help of Economic Development
- Information on WARN and NAFTA/TAA requirements
- Assistance in helping improve workers morale and productivity

Veteran Services

Jobs for Veterans State Grant provides federal funding to support the Disabled Veterans Outreach Program (DVOP) specialist and Local Veterans Employment Representative (LVER) staff. The DVOP specialists focus their role responsibilities to assist veterans with qualifying barriers to employment (disability, homeless, formerly incarcerated, recently separated from active duty, no high school diploma, age 18-24, Vietnam era veterans, referrals from an authorized representative of the U.S. Veterans Administration, and low income) and other designated populations. DVOP specialists use case management to help veterans become job ready and provide outreach to Native American populations to inform eligible veterans that can benefit from DVOP career services. The LVER staff focus their role responsibilities to assist businesses to recruit and hire qualified veterans. LVER staff provide veterans with job development and participate in job/career fairs and business and trades events.

Appendix B: New Mexico Department of Workforce Solutions State-Tribal Consultation, Collaboration, and Communication Policy

New Mexico Department of Workforce Solutions State-Tribal Consultation, Collaboration and Communication Policy

Section I. Background

- A. In 2003, the Governor of the State of New Mexico and 21 of the 22 Indian Tribes, Nations and Pueblos of New Mexico adopted the *2003 Statement of Policy and Process* (Statement), to “establish and promote a relationship of cooperation, coordination, open communication and good will, and [to] work in good faith to amicably and fairly resolve issues and differences.” The Statement directs State agencies to interact with the Tribal governments and provides that such interaction “shall be based on a government-to-government relationship” aimed at furthering the purposes of meaningful government-to-government consultation.
- B. In 2005, Governor Bill Richardson issued Executive Order 2005-004 mandating that the Executive State agencies adopt pilot tribal consultation plans with the input of the 22 New Mexico Tribes.
- C. In 2007, Governor Bill Richardson issued the Goals of the “Promoting and Growing New Mexico, Performance and Accountability Contract”. This document identified the process New Mexico is taking toward competitiveness in the regional, national and global economies. This process includes attracting high-skill wage industries, cutting taxes, investing in innovation, providing access to capital and investing infrastructure. The four goals for promoting and growing New Mexico include:
 - *Goal 1. Improve New Mexico's Economic Base and Expand Targeted Industries*
 - *Goal 2. Strategically Invest in the Workforce and Infrastructure to Support Economic Growth*
 - *Goal 3. Expand Domestic and International Trade*
 - *Goal 4. Develop and Promote Media Arts and Cultural Assets*
- D. Several Executive Agencies were identified as the lead agencies to accomplish the Promoting and Growing New Mexico initiative. These agencies are: Department of Cultural Affairs, Department of Transportation, Department of Tourism, Department of Workforce Solutions, Economic Development Department, and the State Investment Council.
- E. On March 19, 2009, Governor Bill Richardson signed SB 196, the State Tribal Collaboration Act (hereinafter “STCA”) into law. The STCA reflects a statutory commitment of the state to work with Tribes on a government-to-government basis. The STCA establishes in state statute the intergovernmental relationship through several interdependent components and provides a consistent approach through

which the State and Tribes can work to better collaborate and communicate on issues of mutual concern.

- F. In Fall 2009, the Agencies charged with the Promote and Grow New Mexico initiative met with representatives from the Tribes to develop an overarching Policy that, pursuant to the STCA:
- a. Promotes effective collaboration and communication between the Agency and Tribes;
 - b. Promotes positive government-to-government relations between the State and Tribes;
 - c. Promotes cultural competence in providing effective services to American Indians/Alaska Natives; and
 - d. Establishes a method for notifying employees of the Agency of the provisions of the STCA and the Policy that the Agency adopts.
 - e. The Policy meets the intent of the STCA and defines the Agency's commitment to collaborate and communicate with Tribes.

Section II. Purpose

Through this Policy, the Agency will seek to foster and facilitate positive government-to-government relations between the Agency and the federally recognized Indian Nations, Tribes or Pueblos located wholly or partially within the boundaries of New Mexico, hereinafter referred to as "Tribes". The purpose of the Policy is to develop, improve, or maintain partnerships with Tribes by using agreed-upon processes when the Agency develops, changes or implements policies, programs or services that directly affect Tribes.

Section III. Principles

- A. Confidentiality - The Agency will protect and exhibit a high degree of respect and sensitivity regarding confidential information provided by Tribal Governments and staff, and shall ensure confidentiality to the extent provided by State and Federal law.
- B. Recognize and Respect Sovereignty - The State and Tribes are sovereign governments. The recognition and respect of sovereignty is the basis for government-to-government relations and this Policy. Sovereignty must be respected and recognized in government-to-government consultation and collaboration between the Agency and Tribes. The Agency recognizes and acknowledges the trust responsibility of the Federal Government to federally-recognized Tribes.

- C. Government-to-Government Relations – The Agency recognizes the importance of collaboration, communication and cooperation with Tribes. The Agency further recognizes that Agency policies, programs and/or services may directly or indirectly affect Tribes. Accordingly, the Agency recognizes the value of dialogue between Tribes and the Agency with specific regard to those policies, programs and/or services.
- D. Efficiently Addressing Tribal Issues and Concerns – The Agency recognizes the value of Tribes' input regarding Agency policies, programs and/or services. Thus, it is important that Tribes' interests are reviewed and considered by the Agency in its policy, program and/or service development process.
- E. Collaboration and Mutual Resolution – The Agency recognizes that good faith, mutual respect, and trust are fundamental to meaningful collaboration and communication policies. As they arise, the Agency shall strive to address and mutually resolve concerns with impacted Tribes.
- F. Communication and Positive Relations – The Agency shall strive to promote positive government-to-government relations with Tribes by: (1) interacting with Tribes in a spirit of mutual respect; (2) seeking to understand the varying Tribes' perspectives; (3) facilitating communication, understanding and appropriate dispute resolution with Tribes; and (4) working through the government-to-government process towards a shared vision in areas of mutual interest.
- G. Informal Communication – The Agency recognizes that formal consultation may not be required in all situations or interactions. The Agency may seek to communicate with and/or respond to Tribes outside the consultation process. These communications do not negate the authority of the Agency and Tribes to pursue formal consultation.
- H. Economic Development Access – Providing the opportunity for economic development is a real need in the Native American communities and these communities often do not have the capacity to address this unmet need. Therefore, the Agency will inform the tribes of opportunities related to Economic Development and will provide resources and assistance to enhance the development of the tribal communities. For example, Infrastructure related to Transportation, Water and Waste Water, Solid Waste Systems, etc.

Section IV. Protocol

When working with tribal governments it is important to understand the unique relationship between American Indians and the United States government. It is a political relationship – not race based. Under both federal and common law, Native American tribes are sovereign governments with recognized powers of self-government. The status of tribes as governments means that tribes possess

the inherent right to develop their own forms of government, to determine their own citizenship and to make their own laws, civil and criminal, and to be governed by them in their own judicial systems. New Mexico is home to 22 federally recognized Indian Nations, Tribes and Pueblos—each with its own history, culture, and language. Thus it is important not to assume that one tribe or one leader speaks for all.

The Agency recognizes the unique sovereign status of the 22 Indian Nations, Tribes and Pueblos within the state. To promote effective communication and collaboration between the Agency and the Tribes relating to this Policy, the Agency shall endeavor to understand the protocols for interacting with each Indian Nation, Tribe or Pueblo. As protocol relationships are developed they will be incorporated herein as attachments.

Section V. Definitions

A. The following definitions shall apply to this Policy:

1. American Indian/Alaska Native – Pursuant the STCA, this means:
 - a) Individuals who are members of any federally recognized Indian tribe, nation or pueblo;
 - b) Individuals who would meet the definition of "Indian" pursuant to 18 USC 1153; or
 - c) Individuals who have been deemed eligible for services and programs provided to American Indians and Alaska Natives by the United States public health service, the bureau of Indian affairs or other federal programs.
2. Collaboration – Collaboration is a recursive process in which two or more parties work together to achieve a common set of goals. Collaboration may occur between the Agency and Tribes, their respective agencies or departments, and may involve Indian organizations, if needed. Collaboration is the timely communication and joint effort that lays the groundwork for mutually beneficial relations, including identifying issues and problems, generating improvements and solutions, and providing follow-up as needed.
3. Communication – Verbal, electronic or written exchange of information between the Agency and Tribes.
4. Consensus – Consensus serves as a decision making method for reaching agreement through a participatory process that: (a) involves the Agency and Tribes through their official representatives; (b) actively solicits input and participation by the Agency and Tribes; and (c) encourages cooperation in reaching agreement on the best possible decision for those affected.

The Agency shall endeavor to conduct deliberations with Tribes in good faith and in accordance with the processes outlined in this Policy. Within this process it is understood that consensus, while a goal, may not always be achieved.

5. Consultation – Consultation operates as an enhanced form of communication that emphasizes trust and respect. It is a shared responsibility that allows an open and free exchange of information and opinion among parties that, in turn, may lead to mutual understanding and comprehension.

Consultation with Tribes is uniquely a government-to-government process with two main goals: (a) to reach consensus in decision-making; and (b) whether or not consensus is reached, to afford any party the opportunity to issue a dissenting opinion for the record, and more importantly to have honored each other's sovereignty.

6. Cultural Competence – Refers to an ability to interact effectively with people of different cultures. Cultural competence comprises four components: (a) awareness of one's own cultural worldview, (b) appreciation of cultural differences, (c) knowledge of different cultural practices and worldviews, and (d) honing cross-cultural skills. Developing cultural competence improves one's ability to understand, communicate with, and effectively interact with people across cultures.
7. Culturally Relevant – Describes a condition where programs or services are provided according to the clients' cultural backgrounds.
8. Environmental resources - Environmental media listed in the Environment Improvement Act, NMSA, 1978, sec. 74-1-7A
9. Government-to-Government – Describes the relationship between the State, Tribes and the Federal government.
10. Indian Organizations –Organizations, predominantly operated by American Indians/Alaska Natives, that represent or provide services to American Indians and/or Alaska Natives living on and/or off tribal lands and/or in urban areas.
11. Internal Agency Operation Exemption – Refers to certain internal agency operations and processes not subject to this Policy. The Agency has the authority and discretion to determine what internal operations and processes are exempt from this Policy.
12. Internal Tribal Government Operations Exemption – Refers to certain internal tribal government operations not subject to this Policy. Each Tribe has the authority and discretion to determine what internal operations and processes are exempt from this Policy.

13. Linguistic Competency – Refers to one's capacity to communicate effectively and convey information in a manner that is easily understood by culturally diverse audiences.
14. Participation – Describes an ongoing activity that allows interested parties to engage one another through negotiation, compromise and problem solving to reach a desired outcome.
15. Tribal Advisory Body – A duly appointed group of individuals established and organized to provide advice and recommendations on matters relative to Agency policies, programs and services.
16. Tribal Government - The governing structure of a sovereign, federally recognized government of an Indian Nation, Tribe, or Pueblo within the United States.
17. Tribal Implications – Refers to State legislation, regulations and other policy statements or actions that have substantial direct effects on American Indians/Alaska Natives, Tribes, or on the relationship between the State and Tribes.
18. State Agency Tribal Liaison – Refers to an individual designated by the Agency, who reports directly to the Office of the Secretary or to the Head of the Agency, to:
 - a) Assist with developing and ensuring the implementation of this Policy;
 - b) Serve as a contact person responsible for maintaining ongoing communication between the Agency and affected Tribes; and
 - c) Ensure that training is provided to staff of the Agency as set forth in Subsection B of Section 4 of the STCA.
19. Tribal Officials – Elected or duly appointed officials of Tribes or authorized intertribal organizations.
20. Tribes – Means any federally recognized Indian Nation, Tribe or Pueblo located wholly or partially within the boundaries of the State of New Mexico.
21. Work Groups – Formal advisory bodies and task forces established through joint effort by the Agency and Tribes. Work Groups can be established to address or develop more technical aspects of policies or programs separate or in conjunction with the formal consultation process. Work groups shall, to the extent possible, consist of members from the Agency and participating Tribes.

Section VI. General Provisions

A. Collaboration and Communication

To promote effective collaboration and communication between the Agency and Tribes relating to this Policy, and to promote cultural competence, the Agency will utilize, as appropriate: Tribal Liaisons, Tribal Advisory Bodies, Work Groups and Informal Communication.

1. The Agency will make a good-faith effort to review all proposed plans, policies, rulemakings, permitting actions, or other aspects of Programmatic Actions that may have impacts on Tribal resources, and determine whether Tribal consultation or collaboration may assist in Programmatic Actions. If a proposed Programmatic Action may impact Tribal resources, the Agency will notify Tribal Governments and inquire whether Tribal consultation should occur. Tribal Officials have the discretion whether to engage in the consultation process. Consultation will be initiated by formal request
2. The Role of Tribal Liaisons. To promote State-Tribe interactions, enhance communication and resolve potential issues concerning the delivery of Agency services to Americans Indians/Alaska Natives, Tribal Liaisons will work with Tribal Officials and Agency staff and their programs to develop policies or implement program changes. Tribal Liaisons communicate with Tribal Officials through both formal and informal methods of communication to assess:
 - a) Issues or areas of tribal interest relating to the Agency's policies, programs and/or services; and
 - b) Tribal interest in pursuing collaborative or cooperative opportunities with the Agency; and
 - c) The Agency's promotion of cultural competence in its development or maintenance of policies, programs and/or services.
3. The Role of Tribal Advisory Bodies. The Agency may solicit advice and recommendations from duly appointed advisory organizations or committees to collaborate with Tribes in matters of policy development prior to engaging in consultation, as contained in this Policy. The Agency may convene such advisory organizations/committees to provide advice and recommendations on departmental policies, programs and/or service matters that have tribal impacts. Input derived from such activities is not defined as this Policy's consultation process.
4. The Role of Work Groups. The Agency Head, in consultation with recognized Tribal officials, may appoint an agency-tribal work group to

develop recommendations and provide input on Agency policies, programs and/or services as they might impact Tribes and American Indians/Alaska Natives. The Agency or the Work Group may develop procedures for the organization and implementation of work group functions. (See, e.g., the sample set of procedures at Attachment A.)

5. Informal Communication.

- a) Informal Communication with Tribes. The Agency recognizes that consultation meetings may not be required in all situations or interactions involving State-Tribal relations. The Agency recognizes that Tribal Officials may communicate with appropriate Agency employees outside the consultation process, including with Tribal Liaisons and Program Managers, in order to ensure programs and services are delivered to their constituents. While less formal mechanisms of communication may be more effective at times, this does not negate the Agency's or the Tribe's ability to pursue formal consultation on a particular issue or policy.
- b) Informal Communication with Indian Organizations. The State-Tribal relationship is based on a government-to-government relationship. However, Indian organizations, such as those representing or providing services to urban and/or off-reservation American Indians/Alaska Natives, serve to benefit and assist the State, as well. Through this Policy, the Agency recognizes that it may solicit recommendations, or otherwise collaborate and communicate with these organizations.

B. Consultation

Consultation shall be between the Cabinet Secretary/Agency Head and Tribal Officials or their delegated representatives who possess authority to negotiate on their behalf.

- 1. Applicability – Tribal consultation is most effective and meaningful when conducted before taking action that impacts Tribes and American Indians/Alaska Natives. The Agency acknowledges that a best case scenario may not always exist, and that the Agency and Tribes may not have sufficient time or resources to fully consult on a relevant issue. If a process appropriate for consultation has not already begun, through this Policy, the Agency seeks to initiate consultation as soon as possible thereafter. (Refer to applicable "Protocol" agreement)
- 2. Focus – The principle focus for government-to-government consultation is with Tribes through their Tribal Officials. Nothing herein shall restrict or prohibit the ability or willingness of Tribal Officials and the Agency Head to

meet directly on matters that require direct consultation. The Agency recognizes that the principle of intergovernmental collaboration, communication and cooperation is a first step in government-to-government consultation, and is in accordance with the STCA.

3. Areas of Consultation – The Agency, through reviewing proposed plans, policies, rules, or other pending and proposed programmatic actions, recognizes the need to assess whether such actions may impact American Indians/Alaska Natives and/or Tribes, as well as whether consultation should be implemented prior to making its decision or implementing its action. To such ends, the Agency strives to notify relevant Tribal Officials and pursue government-to-government consultation, provided that Tribal Officials also have the discretion to decide whether to pursue and/or engage in the consultation process.
4. Initiation – Written notification requesting consultation by an Agency or Tribe shall serve to initiate the consultation process. Written notification, at the very least, should:
 - a) Identify the proposed action to be consulted upon.
 - b) Identify personnel who are authorized to consult on behalf of the Agency or Tribe.
5. Process – The Agency, in order to engage in consultation, may utilize duly-appointed work groups, as set forth in the previous section, or otherwise the Agency Head or a duly-appointed representative may meet directly with Tribal Officials, or set forth other means of consulting with impacted Tribes as the situation warrants.
 - a) Consultation will be between the Agency Head and Tribal Officials or their delegated representatives with authority to negotiate on their behalf.
 - b) The Agency will make a good faith effort to invite for consultation all perceived impacted Tribes.
6. Limitations on Consultation –
 - a) This Policy will not diminish any administrative or legal remedies otherwise available by law to the Agency or Tribe.
 - b) The Policy does not prevent the Agency and Tribes from entering into Memoranda of Understanding, Intergovernmental Agreements, Joint Powers Agreements, professional service contracts, or other established administrative procedures and practices mandated by Federal, State or Tribal laws or regulations.

- c) The Agency retains the final decision making authority with respect to actions undertaken by the Agency and within Agency jurisdiction. In no way should this Policy impede the Agency's ability to manage its operations.
- d) Consultation with the Tribes is uniquely a government-to-government process with two main goals: (a) to reach consensus in decision-making; and (b) whether or not consensus is reached, to afford any party the opportunity to issue a dissenting opinion for the record, and more importantly to have honored each other's sovereignty.

Section VI. Dissemination of Policy

Upon adoption of this Policy, the Agency shall determine the appropriate method to distribute the Policy to all its employees.

Section VII. Amendments and Review of Policy

The Agency will meet periodically with Tribes to evaluate the effectiveness of this Policy, including the Agency's promotion of cultural competence. This Policy is a working document and may be revised as needed.

Section VIII. Effective Date

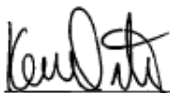
This Policy shall become effective upon the date signed by the Department Secretary or the Agency Head.

Section IX. Sovereign Immunity

The Policy shall not be construed to waive the sovereign immunity of the State of New Mexico or any Tribe, or to create a right of action by or against the State of New Mexico or a Tribe, or any State or Tribal official, for failing to comply with this Policy.

Section XI. Closing Statement/Signatures

The New Mexico Department of Workforce Solutions hereby adopts the State-Tribal Consultation, Collaboration and Communication Policy.



Ken F. Ortiz, Cabinet Secretary
December 18, 2009

ATTACHMENT A

Sample Procedures for State-Tribal Work Groups

DISCLAIMER: The following illustration serves only as sample procedures for State-Tribal Work Groups. The inclusion of this Attachment does not mandate the adoption of these procedures by a work group. Whether these, or alternative procedures, are adopted remains the sole discretion of the Agency Head and/or as duly-delegated to the Work Group.

- A. **Membership** – The Work Group should be composed of members duly appointed by the Agency and as appropriate, participating Tribes, for specified purpose(s) set forth upon the Work Group's conception. Continued membership and replacements to Work Group participants may be subject to protocol developed by the Work Group, or otherwise by the designating authority or authorities.
- B. **Operating Responsibility** – The Work Group should determine lines of authority, responsibilities, definition of issues, delineation of negotiable and non-negotiable points, and the scope of recommendations it is to disseminate to the Agency and Tribes to review, if such matters have not been established by the delegating authority or authorities.
- C. **Meeting Notices** – Written notices announcing meetings should identify the purpose or agenda, the Work Group, operating responsibility, time frame and other relevant tasks. All meetings should be open and publicized by the respective Agency and Tribal offices.
- D. **Work Group Procedures** – The Work Group may establish procedures to govern meetings. Such procedures can include, but are not limited to:
 - 1. Selecting Tribal and Agency co-chairs to serve as representatives and lead coordinators, and to monitor whether the State-Tribal Consultation, Collaboration and Communication Policy is followed;
 - 2. Defining roles and responsibilities of individual Work Group members;
 - 3. Defining the process for decision-making,
 - 4. Drafting and dissemination of final Work Group products;
 - 5. Defining appropriate timelines; and
 - 6. Attending and calling to order Work Group meetings.

- E. Work Group Products – Once the Work Group has created its final draft recommendations, the Work Group should establish a process that serves to facilitate implementation or justify additional consultation. Included in its process, the Work Group should recognize the following:
1. Distribution – The draft recommendation is subjected for review and comment by the Agency, through its Agency Head, Tribal Liaison, and/or other delegated representatives, and participating Tribes, through their Tribal Officials.
 2. Comment – The Agency and participating Tribes are encouraged to return comments in a timely fashion to the Work Group, which will then meet to discuss the comments and determine the next course of action. For example:
 - a) If the Work Group considers the policy to be substantially complete as written, the Work Group can forward the proposed policy to the Agency and participating Tribes for finalization.
 - b) If based on the comments, the Work Group determines that the policy should be rewritten, it can reinstate the consultation process to redraft the policy.
 - c) If the Agency and participating Tribes accept the policy as is, the Work Group can accomplish the final processing of the policy.
- F. Implementation – Once the collaboration or consultation process is complete and the Agency and Tribes have participated in, or have been provided the opportunity to participate in, the review of the Work Group's draft recommendations, the Work Group may finalize its recommendations. The Work Group co-chairs should distribute the Work Group's final recommendations to the Agency, through its delegated representatives, and participating Tribal Officials. The Work Group should record with its final recommendation any contrary comments, disagreements and/or dissension, and whether its final recommendation be to facilitate implementation or pursue additional consultation.
- G. Evaluation – At the conclusion of the Work Group collaboration or consultation process, Work Group participants should evaluate the work group collaboration or consultation process. This evaluation should be intended to demonstrate and assess cultural competence of the Agency, the Work Group, and/or the process itself. The evaluation should aid in measuring outcomes and making recommendations for improving future work group collaboration or consultation processes. The results should be shared with the Agency, through its delegated representatives, and participating Tribal Officials.

Appendix C: Building Cultural Equity with Native Nations (BCE)
Training Certificate of Completion

