



State-Tribal Collaboration Act

FISCAL YEAR 2018 ANNUAL REPORT

New Mexico Indian Affairs Department

Acting Cabinet Secretary Suzette A. Shije



Indian Affairs, Department of

Executive Summary

Since 2003 the New Mexico Indian Affairs Department (IAD) has implemented groundbreaking state-tribal policies intended to improve the quality of life for the state's Indian citizens. IAD's policy initiatives are designed to strengthen tribal and state relations and address challenges such as economic development, infrastructure improvement, protection of languages and culture, health care accessibility, and educational opportunities for our most precious resource, our children.

The IAD is the first cabinet-level state Indian affairs department in the nation and is the state government's coordinating agency for ensuring effective interagency and government-to-government relations with the New Mexico tribes, nations and pueblos. The mission of the IAD is to support the tribal communities' efforts to meet their challenges and expand their opportunities, leverage state resources for tribal benefit, and work to create vital relationships across state, tribal, philanthropic, educational and private sectors for the New Mexico Indian tribes, nations and pueblos. Currently, twenty-three (23) federally recognized tribes, nations and pueblos are located in New Mexico. These include nineteen (19) pueblos (the Pueblos of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, San Felipe, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia and Zuni); two (2) tribes (Mescalero Apache and Fort Sill Apache); and two (2) nations (Navajo Nation and Jicarilla Apache Nation).

Pursuant to the State-Tribal Collaboration Act of 2009 (STCA), the IAD's activities from July 1, 2017 – June 30, 2018, representing fiscal year 2018 (FY2018), are presented herein. The IAD supports tribal communities by participating in boards, commissions and committees; testifying at hearings for proposed legislation; providing tribal project funding through legislative appropriation; providing technical and project support; and providing grants to tribal programs through special project funding that focus on language and culture programs, tribal veterans outreach programs and pilot projects. In partnership with the NM State Personnel Office, the IAD also provides cultural competency training for state employees.

The IAD leverages and administers state funding provided through legislative appropriation for New Mexico's tribes, nations and pueblos towards tribal infrastructure fund (TIF) and capital outlay projects. Currently, IAD manages and monitors a total of fifty (50) active TIF projects totaling over \$31.2M, with nine (9) design/construction projects awarded in FY2018 in the amount of \$8.8M. Forty-five (45) TIF projects were successfully closed this past year. The IAD currently manages and monitors a total of eighty-seven (87) active capital outlay projects on tribal lands, totaling over \$8.4M, with 34 capital outlay projects in the amount of over \$3M appropriated in FY2018. Seventy-two (72) capital outlay projects were successfully closed in FY2018.

Lastly, the IAD creates vital relationships benefitting tribal communities through coordinating a tribal liaison program that provides communication and collaboration across state agencies and

organizing a state-tribal leaders summit on an annual basis that allows key delegates from the state's executive branch and tribal leaders to address issues of mutual concern and identify policy and agenda initiatives for the coming year. The IAD hosts the annual Indian Day at the State Legislature and a networking reception the evening prior.

Supporting Tribal Communities

An overarching goal of the IAD is to create stronger, resilient tribal communities by strengthening partnerships, programs and resource access. In support of this goal, the IAD hosted and worked collaboratively with other agencies, tribes, nations or pueblos throughout FY2018 in the following ways:

- FirstNet State Plan Review
- ALTSDs 39th Annual NM Conference on Aging
- Southern Pueblos Council
- FUNDIT
- Title VI Coalition
- American Indian Chamber of Commerce
- Native American Technical Advisory Committee (NATAC)
- NPSBN Stakeholder Collaboration to Guide Successful Deployment in NM
- Hweeldi/Bosque Redondo Visit
- NM State Police Recruit School Graduation
- AAIHB Dedication and Ribbon Cutting
- Bluewater Lake State Park Visitor Center Ribbon Cutting
- Self-Governance Communication and Education Tribal Consortium
- Native American Training Institute: Salutes our Veterans
- U.S. Department of Health and Human Services and Navajo Nation Tribal Consultation
- NM Opioid STR Tribal Summits in Farmington and Española

In July 2017, the IAD convened the Community Builders Youth Conference, attended by 158 students and mentors over two days. This event provided students, adults and elders from New Mexico tribal communities the opportunity to learn about science, technology, engineering, arts and math (STEAM), native arts, culture, wellness, music and other areas.

The New Mexico Infrastructure Finance Conference was created to help support the planning and funding of sustainable infrastructure projects throughout New Mexico. The conference offers local entities/communities, individuals, businesses and state agencies the opportunity to interact and network with each other to ask and answer questions, provide guidance and move capital projects to reality. The IAD is an integral partner and chairs the tribal tract in this annual conference, held this past October at the Santa Fe Eldorado Hotel.

Throughout the year, the IAD provides technical assistance for grantees, ensuring the native communities have the tools necessary to succeed in their project endeavors. Of special note, four tribal projects were recognized and awarded during the 2017 New Mexico Infrastructure Finance Conference, demonstrating that when provided with effective training resources, funding, and communication, tribes can be leaders in building innovative and much-needed community infrastructure.

Pueblo of Santa Ana	Best Practice Award Tribal Tract	Excelled in providing and enhancing services for community needs. Worked efficiently to ensure projects completed in timely and efficient manner.
Pueblo of Acoma	Best Practice Award Housing Tract	Created housing for 23 families at or below 50% area median income and 7 households at or below 60% AMI. Project kept with Pueblo's culture and traditions and complied with Enterprise Green Communities criteria.
Pueblo of Acoma Planning and Engineering	Best Practice Award Transportation Tract	Secured FHA Accelerated Innovation Deployment funding for preconstruction & design phase of 9 projects. Weekly team meetings resulted in approved design work package and guaranteed maximum price for each project, all completed in less than 2 years with zero change orders.
Pueblo of Zuni/ Andrew Othole (posthumously)	Joe Guillen Award	Recognized for demonstrating best practice efficiency and productivity. Ensured that funds were used in accordance with tribal and state policy. Always knew the status of each project and provided tours of projects' progress. Always worked with the future and vision of the Pueblo of Zuni as his guide.

Special Projects

As guided by the IAD FY2018–2019 Strategic Plan, the IAD works to support healthy Native American children by supporting tribal and state program initiatives of safety, health, education and their growth emotionally, intellectually, physically and culturally. The IAD also strives to improve the outreach services to Native American veterans through state agencies and tribal communities in order that the veterans and their families may achieve stability, financial security, and a renewed sense of community.

In FY2018, the IAD received general fund appropriation through the legislative process in support of tribal communities. From this appropriation, the IAD made available \$201,000 towards language and cultural preservation programs and veterans outreach services. Proposed special projects were evaluated to determine their efficiency and effectiveness in accomplishing stated

performance measures. The funding is made available to tribes, nations, and pueblos, and tribal-serving organizations, and is not intended to be a permanent funding source, but rather a short-term allocation that builds self-sustainability.

In FY2018, the IAD funded nine (9) Special Projects totaling \$201,000.

Pueblo of San Ildefonso	\$13,000
Pueblo of Acoma	\$16,733
Pueblo of Santo Domingo	\$16,875
Pueblo of Sandia	\$20,250
Mescalero Apache Tribe	\$20,642
Ohkay Owingeh	\$26,000
Pueblo of Pojoaque	\$29,000
Pueblo of Zuni	\$29,000
Pueblo of Cochiti	\$29,500

Tobacco Cessation and Prevention Projects

In 2008, IAD received an appropriation from the Tobacco Settlement Revenue Oversight Committee for Tobacco Cessation and Prevention Projects (TCPP). The committee continues to fund IAD to direct tobacco cessation and prevention campaigns in tribal communities that focus on the implementation of culturally appropriate initiatives to reduce the use of commercial tobacco use and its harmful effects. Furthermore, the IAD uses a competitive grant process to fund programs that best demonstrate a thorough understanding of the population to be served and their need for commercial tobacco prevention and cessation services; demonstrate an organized plan to implement a tobacco prevention and/or cessation program that utilizes the Centers for Disease Control and Prevention Best Practices for Comprehensive Tobacco Control Programs and best meets the needs of the tribal community served; demonstrate a reasonable budget with sufficient justification of costs; demonstrate a favorable record of performance implementing commercial tobacco control programs and/or behavioral health programs; and provide a shared interest in the proposed program through supplemental financial support and/or in-kind contributions.

In FY2018, the IAD funded nine (9) TCPP totaling \$249,300.

Albuquerque Indian Center, Inc.	\$17,000
Pueblo of Nambe	\$17,992
Pueblo of Pojoaque	\$24,546
Pueblo of Acoma	\$28,538
Capacity Builders, Inc.	\$28,944
Albuquerque Area Indian Health Board	\$29,850
Mescalero Apache Tribe	\$29,900
Oso Vista Ranch	\$30,000
Keres Consulting, Inc.	\$42,530

Other special projects appropriated by the legislature include \$100,000 to support New Mexico Native American leadership institutes (Santa Fe Indian School Leadership Institute, \$65,267; and Bernalillo Public Schools the REZ of Your Life Leadership Institute, \$34,733); and \$125,000 for the Pueblo of Jemez Self-Help Construction Pilot Project.

The IAD also supports the urban Native American populations through general fund appropriations supporting behavioral health needs in the urban tribal population. Such appropriations include St. Martin's Hospitality Center, Basic Emergency Services for Albuquerque area Native Americans in the amount of \$42,500; First Nations Community HealthSource, and Urban Indian Behavior Health in the amount of \$43,000.

Leveraging State Resources

The IAD works with state agency leadership, tribal liaisons and tribal leadership to evaluate the breadth and depth of communication, information exchange, and productive outcomes within collaborative efforts. The IAD works to increase the visibility and accessibility of relevant resources, programs, and funding opportunities for use by the tribes, nations and pueblos by presenting relevant information on the IAD website. For example, the announcement of Notice of Funds Availability (NOFA) and the guidelines for applying for funding is made available to all IAD's constituents via the IAD website.

Tribal Infrastructure Fund

In early FY2016, the Tribal Infrastructure Fund (TIF) Board unanimously approved the collaboratively revised TIF guidelines designed to support fiscally responsible spending on shovel-ready infrastructure projects in tribal communities. These funds are focused towards providing the most critical and fundamental of infrastructure needs to tribal communities.

In response to the FY2018 NOFA, IAD received fifty-eight (58) TIF applications, and after consideration, review and approval by the TIF Board, nine (9) design/construction projects were awarded in the amount of \$8,831,925.

Tribal Entity	Project Title	Project Type	TIF Award
Pueblo of Zia	Pueblo of Zia Wastewater Lagoon Expansion	Design	\$200,000
Baca Chapter	Baca Water System Improvements Project	Construction	\$311,350
Pueblo of Santa Clara	Water and Wastewater System Improvements - Pumpkin Road	Construction	\$770,000
Mexican Springs Chapter	Deer Springs Road Improvement (County Road 270C)	Construction	\$1,139,627
Casamero Lake Chapter	Construction of McKinley County Road 19	Construction	\$1,209,101
Pueblo of Isleta	Village Sewer Line Improvement Project	Construction	\$1,241,847
To'Hajiilee Chapter	To'Hajiilee Water System Improvements Project	Construction	\$1,320,000
Pueblo of Jemez	Jemez Pueblo Water Improvements Project	Construction	\$1,320,000
Pueblo of Tesuque	Wastewater Expansion Project	Construction	\$1,320,000

Previous to FY2018, forty-one (41) TIF projects totaling \$22,431,219 were in active status, totaling \$31,263,144 in current active TIF projects. Moreover, in FY2018, forty-five (45) TIF projects were successfully closed.

Capital Outlay Projects

Capital outlay is authorized by the legislature and generally is nonrecurring funds. These funds are used to build, improve or equip physical property that will be used by the public. This includes roads, museums, playgrounds, schools, irrigation ditches, hospitals, and lands that can all be considered capital outlay projects [NMAC 2.61.6.8.A(2)]. Much of the state's capital outlay projects are funded through three sources, namely, general obligation bonds, severance tax bonds and supplemental severance tax bonds (NMAC 2.61.6.2). Amounts vary from year to year depending on the economy.

Each year, the IAD is the administering agent for all capital outlay project appropriations for each tribal entity. Prior to FY2018, the IAD managed and monitored a total of fifty-three (53) capital outlay projects on tribal lands, totaling over \$5,474,457. Thirty-four (34) capital outlay projects totaling \$3,004,522 were appropriated in FY2018, totaling \$8,478,979 in current active capital outlay projects. Seventy-two (72) capital outlay projects were successfully closed in FY2018.

Reconciliation

Through certain special grant conditions imposed by the State of New Mexico on the Navajo Nation, the Navajo Nation is required to meet quarterly with the IAD to reconcile active capital outlay and TIF projects. These meetings are frequently attended by Navajo Nation delegates and the New Mexico Department of Transportation, New Mexico Department of Environment, New Mexico Aging & Long-Term Services and IAD. In FY 2018, the total requests for reimbursement and closure of projects has increased, primarily contributing to the modification of the 164 Contract Review Process.

In FY2018, the IAD conducted trainings and project updates on the TIF process to the Legislative Finance Committee (LFC), Indian Affairs Committee, New Mexico Finance Authority Committee, and other legislative committees. The IAD also provided workshops on the capital outlay process for Navajo Nation Chapters in State of New Mexico Districts 4 and 9, and to entities who received funding through legislative appropriation.

Creating Vital Relationships

IAD Policy Unit and 2018 Legislative Session

In the 30-day FY 2018 legislative session, the IAD Policy Unit responded to 18 requests by the LFC to provide an agency analysis for bills, memorials and amendments. These requests provide professional analyses of legislation affecting the IAD and tribal communities at large. The

IAD analyses addressed legislation ranging from healthcare, public lands, Indian Child Welfare Act, broadband access and infrastructure, gas tax proposals and Indian student needs assessment.

In FY2018 the IAD testified at hearings for proposed legislation regarding protection of the greater Chaco Canyon landscape, the Navajo Code Talker Museum, and water storage tank rehabilitation at Jemez Pueblo. In addition, when invited, the IAD presented information to the LFC, Indian Affairs Committee and the Tobacco Revenue Oversight Committee.

The IAD held the 2018 American Indian Day evening reception and American Indian Day at the Legislature and partnered with the Santa Fe Indian School to host a community luncheon attended by over 280 people. The evening reception was held on Thursday, February 1, 2018, at La Posada de Santa Fe Resort and Spa in Santa Fe. This event, whose theme was the preservation of native languages and cultures, provided tribal leaders, state executives, legislators, tribal liaisons and event sponsors the opportunity to strengthen their working relationships while showing support for the American Indian Day events.

Tribal Liaison Program

Pursuant to the State-Tribal Collaboration Act, the IAD coordinates the tribal liaison program. The role of the Agency tribal liaisons is to promote state-tribal interactions, enhance communication and resolve potential issues concerning the delivery of Agency services to American Indians/Alaska Natives. Tribal liaisons work with the Agency head and staff to develop policies and implement program changes. They also communicate with tribal officials through both formal and informal methods of communication to assess issues or areas of tribal interest relating to the Agency's programmatic actions; tribal interest in pursuing collaborative or cooperative opportunities with the Agency; and the Agency's promotion of cultural competence in its programmatic actions. Additionally, the IAD meets with the tribal liaisons to receive updates and converse on upcoming events. In FY2018, tribal liaison meetings were held for purposes of covering topics established through the 2018 State-Tribal Leaders Summit, submitting the FY2018 Annual Report, discussing and planning Indian Day at the Legislature, and other relative legislative activities.

State-Tribal Leaders Summit

The 2009 STCA mandates an annual summit of state executives and tribal leaders. Since the Summit's inception, leaders of tribes, nations and pueblos have gathered with key delegates from the state's executive branch to address issues of mutual concern. The summit is crucial to the state and tribes as it identifies policy and agenda initiatives for the coming year.

During FY2018's Summit, held at the Pueblo of Acoma Sky City Hotel and Convention Center, the participants had the opportunity to network through the participation of agency tribal liaisons. Participation in this event created a forward-moving list of follow-up tasks for each tribal liaison. This illustrates that positive momentum exists to move away from the necessity of a mandated meeting towards an increasing genuine desire to collaborate. Positive communication

and mutual respect were evident as leaders forged a plan for collaboration and framed a path for transition.

State and tribal leaders participated in discussion around the following topic areas: substance abuse and intervention; capital outlay processes; targeted response to the opioid crisis; infrastructure development and collaboration (Opportunity Zones); deployment of the public safety broadband network; and drought and its effects on the state.

Cultural Competency

As stated in the STCA, the purpose for advancing cultural competency is to promote effective communication and collaboration between state agencies and the Indian tribes, nations and pueblos, and to develop positive state-tribal government to government relations. Since the inception of the statutorily required cultural competency deployment in the STCA, and in partnership with the NM State Personnel office, approximately 3,364 New Mexico Employees who have and who currently interact regularly with New Mexico's 23 tribes and Native American citizens across the state have received cultural competency training. Furthermore, in FY2018, 169 state employees received cultural competency training. The IAD contracts training services with Mr. Milton Bluehouse.

Communications

Information is posted to the IAD website to inform stakeholders, constituents, and grantees of important IAD news, upcoming events and provisions of the STCA. The department delivers a monthly web-based newsletter, *IAD Insight*. This newsletter highlights state agency updates, TIF and capital outlay project updates, funding opportunities, and job opportunities. The *IAD Insight* can be found online at <http://www.iad.state.nm.us/newsletters.html>.

Site visits by the IAD Acting Cabinet Secretary and staff are conducted throughout the year for all projects, programs or infrastructure services that IAD supports. These site visits provide an opportunity for the grantees to showcase their projects. In addition, it allows the IAD to identify and assess the project's readiness and progress and, if necessary, provide administrative and technical assistance.

As part of the IAD Acting Cabinet Secretary's duties, Ms. Suzette A. Shije participates in a variety of boards and committees in which tribal interests are considered. In FY2018, the IAD attended, supported, and were involved in the following:

- **Boards, Commissions and Committees**
 - Behavioral Health (BH)
 - BH Collaborative quarterly meetings
 - BHPC Executive Committee
 - BH Planning Council
 - BH Native American Subcommittee (NASC) (IAD Secretary is chairperson of this subcommittee)

- TIF Board (Chairperson)
- Rio Grande Trail Commission
- NM Infrastructure Finance Committee
- NM Office of Medical Investigators Board
- Sex Offenders Management Board
- Mass Care Coalition Committee
- Martin Luther King Jr. Commission
- Forest and Watershed Management Coordinating Group
- Drought Taskforce

Current and Planned Efforts to Implement IAD State-Tribal Consultation, Collaboration and Communication Policy

At the heart of the IAD's strategic plan for FY2018–2019 is the certainty that New Mexico's tribal members have the right to remain active participants in their communities and the state's affairs, to be treated with respect and dignity, to continue to create avenues for reaching self-sufficiency, and to retain their cultural heritage. Accordingly, the IAD strives to provide constituents easy, user-friendly and responsive access to information, assistance and services, provide a proactive role in addressing the needs and rights of New Mexico's Native Americans, engage government and non-government organizations to address specific challenges and advance key programs and services, and combine people, resources, work processes and systems to accomplish and continuously improve the execution of IAD's statutory responsibilities. Moreover, the following core themes are common to IAD's strategic goals that support the implementation of the IAD's State-Tribal Consultation and Collaboration and Communication Policy, included as Appendix A to this report.

Goal 1: Collaborate in organized and sustainable actions that support lasting, community-centered change for the New Mexico Indian tribes, nations and pueblos.

Goal 2: Create stronger, resilient tribal communities by strengthening partnerships, programs and resource access.

Goal 3: Help Native American children thrive by supporting tribal and state program initiatives for their safety, health, education and their growth emotionally, intellectually, physically and culturally.

Goal 4: Improve the outreach services to Native American veterans through state agencies and tribal communities in order that the veterans their families may achieve stability, financial security and a renewed sense of community.

Contact Information

The IAD Secretary is the individual responsible for developing and implementing IAD programs that directly affect American Indians or Alaska Natives. Her contact information is:

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Appendix A
New Mexico Indian Affairs Department
State-Tribal Consultation, Collaboration and Communication Policy

**New Mexico Indian Affairs Department
State-Tribal Consultation, Collaboration and Communication Policy**

Section I. Background

- A. In 2003, the Governor of the State of New Mexico and 21 out of 22 Indian Tribes 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. The New Mexico Health and Human Services Tribal Consultation meeting was held on November 17-18, 2005 to carry out Governor Richardson’s Executive Order 2005-004 calling for a statewide adoption of pilot tribal consultation plans to be implemented with the 22 Tribes within the State of New Mexico. This meeting was a joint endeavor of the five executive state agencies comprised of the Aging and Long-Term Services Department, the Children, Youth and Families Department, the Department of Health, the Human Services Department and the Indian Affairs Department. A State-Tribal Work Plan was developed and sent out to the Tribes on June 7, 2006 for review pursuant to the Tribal Consultation meeting.
- D. 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.
- E. In Fall 2009, the Healthy New Mexico Group, comprised of the Aging and Long Term Services Department, the Children, Youth and Families Department, the Department of Health, the Department of Veterans’ Services, the Human Services Department, the Indian Affairs Department, and the Office of African American Affairs, met with representatives from the Tribes to develop an overarching Policy that, pursuant to the STCA:
 - 1. Promotes effective collaboration and communication between the Agency and Tribes;

2. Promotes positive government-to-government relations between the State and Tribes;
 3. Promotes cultural competence in providing effective services to American Indians/Alaska Natives; and
 4. Establishes a method for notifying employees of the Agency of the provisions of the STCA and the Policy that the Agency adopts.
- F. 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 improve and/or maintain partnerships with Tribes. The purpose of the Policy is to use or build-upon previously agreed-upon processes when the Agency initiates programmatic actions that have tribal implications.

Section III. Principles

- A. 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, communication and collaboration between the Agency and Tribes. The Agency recognizes and acknowledges the trust responsibility of the Federal Government to federally-recognized Tribes.
- B. Government-to-Government Relations – The Agency recognizes the importance of collaboration, communication and cooperation with Tribes. The Agency further recognizes that Agency programmatic actions may have tribal implications or otherwise affect American Indians/Alaska Natives. Accordingly, the Agency recognizes the value of dialogue between Tribes and the Agency with specific regard to those programmatic actions.
- C. Efficiently Addressing Tribal Issues and Concerns – The Agency recognizes the value of Tribes' input regarding Agency programmatic actions. Thus, it is important that Tribes' interests are reviewed and considered by the Agency in its programmatic action development process.
- D. 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.

- E. **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) engaging in communication, understanding and appropriate dispute resolution with Tribes; and (4) working through the government-to-government process to attempt to achieve a mutually-satisfactory outcome.
- F. **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.
- G. **Health Care Delivery and Access** – Providing access to health care is an essential public health responsibility and is crucial for improving the health status of all New Mexicans, including American Indians/Alaska Natives in rural and urban areas. American Indians/Alaska Natives often lack access to programs dedicated to their specific health needs. This is due to several factors prevalent among American Indians/Alaska Natives, including but not limited to, lack of resources, geographic isolation, and health disparities. The Agency's objective is to work collaboratively with Tribes to ensure adequate and quality health service delivery in all tribal communities, as well as with individual American Indians/Alaska Natives in urban areas or otherwise outside tribal communities.
- H. **Distinctive Needs of American Indians/Alaska Natives** – Compared with other Americans, American Indians/Alaska Natives experience an overall lower health status and rank at, or near, the bottom of other social, educational and economic indicators. American Indians/Alaska Natives have a life expectancy that is four years less than the overall U.S. population and they have higher mortality rates involving diabetes, alcoholism, cervical cancer, suicide, heart disease, and tuberculosis. They also experience higher rates of behavioral health issues, including substance abuse. The Agency will strive to ensure with Tribes the accountability of resources, including a fair and equitable allocation of resources to address these health disparities. The Agency recognizes that a community-based and culturally appropriate approach to health and human services is essential to maintain and preserve American Indian/Alaska Native cultures.
- I. **Establishing Partnerships** – In order to maximize the use of limited resources, and in areas of mutual interests and/or concerns, the Agency seeks partnerships with Tribes and other interested entities, including academic institutions and Indian organizations. The Agency encourages Tribes to aid in advocating for state and federal funding for tribal programs and services to benefit all of the State's American Indians/Alaska Natives.

J. Intergovernmental Coordination and Collaboration-

1. Interacting with federal agencies. The Agency recognizes that the State and Tribes may have issues of mutual concern where it would be beneficial to coordinate with and involve federal agencies that provide services and funding to the Agency and Tribes.
2. Administration of similar programs. The Agency recognizes that under Federal tribal self-governance and self-determination laws, Tribes are authorized to administer their own programs and services which were previously administered by the Agency. Although the Agency's or Tribe's program may have its own federally approved plan and mandates, the Agency shall strive to work in cooperation and have open communication with Tribes through a two-way dialogue concerning these program areas.

K. Cultural and Linguistic Competency – The Agency shall strive for its programmatic actions to be culturally relevant and developed and implemented with cultural and linguistic competence.

Section IV. 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 is reached when a decision or outcome is mutually-satisfactory to the Agency and the Tribes affected and adequately addresses the concerns of those affected. 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 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. It is a shared responsibility that allows an open, timely 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 have considered each other's perspectives and 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, provide services and resources to, 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. **Government-to-Government** – Describes the intergovernmental relationship between the State, Tribes and the Federal government as sovereigns.
9. **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.
10. **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.
11. **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.

12. Linguistic Competence – Refers to one’s capacity to communicate effectively and convey information in a manner that is understood by culturally diverse audiences.
13. Participation – Describes an ongoing activity that allows interested parties to engage one another through negotiation, compromise and problem solving to reach a desired outcome.
14. Programmatic Action – Actions related to the development, implementation, maintenance or modification of policies, rules, programs, services, legislation or regulations by the Agency, other than exempt internal agency operations, that are within the scope of this Policy.
15. Tribal Advisory Body – A duly appointed group of individuals established and organized to provide advice and recommendations on matters relative to Agency programmatic action.
16. Tribal Implications – Refers to when a programmatic action by the Agency will have substantial direct effect(s) on American Indians/Alaska Natives, one or more Tribes, or on the relationship between the State and Tribes.
17. Tribal Liaison – Refers to an individual designated by the Agency, who reports directly to the Office of the Agency Head, 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.
18. Tribal Officials – Elected or duly appointed officials of Tribes or authorized intertribal organizations.
19. Tribes– Means any federally recognized Indian nation, tribe or pueblo located wholly or partially within the boundaries of the State of New Mexico. It is understood that “Tribes” in the plural form means that or those tribe(s) upon which programmatic actions have tribal implications.
20. Work Groups –Formal bodies and task forces established for a specific purpose through joint effort by the Agency and Tribes. Work Groups can be established to address or develop more technical aspects of programmatic action 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 V. 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 shall utilize, as appropriate: Tribal Liaisons, Tribal Advisory Bodies, Work Groups and Informal Communication.

1. **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 shall 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 programmatic actions;
 - b) Tribal interest in pursuing collaborative or cooperative opportunities with the Agency; and
 - c) the Agency's promotion of cultural competence in its programmatic actions.
2. **The Role of Tribal Advisory Bodies.** The Agency may solicit advice and recommendations from Tribal Advisory Bodies to collaborate with Tribes in matters of policy development prior to engaging in consultation, as contained in this Policy. The Agency may convene Tribal Advisory Bodies to provide advice and recommendations on departmental programmatic actions that have tribal implications. Input derived from such activities is not defined as this Policy's consultation process.
3. **The Role of Work Groups.** The Agency Head may collaborate with Tribal Officials to appoint an agency-tribal work group to develop recommendations and provide input on Agency programmatic actions as they might impact Tribes or 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 procedures at Attachment A.)
4. **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, in certain instances, communicating with Indian Organizations can benefit and assist the Agency, 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 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.
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 programmatic actions, shall strive to assess whether such actions may have Tribal Implications, as well as whether consultation should be implemented prior to making its decision or implementing its action. In such instances where Tribal Implications are identified, the Agency shall strive to pursue government-to-government consultation with relevant Tribal Officials. Tribal Officials also have the discretion to decide whether to pursue and/or engage in the consultation process regarding any proposed programmatic action not subject to the Internal Agency Operation Exemption.

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 programmatic 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 shall 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 shall 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 allowed or mandated by Federal, State or Tribal laws or regulations.
 - c) Final Decision Making Authority: 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.

Section VI. Dissemination of Policy

Upon adoption of this Policy, the Agency will determine and utilize an appropriate method to distribute the Policy to all its employees.

Section VII. Amendments and Review of Policy

The Agency shall strive to 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 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. The Agency shall have the authority and discretion to designate internal operations and processes that are excluded from the Policy, and recognizes that Tribes are afforded the same right.

Section XI. Closing Statement/ Signatures

The Indian Affairs Department hereby adopts the State-Tribal Consultation, Collaboration and Communication Policy.



Alvin H. Warren, Cabinet Secretary
Indian Affairs Department

12/18/2009

Date



Reviewed and Acknowledged
Suzette A. Shije, Acting Cabinet Secretary
Indian Affairs Department

7/29/2018

Date

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 reinitiate 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 to participating Tribal Officials. The Work Group should record with its final recommendation any contrary comments, disagreements and/or dissention, 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.