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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

**Guidelines Stating Principles for Working with
Federally Recognized Indian Tribes**

AGENCY: Administration for Native Americans, Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice

SUMMARY: The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), is issuing guidelines stating principles for working with federally recognized Indian tribes.

DATES: Effective October 20, 2016.

FOR FURTHER INFORMATION CONTACT: Camille Loya, Director of Policy, Administration for Native Americans (ANA) at (202) 401-5964, or Camille.Loya@acf.hhs.gov.

SUPPLEMENTARY INFORMATION: ACF states the following principles for working with federally recognized Indian tribes:

Purpose: The mission of ACF is to foster health and well-being by providing federal leadership, partnership, and resources for the compassionate and effective delivery of human services. This mission has special application with respect to the government-to-government relationship with federally recognized Indian tribes, including Alaska Natives. ACF issues these Principles for Working with Federally Recognized Tribes to establish a policy standard governing ACF's relationships with federally recognized Indian tribes. The Principles are designed to build upon and complement ACF's Tribal Consultation Policy and to articulate ACF's commitment to promote and sustain strong government-to-government relationships, foster Indian self-determination, support tribal sovereignty, and demonstrate transparency in ACF's actions as public servants.

Bases and Authority: ACF's Principles are based upon the unique relationship between the federal government and Indian tribes affirmed by President Obama in the Memorandum for the Heads of Executive Departments and Agencies issued November 5, 2009. The Memorandum states:

The United States has a unique legal and political relationship with Indian tribal governments, established through and confirmed by the Constitution of the United States, treaties, statutes, executive orders, and judicial decisions.

The HHS Consultation Policy affirms the nature of the relationship between the federal government and Indian tribes and the importance of clear policies:

The U. S. Department of Health and Human Services (HHS) and Indian Tribes share the goal to establish clear policies to further the government-to-government relationship between the Federal Government and Indian Tribes.

Since the formation of the Union, the United States (U.S.) has recognized Indian Tribes as sovereign nations. A unique government-to-government relationship exists between Indian Tribes and the Federal Government. This relationship is grounded in the U.S. Constitution, numerous treaties, statutes, Federal case law, regulations and executive orders that establish and define a trust relationship with Indian Tribes. This relationship is derived from the political and legal relationship that Indian Tribes have with the Federal Government and is not based upon race.

The Principles are derived from the general federal trust responsibility between the United States and tribes. Since the formation of the Union, the United States has recognized the inherent sovereignty of tribal nations. As a result, a unique government-to-government relationship exists between American Indian and Alaska Native (AI/AN) tribes and the federal government. The government-to-government relationship is political and independent of race or ethnicity. This relationship is grounded in the U.S. Constitution, numerous treaties, statutes, federal case law, regulations, and executive orders, as well as political, legal, moral, and ethical principles.

ACF, as an Operating Division within HHS, hereby establishes this set of principles for working with federally recognized tribes, as defined in 25 U.S.C. 5304, in accord with ACF's vision of "children, youth, families, individuals, and communities who are resilient, safe, healthy, and economically secure." These principles are intended to foster AI/AN health and well-being by providing federal leadership, partnership, and resources for compassionate and effective human services delivery.

ACF establishes these principles in accordance with ACF values of dedication, excellence, professionalism, integrity, and stewardship. Once implemented, these principles will help ACF

advance its values by establishing clear policies that further the government-to-government relationship between ACF and Indian tribes.

ACF establishes this statement of principles to further the shared goal of thriving, resilient, safe, healthy, and economically secure children, families, and communities. Shared ACF and tribal goals also include, but are not limited to, strengthening health care by eliminating health and human service disparities Indians experience; ensuring access to critical health and human services; and advancing or enhancing health, safety, and well-being of AI/AN people. Finally, ACF and Indian tribes share the goal of establishing clear policies to further the government-to-government relationship between the federal government and Indian tribes.

ACF establishes this statement of principles in order to complement existing ACF Tribal Consultation Policies. On November 5, 2009, President Obama signed an Executive Memorandum reaffirming the government-to-government relationship between Indian tribes and the federal government, directing each executive department and agency to submit a plan on consultation with tribal governments before developing regulatory policies that substantially affect this population. The importance of consultation with Indian tribes was affirmed through Presidential Memoranda in 1994, 2004, and 2009, and Executive Order 13175 in 2000. The purpose of the ACF Tribal Consultation Policy is to build meaningful relationships with federally recognized tribes by engaging in open, continuous, and meaningful consultation that leads to information exchange, mutual understanding, and informed decision-making.

The principles build upon communication and decision-making protocols articulated in the ACF Tribal Consultation Policy by setting forth specific leadership and partnership principles intended to guide effective day-to-day human services delivery to AI/AN peoples.

Section I. Overarching Principles for Working with Federally Recognized Indian Tribes

- ACF strives to honor the unique legal relationship between the federal government and Indian tribes as defined at 25 U.S.C. 5304, and supports tribes' authority to exercise their inherent tribal powers.
- ACF recognizes tribal sovereignty and the principle that tribal nations have authority over tribal citizens.
- ACF recognizes tribal members as American citizens, as well as citizens of their respective tribes, who are entitled to all the benefits of other citizens of the states where they reside.
- ACF is committed to furthering the government-to-government relationship with each tribe, which forms the heart of all federal Indian policy. ACF respects and supports tribes' authority to exercise their inherent sovereign powers, including the authority to manage their own affairs, to exist as nations, and exercise authority over their citizens and territory.
- ACF strives to act in accordance with the general trust responsibility between the United States and tribes. Trust responsibility is derived from treaties with tribes, statutes, and opinions of the U.S. Supreme Court and provides a fundamental basis for the relationship between the federal government and federally recognized Indian tribes.

- While not legally binding, in accord with the December 2010 Presidential Proclamation under which the United States fully endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), ACF promotes and pursues the objectives of UNDRIP, including, but not limited to, recognition that indigenous peoples are entitled to all human rights recognized in international law.
- ACF is committed to tribal self-determination, tribal autonomy, tribal nation-building, and the long-term goal of maximizing tribal control over governmental institutions in tribal communities recognizing that tribal problems are best addressed in federal-tribal partnership informed by tribal traditions, values, and custom.
- ACF works to evaluate and improve AI/AN children and families' health and well-being by collecting and analyzing AI/AN data, including, but not limited to, child welfare data, workforce and employment data, child development and school readiness data, data on at-risk and vulnerable youth, and evaluative social and economic data, with the goal of sharing information and knowledge gained to collaboratively address established tribal priorities.
- ACF supports state and tribal governments, courts, and human services systems to strengthen AI/AN families, protect AI/AN children, and ensure that AI/AN children and youth have and maintain familial and cultural connections with their tribes and Indian, as defined at 25 U.S.C. 5304, extended families.
- In all its actions, ACF respects, supports, and promotes Indian tribes' authority to exercise inherent sovereign powers, including authority over both tribal citizens and property.

Section II. Consultation and Communication with Tribes

- ACF recognizes that the government-to-government relationship with Indian tribes merits regular, meaningful, and informed consultation with AI/AN tribal officials in the development of new or amended funding; amended funding formulas; and programmatic policies, regulations, and legislative actions initiated by ACF that affect or may affect tribes.
- ACF recognizes that — in addition to, but not in lieu of, formal consultation — there can be great benefit in timely, detailed, and informal communications with tribal officials and other community leaders.
- ACF acts to facilitate on-going, routine, informal communication with tribal programs in its day-to-day work.
- ACF seeks to integrate tribal consultation and communication responsibilities into the operational duties of all staff positions including managers, federal project officers, and program specialists.
- ACF recognizes that meaningful communication and, to the extent practicable, consultation on a government-to-government basis is sound ACF management policy and good governance.
- ACF supports the Intradepartmental Council on Native American Affairs, the HHS Secretary’s Tribal Advisory Committee, the ACF Tribal Advisory Committee, and other task forces, advisory groups, and work teams that provide input from elected tribal representatives to ACF leaders and components, and to otherwise ensure human services coordination around issues affecting AI/AN populations.
- ACF supports Regional Office strategic partnerships and/or regionally structured coordinated communications with tribes and tribal programs to promote and facilitate

strong tribal-state relationships and policy and to foster improved outcomes for Indian children, youth, and families through training on tribal consultation, providing introductions, sharing information, and ensuring timely follow-up on issues and concerns.

Section III. Culture and Mutual Respect

- ACF recognizes that each tribe's history and contemporary culture are unique, and that solutions that work for one tribe may not be suitable for others.
- ACF respects traditional tribal cultural practices and values and is committed to ensuring cultural competence and effective cross-cultural communication in day-to-day work.
- ACF seeks to foster an internal ACF culture at every level that encourages all staff to identify and be responsive to the needs of tribes and Indian people as part of routine deliberative and other work demonstrating respect for the Indian tribes we serve and with whom we partner.

Section IV. Nation-Building and Effective Delivery of Human Services to Indian Communities

- ACF believes that continuity of funding at sufficient levels for essential tribal social service functions is critical to the long-term growth of tribal nations and the economic, health, and social well-being of Indian peoples.
- In accord with Executive Order 13175, ACF seeks to maximize tribes' flexibility to administer grant programs within the prescribed statutory and regulatory parameters and thus design solutions responsive and appropriate to their communities while ensuring accountability.
- ACF believes that pilot and demonstration projects that are available to state or local governments should be available to tribal governments to the extent authorized by law,

and endeavors, where appropriate and practicable, to locate pilot and demonstration projects in tribal communities.

- ACF is committed to partnering with tribes to build a continuum of research, as described in ACF's Common Framework for Research, from descriptive studies to impact studies that build understanding of human service needs in tribal communities, high quality and culturally responsive services, and efficacy and effectiveness of services in improving relevant outcomes in tribal communities.
- ACF aims, through flexible provision of technical support, to help tribal grantees develop and operationalize their own performance measures and indicators, allowing for performance measurement over time and in a manner most meaningful to local tribal communities.
- ACF supports using data to collaborate in identifying and testing changes that support data-driven improvements in ACF-funded programs and projects.
- ACF is committed to implementing all statutes authorizing ACF programs and to working in partnership with tribes to strengthen tribal systems and institutions critical to fulfilling the purposes of these statutes.

V. Coordination and Outreach

- ACF, when working with external agencies on issues involving tribes, advocates respect for tribal self-determination, tribal autonomy, tribal nation-building, and the government-to-government relationship.
- The Administration for Children and Families, through its regional offices, is committed to supporting tribes, states, and local jurisdictions to improve

communication and meaningful consultation, and to build relationships among tribes, states, local, and private entities that promote resilient, safe, healthy, and economically secure Indian children, youth, families, and communities.

- ACF works to facilitate communication and build relationships among the federal agencies engaged with tribal governments and to promote the sharing of federal resources and expertise, including, but not limited to, identifying cross-training opportunities.
- Because of the relationship between the work of external institutions and the health and well-being of Indian children, youth, and families, ACF is committed to fostering coordinated efforts with educational, public safety, justice, housing, environmental protection, and public health services.

VI. Administrative Data Management

- In collaboration with Indian tribes, ACF aims to build knowledge of effective models, strategies, and approaches for addressing the needs and lifting the strengths and capacities of Indian children, youth, and families through a focus on collaborative research and evaluation.
- In collaboration with Indian tribes, ACF develops and implements a research agenda that identifies and addresses data gaps, builds tribal research and evaluation capacities, and disseminates research findings on issues determined, in partnership with tribes, to be significant.

VII. Sustainability

- ACF will ensure the ACF Guiding Principles are institutionalized through management and staff training so that progress in areas important to tribes and tribal communities continues consistent with ACF values of dedication, excellence, professionalism, integrity, stewardship, and respect.
- These ACF Guiding Principles are intended solely to improve the internal awareness and management of the ACF. They may only be implemented to the extent permitted by statute and regulations and are not intended to and do not create any right or benefit, substantive or procedural, enforceable at law or equity by any party in any matter, civil or criminal, against the United States, its departments, agencies, officers, employees, or agents, or any other person.

Mark H. Greenberg
Acting Assistant Secretary
for Children and Families

October 20, 2016
Date

Lillian Sparks Robinson
Commissioner
Administration for Native Americans

October 20, 2016
Date

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