

**UNITED STATES DEPARTMENT OF TREASURY
ACTION PLAN
FOR TRIBAL CONSULTATION AND
COLLABORATION**

**Plan submitted pursuant to Presidential Memorandum
dated January 26, 2021**

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Introduction and Background

The Treasury Department is the executive agency responsible for promoting economic prosperity and ensuring the financial security of the United States. The Department is responsible for a wide range of activities such as advising the President on economic and financial issues, encouraging sustainable economic growth, and fostering improved governance in financial institutions. The Department of the Treasury operates and maintains systems that are critical to the nation's financial infrastructure, such as the production of coin and currency, the disbursement of payments to the American public, revenue collection, and the borrowing of funds necessary to run the federal government. The Department works with other federal agencies, foreign governments, and international financial institutions to encourage global economic growth, raise standards of living, and to the extent possible, predict and prevent economic and financial crises. The Treasury Department also performs a critical and far-reaching role in enhancing national security by implementing economic sanctions against foreign threats to the U.S., identifying and targeting the financial support networks of national security threats, and improving the safeguards of our financial systems.

Contained within this document is Treasury's Action Plan in response to President Biden's Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships executed January 26, 2021.¹ The President's Memorandum requires all Federal agencies to provide effective Tribal consultation and collaboration in the carrying out of their roles and responsibilities.

Role of the Department of the Treasury

The Department of the Treasury is organized into two major components the Departmental Offices and the operating bureaus. The Departmental Offices are primarily responsible for the formulation of policy and management of the Department as a whole, while the operating bureaus carry out the specific operations assigned to the Department. Our bureaus make up 98% of the Treasury work force. The basic functions of the Department of the Treasury include:

- Managing Federal finances.
- Collecting taxes, duties and monies paid to and due to the U.S. and paying all bills of the U.S.
- Currency and coinage.
- Managing Government accounts and the public debt.
- Supervising national banks and thrift institutions.
- Advising on domestic and international financial, monetary, economic, trade and tax policy.
- Enforcing Federal finance and tax laws.
- Investigating and prosecuting tax evaders, counterfeiters, and forgery.

¹ Department of the Treasury "Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships" 86 FR 7491 (January 26, 2021) pp. 7491-7492 available at <https://www.federalregister.gov/d/2021-02075>

Main Points of Intersection with Treasury's Mission and Tribal Governments

- Tax policy, including the Treasury Tribal Advisory Committee (TTAC) in advising the Secretary on tax policy matters.
- Coordinating with the Internal Revenue Service's Indian Tribal Governments office on taxation matters affecting Indian Country.
- Community Development Financial Institutions (CDFI) Fund's Native American Program.
- Pandemic relief and post-pandemic economic revitalization through CARES Act and American Rescue Plan Act.
- Improve Tribal economic self-sufficiency.

Treasury Department Offices and Bureaus

Offices

Domestic Finance
Economic Policy
General Counsel
International Affairs
Public Affairs
Management
Tax Policy
Terrorism and Financial Intelligence

Bureaus

Alcohol and Tobacco Tax and Trade Bureau (TTB)
Bureau of Engraving & Printing (BEP)
Financial Crimes Enforcement Network (FinCEN)
Bureau of the Fiscal Service (BFS)
Internal Revenue Service (IRS)
Office of the Comptroller of the Currency (OCC)
U.S. Mint
Office of the Inspector General (OIG)
Treasury Inspector General for Tax Administration (TIGTA)
Special Inspector General for the Troubled Asset Relief Program (SIGTARP)
Special Inspector General for Pandemic Recovery (SIGPR)

Treasury Tribal Affairs

Treasury is committed to strengthening its relationships with Tribal governments and Indian Country to work to better understand and respond to the needs of Tribal governments regarding Treasury regulations, legislative comments, proposed legislation and policy statements that have Tribal implications, have a direct and identifiable economic impact on Indian Tribes, or preempt Tribal law.

Treasury conducts its tribal affairs in two primary ways: Tribal consultations and the Treasury Tribal Advisory Committee. While the two functions complement each other, each is a separate and distinct Treasury function. Tribal consultations were conducted through the Office of Economic Policy and led by the Assistant Secretary for Economic Policy. These comprehensive consultations lead to meaningful dialogue with Indian Tribes on a government-to-government basis. Treasury's consultations are guided by the Treasury Tribal Consultation Policy adopted in 2015. The second function is the Treasury Tribal Advisory Committee (TTAC). This seven-member Tribal advisory committee advises the Secretary on significant matters related to the taxation of Indians, the training of Internal Revenue Service field agents, and the provisions of training and technical assistance to Native American financial officers. The Committee was established on February 15, 2015, pursuant to Section 3 of the Tribal General Welfare Exclusion Act of 2014, Pub. L. 113- 68, and in accordance with the provisions of the FACA. Currently, the TTAC hosts up to three meetings per year, which are open to the public.

Treasury also conducts other activities that contribute to mutual understanding, including hosting Listening Sessions on topics of interest, speaking at national conferences, publishing notices in the Federal Register soliciting comments, receiving comments from the public, and talking directly with Tribal Officials.

Treasury maintains an email for those wishing to submit public comments at any time. Interested parties can send comments to tribal.consult@treasury.gov.

The Tribal Affairs Program, housed in the Office of the Treasurer, is responsible for coordinating consultations between Indian Tribes and Treasury Department bureaus and offices. This Department also provides Progress Reports on Tribal Consultations and Activities to the Office of Management and Budget. These reports are available to the public.

The TTAC is coordinated through the Office of Tax Policy, and the Tax Legislative Counsel serves as the Designated Federal Official for the Committee.

Treasury currently has several additional staff working on tribal concerns, particularly as they relate to Coronavirus Relief Funds distributed under the CARES Act of 2020 and several funding programs that have tribal participation under the American Rescue Plan Act of 2021. These include staff from the Secretary's Office; Economic Policy; Fiscal Service; General Counsel; Community Development, Housing and Small Business; and Consumer Policy.

At the request of the Point of Contact for Tribal Consultation and Assistant Secretary of Economic Policy, the Office of Strategic Planning and Performance Improvement (OSPPI) conducted a review of Treasury's tribal affairs functions in the spring of 2020 and provided a set of recommendations based on their findings in the summer of 2020. Two primary recommendations were to permanently staff the Treasury tribal consultation function with at least two career civil service employees: a tribal affairs program manager and a support staff and to move the POCTC and tribal consultation function to the Office of the Treasurer. The Tribal Affairs Program Coordinator would also serve as the Point of Contact for Tribal Consultation to ensure continuity across changes in administrations and to further the complementary functions of consultation and the TTAC. These recommendations were adopted by Treasury's Office of the Assistant Secretary for Management.

Nancy Montoya became the Treasury Tribal Affairs Program Coordinator and Point of Contact for Tribal Affairs (POCTC) on April 11, 2021. The purpose of this position is to coordinate and support tribal affairs activities within Treasury by promoting a coordinated internal and federal

agency workstream to ensure that these activities:

- Inform each other
- Create and strengthen productive relationships with Indian Country by clarifying tribal taxation matters that hinder economic development and self-sufficiency in Indian Country
- Analyze and evaluate the efficiency and effectiveness of tribal affairs activities
- Promote effective and efficient use of Treasury resources and ensure continuity and transparency in tribal affairs.

In addition, the Treasury Tribal Affairs Program Coordinator performs the following duties:

- Serves as Treasury's main Point of Contact for tribal nations and Treasury stakeholders.
- Coordinates with tribal governments on consultation requests and related matters.
- Coordinates with TTAC, Treasury subject matter experts, senior leaders, tribal liaisons, and other federal agencies on matters that may have tribal implications.
- Interprets Treasury guidance, policy, and regulations in coordinating and interacting with tribal governments; analyzes conditions in Indian Country that are impacted by Treasury policy and regulations; prioritizes consultation requests based on topics and matters.
- Advises Treasury leadership of the effects of federal regulations and policy on tribal governments and makes recommendations for Treasury policy and regulations that impact tribal affairs.
- Analyzes and evaluates efficiency and effectiveness of tribal affairs activities between Treasury and tribal nations to optimize Treasury resources for all tribal affairs.
- Leads annual consultation outreach plan to increase participation between Treasury and Indian Country; proactively identify tax policy, economic development, and other issues that necessitate consultations; develop a plan to schedule tribal consultations and respond to issues.
- Align consultation requests with major tribal events which include annual meetings conferences of tribal organizations and TTAC meetings.
- Manages budget for tribal consultations by analyzing and accounting for expenditures to aid in transparency of activities.
- Develops agendas and organizes participants for consultations; handles meetings logistics (e.g. security access, travel, IT); produces and publishes summary documents for follow-ups.
- Engages in tribal-related CARES Act and American Rescue Plan Act work by providing support for tribal nations in managing negative impacts of COVID-19, accessing economic impact payments, and serving as a resource in assisting with other Treasury related policy issues and accessing information.
- Develops briefing documents and prepares remarks for speaking engagements at tribal events and consultations; responds to Congressional inquiries with Legislative Affairs, coordinates responses to the public on policy matters and use of funds, and to IG and OMB audit functions related funds distribution.
- Helps manage nominations for TTAC membership.

The principles of Tribal consultation are found in a wide range of federal laws, regulations, Executive Orders and court orders. In 1994, then President Clinton issued an Executive Memorandum titled, “Government-to-Government Relationship with Native American Tribal Governments.” This Memorandum stated that “Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with Tribal governments prior to taking action that affects federally recognized Tribal governments. All consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.” The 1994 Memorandum stated that all agencies within the federal executive branch shall:

- Operate within a government-to-government relationship with federally recognized Indian tribes.
- Consult, to the greatest extent practicable and permitted by law, with Indian Tribal governments before taking actions that affect federally recognized Indian tribes.
- Assess the impact of agency activities on Tribal trust resources and assure that Tribal interests are considered before the activities are undertaken.
- Remove procedural impediments to working directly with Tribal governments on activities that affect trust property or governmental rights of the tribes,
- Work cooperatively with other agencies to accomplish these goals established by the President.

President Clinton thereafter issued Executive Order 13084, dated May 14, 1998 titled “Consultation and Coordination with Indian Tribal Governments”, to establish regular and meaningful consultation and collaboration with Indian Tribal governments:

- In the development of regulatory practices on Federal matters that significantly or uniquely affect their communities,
- To reduce the imposition of unfunded mandates upon Indian Tribal governments.
- To streamline the application process for and increase the availability of waivers to Indian Tribal governments.

On November 6, 2000, President Clinton issued his final directive from the White House regarding Tribal consultation, Executive Order 13175² regarding Tribal Consultation, titled “Consultation and Coordination with Indian Tribal Governments.”

E.O. 13175, which mirrored the Administration’s Federalism Executive Order pertaining to state and local governments and required all departments and agencies to consult with tribes as they develop policy on issues that have Tribal implications. E.O. 13175 expanded the criteria to be met when formulating and implementing policies that have Tribal implications. It also required that each agency select an official with principal responsibility for the implementation of the order. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000 (which superseded Executive Order 13084 of the same title), provided instructions to agencies related to their policymaking, legislative and regulatory activities and stated: “Agencies shall respect Indian Tribal self- government and sovereignty, honor Tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian Tribal governments.”

President Obama reaffirmed these principles through execution of his Memorandum on Tribal Consultation and Collaboration on November 5, 2009 during the historic White House Tribal Leaders Conference held in Washington DC.

Consultation Policies at Treasury – History and Current Status

After release of Executive Order 13175, Treasury engaged in Tribal consultations. As a result, on December 3, 2014, Treasury released an interim tribal consultation policy outlining the guiding principles for all Treasury bureaus and offices. After soliciting Tribal feedback on the interim policy, Treasury revised its consultation policies and adopted the current Tribal Consultation Policy on September 23, 2015.³ Since the adoption of the policy, Treasury has not solicited feedback on its policies or considered revisions until now. Treasury was without a Point of Contact for Tribal Consultation for several months in late 2017 through February of 2018. In March of 2018, staff from the Office of Consumer Policy assisted in re-establishing Tribal consultation and in standing up the TTAC. Consultations were held upon request individually with Tribes and in response to several matters impacting Tribal economic development (Opportunity Zones, tax status of Tribally chartered corporations.) When the CARES Act was passed in 2020, Treasury partnered with BIA, SBA, and IRS to conduct Tribal consultation on the Coronavirus Relief Fund, Paycheck Protection Program and Employer Retention Credit. However, Tribal affairs activities continued to be staffed unofficially and Treasury coordination across Offices and Bureaus and awareness of the Tribal Consultation Policy remained uneven. With the passing of the American Rescue Plan of 2021, Treasury quickly ramped up Tribal consultation activity, hosting five consultations that attracted over 1,650 Tribal leaders and stakeholders and engaging 85 Tribal leaders in consultation on the State and Local Coronavirus Recovery Fund. A carryover consultation was conducted to ensure that every Tribal leader who wished to engage with Treasury was heard. Over 150 letters from Tribal leaders and stakeholders were received and are currently under consideration. Additional consultations on

² Exec. Order No. 13,175, 65 Fed. Reg. 67,249 (Nov. 9, 2000), available at <http://www.gpo.gov/fdsys/pkg/FR-2000-11-09/pdf/00-29003.pdf>.

³ Department of the Treasury, “Tribal Consultation Policy”, 80 FR 57434, (September 23, 2015) pp. 57434-57436 available at <https://www.govinfo.gov/content/pkg/FR-2015-09-23/pdf/2015-24150.pdf>

the Housing Assistance Fund and Capital Projects were well-attended by Tribal leaders and stakeholders. Each consultation included at least one, and sometimes several, key decision-makers from Treasury and occasionally senior leadership from the Bureau of Indian Affairs. A new engagement protocol for Tribal consultation was applied, including sending out framing questions in advance and a list of Tribal leaders and Designees ranked in speaking order to respect the priority of primary Tribal leaders in engaging with Treasury. The Secretary provided welcoming remarks at the March 17 Treasury Tribal Advisory Committee Public Meeting, and the Deputy Secretary provided welcoming remarks during one consultation on the State and Local Coronavirus Relief Fund. All actions and the deep daily engagement of senior leadership in policy decisions affecting Indian Country signal a renewed commitment to fully and respectfully engaging in meaningful and robust Tribal consultation on matters of the highest importance to Tribal governments and communities. However, much remains to be done to develop comprehensive and consistent Tribal consultation procedures and engagement for Treasury.

Tribal Consultation on Treasury's Tribal Consultation Policies

On April 6, 7 and 8, 2021, Treasury joined the Social Security Administration, Department of Veterans Affairs, and Small Business Administration in holding joint consultations on existing Tribal consultation policies in response to the Presidential Memorandum for Tribal Consultation and Strengthening Nation to Nation Relationships. Over 205 Tribal leaders and stakeholders participated in the 11.5 hours of consultation held over six sessions. Thirteen Tribal leaders or their designees and seven Tribal stakeholders provided oral comments. Twelve Tribes, five inter-tribal organizations, and two stakeholders provided written comments.

Tribal Recommendations with General Consensus

- The goal of consultation should be a good faith effort to get to consent in advance of implementing any policies, regulations or guidance, or funding disbursements. If consent is not possible, then consensus should be the goal.
- Consultations should be initiated as early as possible, but definitively before final policy decisions are made.
- Consultation is a two-way engagement that requires more than one round of meetings or written comments. Goals of consultation should be to listen and seek to understand each other's opinions, beliefs, and desired outcomes.
- Engagement should include the sharing of information, any analyses, or pre-decisional documents with Tribes prior to conducting meetings or finalizing policies or formulas.
- Consultations should be scheduled with ample time to hear from all Tribal leaders or their Designees.

Treasury should:

- Define the terms "meaningful" and "robust."
- Determine the specific actions that constitute meaningful and robust consultation.

- Have a process in place for determining when consultation should occur, who should be involved in consultation and the channel for conducting consultation (in person, virtual conference such as Zoom or telephone, in conjunction with Intertribal conferences or meetings.)
- Ensure that Treasury staff with decision-making authority is always present in consultation.
- Educate senior leadership and staff within Treasury on Treasury’s Tribal consultation responsibilities.
- Incorporate consultation with Alaska Native Corporations (ANCs) and Alaska Native Village Corporations (ANVCs) into their Tribal consultation policies.⁴

Other Notable Recommendations

- The federal government should adopt a uniform Tribal Consultation policy based on the principles of “free, prior and informed consent” in keeping with the United Nations Declaration of the Rights of Indigenous People.⁵ This policy should establish minimum standards for federal agency consultation policies.
- The federal government should create a clearinghouse of federal policies that require consultation.
- The federal government should adopt a dispute resolution process that includes accountability by requiring that departments and agencies document disputes and resolutions in an annual report to OMB. OMB should compile a report of these actions.
- The White House Council on Native American Affairs should resume meeting quarterly and host an Annual Native American Summit to address cross-cutting federal issues impacting Tribes.
- Federal agencies should consider meeting every four years at the beginning of a Presidential term to share background, data, evidence, and other information that will guide decision-making, discuss existing and future policy development, and define priorities and goals for the term.
- Treasury should develop an Office of Native American Affairs.
- Treasury should place a high value on Advisory Committee(s).

⁴ In 2005, The Consolidated Appropriations Act required the Director of the Office of Management and Budget and all Federal agencies to consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175. Consolidated Appropriations Act, 2004, Pub. L. 108-199, Div. H § 161, 118 Stat. 3, 452 (2004), as amended by Consolidated Appropriations Act, 2005, Pub. L. 108-447, Div. H, Title V § 518, 118 Stat. 2809, 3267.

⁵ “United Nations Declaration of the Rights of Indigenous Peoples, Resolution adopted by the General Assembly on September 13, 2007 https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdfhttps://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

Preparing for Consultation:

1. Minimum advance notice should be no less than two weeks, preferred is at least 30 days.
2. Consultation notice should include all necessary background, including:
 - a. Relevant legal or regulatory citations/
 - b. Scoping documents or agency working drafts
 - c. Nature of proposed action (rulemaking, funding, policy guidance)
 - d. Subject matter of proposed action (reference to applicable law and regulations)
 - e. Geographic location of regulation
 - f. Anticipated impacts on Tribal communities
3. When published in Federal Register:
 - a. the link and description should be published on Treasury website
 - b. a link to the Dear Tribal Leader Letter (DTLL)
4. When scheduling consultations, differences in time zones should be taken into consideration.
5. Treasury should consider whether groupings of Tribes have sufficient shared interests for that grouping. Regional and/or statewide consultations may better serve the Tribes.

During Consultation

- Adequate time should be taken to hear from all primary Tribal leaders or their Designees.
- Primary Tribal leaders who are present should be given priority in speaking order.
- Tribal designees should be recognized next in order.
- Consultation is an active process. Treasury officials are encouraged to engage with Tribal leaders, ask clarifying questions and when possible, provide background on statutory constraints or other requirements and conditions that need to be met when considering policy decisions.

Post-Consultation

- Treasury should provide a summary of the consultation that identifies key issues of concern and Tribal considerations for addressing these concerns.
- Proposed rules, guidance, or formulas developed should be published in advance of any final decisions and Tribes be given an opportunity to respond before these are finalized.

Funding

- Treasury should have a designated budget for conducting Tribal consultation. Funding should support travel to Tribes and to attend national and regional conferences.
- The budget should include funds for Tribal leaders or designees to travel to consultation and reimburse them for consultation-related costs (production of analyses, reports, contracting expertise, etc.)

Communication and Outreach

- Treasury should provide and/or post transcripts or recordings of consultations.
- If transcripts are not available, Treasury should provide a summary of the consultation or a report on the issues and recommendations shortly after consultation.
- All forms of communication are welcome and should be customized to meet the needs of the Tribes. For example, the Zoom platform with the ability to participate using telephone dial-in was cited as a best practice since more remote Tribes have difficulty securing reliable Internet connectivity.
- Treasury should develop individual relationships with Tribes. Treasury should also develop relationships with inter-tribal organizations that represent the diverse interests of Tribes.
- Communication, whenever possible, should include engaging with Tribes in their own communities and through their networks. These can include site visits to Tribes and Tribal regions, attendance and participation in national and regional conferences, and other face-to-face interactions.

Accountability

- Treasury should produce a summary of their findings during consultation and provide responses that incorporate how decisions were made and why recommendations were either adopted or rejected.
- Treasury should consider adopting a certification process that confirms both parties agree that meaningful and robust consultation has occurred.
- Treasury/Federal government should include an enforceability mechanism (such as an Administrative Procedure Act claim) or resolution dispute process for resolving conflicts. Litigation should not be the primary response action when disagreement arises.

Treasury's Action Plan

Treasury has an opportunity to improve nation-to-nation relationships by thoughtfully and thoroughly considering the recommendations provided by Tribal leaders and Indian Country. The new Treasury Tribal Affairs Coordinator addresses a longstanding concern that Treasury have a person whose major responsibility is working with Tribes to address their concerns, remove barriers to economic opportunity and ensure that Treasury's programs work for Tribes and their members. Many policy and process decisions need to be made as a part of the process of improving tribal consultation and engagement with Tribal nations. It is advised that some infrastructure be in place before undergoing these decisions. For example, Tribal Affairs is newly housed under the Office of the Treasurer. Since the Treasurer is the direct line of communication with the Secretary, it would be helpful to undertake most of the actions necessary to develop a strong Tribal Affairs program when the Treasurer is seated and can ascertain Treasury's policy priorities for Tribal Affairs are in alignment with Treasury's priorities. The Secretary's stated goals of addressing climate change, providing equitable

economic opportunity for all people, and addressing racial inequity all have important implications for Treasury's engagement with Tribal nations. Working with Tribal nations to make progress on these issues will require strong consultation policies that are consistent, focused, and adequately resourced. In addition, Tribal Affairs' primary goals for the immediate future are to ensure that funding distributions to Tribes under the five programs in the American Rescue Plan (ARP) of 2021 are fair, transparent, equitable, and based on robust Tribal input, and further that they maximize Indian Country's ability to use these funds to meet the needs of their Tribes and communities and grow their economies in the future. Therefore, it is recommended that Treasury focus on the Action Plan provided below when there is a Treasurer in place and after demands on staff time for the ARP have moderated.

Treasury should consider establishing an internal working group to consider the recommendations provided through tribal consultation. This working group should consist of the Treasurer, the Tribal Affairs Program Coordinator, the Designated Federal Official for the Treasury Tribal Advisory Committee or his designee, the Program Manager for Indian Tribal Governments of the Internal Revenue Service, the CDFI Fund's Native American Program Manager, consultation experts from other agencies (SBA, USDA) and subject matter experts with experience in Tribal governance and economic development.

Treasury repeatedly heard through recent joint tribal consultations that consultation policies should be consistent across federal agencies and adopt minimum standards for tribal consultation. Before engaging in an in-depth review of Treasury's tribal consultation policies, it would be helpful to know if the Office of Management and Budget or another agency is considering the development and adoption of these standards.

Treasury's Action Plan to improve Tribal relations has three focus areas:

Update the Tribal Consultation Policy and Procedures for Conducting Tribal Consultation

1. Review existing Tribal consultation policies and incorporate consensus recommendations provided through recent Tribal consultation. Specific actions Treasury should consider are:
 - Defining the terms "meaningful" and "robust."
 - Determining actions that constitute the definitions of "meaningful" and "robust."
 - Determine specific actions that recognize the sovereignty and self-determination of Tribes.
 - Include Alaska Native Corporations (ANCs) and Alaska Native Village Corporations in Tribal consultations.
 - Reaffirm Treasury's commitment to respecting Tribal sovereignty and the government-to-government relationship in the consultation process.
2. Update procedures for conducting Tribal consultations. These include:
 - a. Establishing clear procedures for how to determine whether consultation is required, what types of consultation best suit the issue under consideration and timelines for providing meaningful, timely consultation. Suggested criteria on considering consultation should include:
 - i. How pressing is the nature of the requested consultation issue?

- ii. What are the timelines for key policy decisions that need to incorporate a deadline for receiving Tribal government input?
- iii. How many Tribes are impacted by the issue (helpful in considering what type of consultation is needed)?
- iv. What are the likely impacts of the issue on Tribal governments or members?
- v. Does consultation to address the issue require an immediate, short-term or longer-term engagement?
- vi. What is the availability of Treasury and Tribal resources required to hold consultation?
- vii. Does the consultation issue have implications for Treasury's priorities as well?

Note: Tribal consultation should be considered along with other types of state and local engagement and Public Comment periods to ensure that key deadlines are met for Treasury staff to consider all input.

3. Identifying the best type of consultation engagement to address the issue, such as:
 - a. Formal consultation engaging with primary Tribal leaders or designees and a written comment period with deadlines.
 - b. Listening sessions with Tribal leaders, Subject Matter Experts (SMEs), and other key stakeholders.
 - c. Roundtable sessions to facilitate in-depth understanding of structural issues and concerns.
 - d. Conducting consultation at national or regional conferences.
 - e. Group meetings with Tribal organizations or Subject Matter Experts
 - f. One-on-one conversations.
 - g. Publishing Advance Notice in Federal Register and requesting written comments with deadlines.
4. Identifying key policy staff or decision-makers that need to be present as a part of consultation.
5. When possible, identify Tribal representatives that are included in helping to frame the issue and provide Tribal perspectives and potential impacts.
6. Producing background documentation and framing questions to be sent in advance of consultation. Depending on the complexity of the issue, this should also include considering staffing needs to perform this function.
7. Determine the best venue for hosting consultation (in-person conference, virtual conference such as Zoom, or teleconference).
8. Produce an agenda to be sent out in advance of consultation that identifies Treasury key decision-makers, SMEs and includes the list of speakers that ranks speaker order for primary Tribal leaders first, then Designees.
9. Establish a tracking system for proposed consultations available to Tribes and stakeholders

that:

- a. Provides a real-time calendar for proposed consultations that considers the requests for consultation either internally or externally, other potential federal agency partners and any competing activities that could inhibit participate from tribal leaders.
 - b. Lists the issues to be discussed.
 - c. Identifies key staff who will be engaged in consultation and/or act as Subject Matter and Policy Experts.
 - d. Identifies any key dates for concluding consultation, including deadlines for submitting written comments, holding follow-up consultation prior to publishing final guidance or cross-agency collaboration.
 - e. Links to relevant background documents.
 - f. Lists target date for providing summary of Tribal consultation and follow-up actions.
 - g. Provides a summary of final actions that includes a link to rules, regulations, or other outcomes.
10. Conduct a meeting with Treasury Bureau or Office tribal contacts to identify emerging or potential Tribal consultation issues or needs. At the beginning of each fiscal year and before the Annual Progress Report to OMB, draft a consultations plan for the calendar year. Consult with Tribal governments to identify priority areas of mutual interest. Considering Treasury's current resources, major tribal event dates, and the TTAC calendar, develop a schedule to meet with Tribal leaders and hold consultation meetings on pre-determined dates. This will allow for Treasury's resources to be better managed while fulfilling its obligations to tribes.

Improve Treasury Awareness of and Accountability for Holding Tribal Consultation

1. Develop a training program (or modify an existing training program from another agency) to educate senior-level staff in all Bureaus and Departmental Offices. Content should include:
 - a. Understanding Tribal Nations and the government-to-government relationship with Treasury
 - b. An overview of Treasury's Tribal Consultation Policy,
 - c. Responsibilities of and accountability for Treasury's Tribal Consultation Policy
 - d. The process for determining whether tribal consultation is required and key concepts on how Treasury conducts Tribal consultation.
2. Identify and/or designate tribal points of contact at each bureau and Departmental Office (DO) office who serve as the bureau/office points-of-contact for Tribal matters and identify appropriate SMEs and emerging Treasury policies and regulations that may necessitate consultations.
3. Work with the Office of Management and Budget to determine the best way to ensure that key staff have received training and understand how to contact Tribal Affairs to determine if there is an issue that requires Tribal consultation.
 - a. Develop a strategy and calendar for delivering training that ensures all senior staff and policy advisors have received training.
 - b. Establish a target date and process for ensuring that key staff have received training.
 - c. Include target training goals in performance plans of key staff.

4. Build awareness of the Treasury consultation process and outreach plan within Treasury by developing and distributing communications materials, such as brief summaries of the consultation process and requirements and expectations for bureaus/offices. Upload these resources to an internal shared website such as MyTreasury for 24-hour access.
5. Annually review Treasury's ability to identify the need for Tribal consultations and host meaningful and robust consultations in a timely manner. Use this analysis to target specific areas for improvement and track and measure outcomes.
6. Consider incorporating a brief follow-up survey after conducting consultation to get participant feedback on effectiveness of consultation.

Communication and Outreach

1. Determine the most effective ways of communicating with tribes beyond the tribal.consult@treasury.gov mailbox. These may include incorporating social media, notices and information sent out via listserv, cross-posting on other tribal organizations websites, and identifying conferences and tribal events that could facilitate better understanding between Treasury and tribes. Engage Public Affairs to ensure that Indian Country is represented in external communications strategies.
2. Maintain a comprehensive list of Tribal contacts that merge consultation registration lists, BIA lists of Tribal leaders and other internal sources.
3. Establish a Gov Delivery list serve for pushing out information to Tribal contacts in a timely fashion. The listserv will have a subscriber feature so that interested parties will always receive critical information.
4. With input from Indian Country, develop a comprehensive database of Tribal organizations that includes contacts for key staff, areas of expertise and geographic locations that they serve.
5. Establish a plan for Treasury to expand Tribal relationships that includes:
 - a. Introductory meetings with inter-tribal organizations, other federal agencies and departments, national and regional conferences, and other networking opportunities.
 - b. Identifying key national and regional conferences that have significant Tribal participation or focus on Treasury/Tribal consultation policies. dates and opportunities to either consult or contribute to conference sessions.
 - c. Consider incorporating Tribal site visits before or after attending conferences.
 - d. Consider partnering with IRS field offices to conduct site visits. Site visits could be timed to better understand Treasury policy issues, such as visits to Tribal Volunteer Income Tax Assistance locations or IRS Tribal trainings.

6. When possible, conduct introductory meetings with individual Tribes to learn more about pressing issues, priorities, and culture.
7. Before meetings, conduct initial background research on Tribal history and incorporate time to learn more from Tribal leaders about culture and customs, particularly where they intersect with Treasury policy issues.
8. Establish relationships with Points of Contact for Tribal Consultation at other federal agencies with either a strong record of conducting effective Tribal consultations or that overlap with Treasury Tribal priorities.
9. Explore the possibility of joining other federal agencies on site visits that could concur with regional events to learn more about and engage with Tribes in their own communities.
10. Whenever possible, coordinate with Public Affairs to ensure that communications (press releases, read outs, social media posts, etc.) incorporate information relevant to Tribal matters.
11. Consider either expanding the role of the Treasury Tribal Advisory Committee to address non-tax Tribal matters and provide expertise on non-tax matters or establish a separate Tribal Advisory Committee to enhance Tribal engagement.
12. Serve on the White House Council on Native American Affairs to strengthen inter-agency collaboration and cooperation on key issues.

Managing the Plan

As the Treasury Tribal Affairs Program Coordinator and Point of Contact for Tribal Consultation (POCTC) is now housed in the Office of the Treasurer, compliance with E.O. 13175 and President Biden's Memorandum dated January 26, 2021 will be monitored by Nancy Montoya, POCTC, under the leadership of the Treasurer. These include:

- In partnership with the Office of Management and Budget, monitor compliance with Executive Orders.
- Coordinate updating the Tribal Consultation Policy and developing detailed procedures for conducting Tribal consultation and engagement.
- Work with senior leadership to establish internal Treasury Bureau and Office Tribal contacts, develop and deliver training and communicate and coordinate policy compliance.
- Strive to enhance ongoing relationships with Tribes, including expanding relationships with other key Treasury staff.
- Serve as the initial contact for Tribes and Treasury Offices and Bureaus to request or inquire about consultations.
- Under the leadership of the Treasurer, establish criteria and metrics for annually evaluating Treasury's Tribal Affairs activities and Tribal engagement.
- Gather input from Offices and Bureaus on Tribal activity and draft the Annual Progress Report to OMB on Tribal Consultation.

Summary

Treasury recently evaluated its Tribal affairs activities and subsequently created an independent, career-staffed position to coordinate Tribal activities across Offices and Bureaus that is housed in the Office of the Treasurer. This newly staffed position and the renewed emphasis on ensuring that federal agencies deliver meaningful and robust consultation is a powerful point in time for Treasury to build out a respectful and effective Tribal Consultation Policy and practice. Treasury looks forward to learning more from the Office of Management and Budget's review of federal Tribal Consultation Action Plans and how best practices can be incorporated into Treasury's plans.