



ARIZONA DEPARTMENT OF ECONOMIC SECURITY		PROCEDURE NUMBER	
TITLE OF ACCOMPANYING POLICY		DES 1-92-03-01	
Tribal Government Consultation Policy		POLICY	
PROCESS OWNER		EFFECTIVE DATE	REV. NO.
Tribal Relations Office		4/14/20	2

DES 1-92-03-01
Tribal Government Consultation Procedures

I. PURPOSE

To ensure the Department of Economic Security (DES) responds timely when any issue is identified that may have a significant impact on any of Arizona's 22 tribal nations, or an inquiry regarding DES is received from an Indian tribe or nation.

II. PROCESS

The DES Tribal Relations Manager shall consult with Indian tribes or nations in Arizona about policy issues that may directly impact the Indian tribes or nations. Consultation occurs whenever the Director and tribal officials or their designees orally or in documented correspondence discuss an issue relating to initiating, changing, or interpreting policy, regulation, or law. Consultation with a single Indian tribe or nation does not substitute for consultation with other Indian tribes or nations on issues that may affect more than one Indian tribe or nation.

A. Communication

1. Responding to Tribal Requests

- a. A DES employee shall respond as follows within ten business days if contacted directly by a member of an Indian tribe or nation:
 - i. Acknowledge the request within two business days of receiving it.
 - ii. If the request does not involve a specific DES or Division policy, does not require an official position, and is not related to a budget or detailed financial data:
 - a) Draft a response and send the response to the Tribal Relations staff for approval within three business days of becoming aware of the request.
 - b) Upon approval of the draft response by Tribal Relations staff, send the response to the

Indian tribe or nation and copy the DES Tribal Relations Manager.

- iii. Refer the request to the DES Tribal Relations Manager if the request involves a specific DES or Division policy, requires an official position, or involves a budget or detailed financial data.
 - b. Tribal Relations staff shall verify that all tribal inquiries have been adequately addressed.
2. Responding to Inquiries from Tribal Relations Staff

A DES employee shall provide assistance to Tribal Relations staff as soon as possible when Tribal Relations staff has requested assistance with providing a response to an inquiry from an Indian tribe or nation.

B. Consultation

1. Initiating a Consultation

DES or an Indian tribe or nation may identify an issue that may significantly affect one or more Indian tribes or nations in the state.

a. Issues Identified by an Indian Tribe or Nation

When an Indian tribe or nation brings an issue to the attention of DES, the Indian tribe or nation may elevate the issue to the DES Tribal Relations Manager or Division Tribal Liaisons, DES Management, or Division Management through formal tribal correspondence, including email, or by using the *Formal Request for Tribal Consultation* (FCT-1000A).

i. Requests Elevated Through a Division Tribal Liaison

The Division Tribal Liaison shall:

- a) Review the request and conduct fact-finding to determine if the request is regarding a significant issue that may warrant consultation. An issue is significant if the issue impacts budgets, service delivery, or eligibility for services to Indian tribes or nations; changes are identified in policy or regulations; or action or inaction will negatively impact DES or Indian tribes or nations.

- b) Contact the DES Tribal Relations Manager to schedule discussion of the request at the next Tribal Liaison meeting if the request may warrant consultation.
 - c) Coordinate resolution with the Division and the Indian tribe or nation within five business days of receiving the request if the request does not warrant consultation.
 - ii. Requests Elevated Through the DES Tribal Relations Manager
 - a) The DES Tribal Relations Manager shall review the request and forward it within five business days of receipt to the appropriate Division Tribal Liaison.
 - b) The Division Tribal Liaison shall complete the steps identified in (II)(B)(1)(a)(i).
 - iii. Requests Elevated Through DES Management or Division Management
 - a) The Assistant Director or Deputy Assistant Director shall notify the Indian tribe or nation within five business days of receiving the request that the request was received. The Assistant Director shall send a letter or *The Acknowledgment of Tribal Consultation Request* (FCT-1001A) for this purpose and send a copy of the letter or the FCT-1001A to the DES Tribal Relations Manager.
 - b) The Assistant Director or Deputy Assistant Director shall create an action item through Correspondence Control for the Division Tribal Liaison within two business days of notifying the Indian tribe or nation.
 - c) The Division Tribal Liaison shall complete the steps identified in (II)(B)(1)(a)(i).
- b. Issues Initiated by DES
 - i. Division staff shall notify the Division Tribal Liaison upon becoming aware of an issue.

- ii. The Division Tribal Liaison and the DES Tribal Relations Manager shall review the issue and decide to resolve the issue with the Indian tribe or nation, involve Division Management to resolve the issue, or elevate the issue for consultation.

2. Considering Tribal Implications

When a Division Tribal Liaison determines an issue may significantly impact Indian tribes or nations:

- a. The DES Tribal Relations Manager shall schedule the issue for discussion at the next monthly Division Tribal Liaison meeting.
- b. Each Division Tribal Liaison and the DES Tribal Relations Manager shall:
 - i. Discuss the issue at the Division Tribal Liaison meeting to determine if the issue has, or may have, a significant impact on Indian tribes or nations.
 - ii. Consider potential issues significant if they meet any of the criteria identified in (II)(B)(1)(a)(i)(a).
 - iii. Determine if the issue significantly impacts Indian tribes or nations within 30 business days following the Division Tribal Liaison meeting.

3. Issues Determined to Be Significant

The DES Tribal Relations Manager shall:

- a. Within ten business days of determining with the Division Tribal Liaisons that an issue is significant:
 - i. Schedule discussion of the issue:
 - a) In the next Biannual Consultation Meeting agenda; or
 - b) As a single consultation session in a single statewide meeting or in conjunction with other statewide meetings if an urgent issue does not permit waiting until the next Biannual Consultation Meeting, concerns cannot be resolved with an impacted Indian tribe or

nation, or an Indian tribe or nation requests a face-to-face consultation session.

- ii. Notify tribal officials of Arizona's 22 Indian tribes or nations of the scheduled meeting, including in the notification:
 - a) The subject issue for resolution;
 - b) The applicable program, policy, rule, regulation, statute, or authorizing legislation;
 - c) Any related concerns, such as state-tribal relations, related programs, complexity, time constraints, funding, and budget implications; and
 - d) The affected or potentially affected Indian tribes or nations.
- b. Acknowledge receipt of the tribal input, response, recommendation, and any request for a face-to-face consultation within five business days of receipt.
- c. Request revisions to the appropriate policy or procedure.
 - i. To request a revision to a DES policy or procedure, submit the request according to the DES administrative policy submission process.
 - ii. To request a revision to a Division policy or procedure, submit the request according to the affected Division's policy submission process.
- 4. Soliciting Feedback on Significant Issues

The DES Tribal Relations Manager may:

- a. Provide written notice and a solicitation for feedback to:
 - i. Non-tribal and other American Indian organizations such as:
 - a) The Advisory Council on Indian Health Care;
 - b) The Inter-Tribal Council of Arizona;
 - c) The Indian Health Service Area Offices in Arizona; and

- d) Urban Indian Health Programs.
 - ii. State agencies such as:
 - a) The Arizona Health Care Cost Containment System;
 - b) The Arizona Department of Health Services; and
 - c) The Arizona Commission on Indian Affairs.
 - b. Collaborate with community organizations. Such collaboration does not substitute for direct communication with the Indian tribes or nations.
- 5. Issues Determined Not to Be Significant

The Division Tribal Liaison of the affected Division shall work with the impacted Indian tribe or nation to resolve its concerns upon determining that an issue is not significant.
- 6. Tribal Consultation Reports

The DES Tribal Relations Manager shall, at the end of each state fiscal year:

 - a. Prepare a Tribal Consultation Report that describes all actions undertaken as a result of tribal consultation activity during the state fiscal year.
 - b. Submit the Tribal Consultation Report to Correspondence Control for review and approval by the Director's Office.
 - c. Submit the approved Tribal Consultation Report electronically to the Governor's Office of Tribal Relations (GOTR), which will compile the GOTR Tribal Consultation Report and make it available to tribal officials.
 - d. Ensure the Tribal Consultation Report is posted to the DES website at <http://www.azdes.gov>. To access Tribal Consultation Reports for the current year and prior years on the DES website, select Document Center, Reports, and in the Find Category window, click the down arrow and select "Tribal."