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FOR IMMEDIATE RELEASE
Monday, March 1, 2010Contact: HHS Press Office
(202) 690-6343

HHS Announces 2010 Tribal Consultation Blueprint

*New Tribal Advisory Committee**In Full Compliance with President Obama's Executive Order 13175*

HHS Secretary Kathleen Sebelius today announced the Department's compliance with President Barack Obama's memorandum on Tribal consultation and Executive Order 13175. HHS submitted its detailed tribal consultation plan within the 90 day time frame set by the President and is committed to continually work to improve services, outreach, and consultation efforts to Indian Country.

Secretary Sebelius will convene a Tribal-Federal Work Group whose task it will be to review tribal comments, regional consultation reports and develop recommendations to improving the HHS Tribal consultation policy. Secretary Sebelius will also create a Secretary's Tribal Advisory Committee, the first of its kind and the first to be established by any Cabinet official in the Administration.

"I take the Department's responsibility with respect to Tribal consultation very seriously and look forward to working with you as we continue to improve our relationship and build healthier communities in this Administration," said Secretary Sebelius. "Our Agencies at HHS have benefited from the establishment of Tribal Advisory Committees, which serve to advise HHS leadership on how best to work with Indian Country."

There are primarily five ways in which HHS consults with Tribes:

- Budget Consultation
- Regional Consultation
- Tribal Delegation Meetings
- Individual Agency Consultations and Consultation Policies
- Consultation Report

Paul Dioguardi, Director of Intergovernmental Affairs and Stacey Ecoffey, Principal Advisor for Tribal Affairs, are the primary contacts for tribal consultation at HHS and will lead its efforts.

"We have been working together with Tribal leaders to improve the accountability of our consultation policy across the Department and to ensure all agencies are participating appropriately," said Paul Dioguardi, Director of Intergovernmental Affairs at the U.S. Department of Health and Human Services.

The Annual Tribal Budget Consultation Session will be held on March 4-5, 2010 in Washington, DC.

Upcoming Regional Consultation Sessions:

Seattle, WA	Tuesday March 23, 2010
Anchorage, AK	Thursday March 25, 2010
Atlanta, GA	Tuesday March 30, 2010
Minneapolis, MN	Tuesday April 20, 2010
Albuquerque, NM	Thursday April 22, 2010
San Diego, CA	Tuesday April 27, 2010
Phoenix, AZ	Thursday April 29, 2010
Denver, CO	Wednesday May 5, 2010

For more information on this, please visit: www.hhs.gov or <http://www.hhs.gov/intergovernmental/tribal/index.html>

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Note: All HHS press releases, fact sheets and other press materials are available at <http://www.hhs.gov/news>.

Last revised: March 01, 2010

February 4, 2010

The Honorable Peter Orszag
Director of the Office of Management and Budget

Dear Mr. Orszag,

I am writing to follow up on the President's memorandum of November 5, 2009 regarding Tribal consultation policies at Executive Branch departments and agencies.

The Department of Health and Human Services (HHS) has taken its responsibility to comply with Executive Order 13175 very seriously over the past decade – including the initial implementation of a Department-wide policy on Tribal consultation and coordination in 1997, and through multiple evaluations and revisions of that policy, most recently in 2008. Many HHS agencies have already developed their own consultation policies that complement the Department-wide efforts.

HHS's policy has five key components:

- Each HHS Operating and Staff Division has an accountable consultation process to ensure meaningful and timely input by Tribal officials in the development of policies that have Tribal implications. Several HHS Divisions currently have their own consultation policy based on the main Departmental policy. All other Divisions follow the Department-wide policy. (Currently, 5 out of HHS's 10 Operating Divisions have individual policies.)
- No Division shall promulgate any regulation that has Tribal implications and imposes costs on Indian Tribes, or that is not required by statute, unless the federal government is paying the costs or formal consultation has taken place with Tribes.
- No Division shall promulgate any regulation that has Tribal implications and that preempts Tribal law unless the Division consulted with Tribes, included a Tribal summary impact statement in the Federal Register, and provides the Secretary with all written communications from Tribes on the issue.
- Each Division should explore and use consensual mechanisms for developing regulations, including negotiated rulemaking.
- There are some instances where HHS can consult with other Tribal groups, as outlined in the *Native American Programs Act P.L. 93-644, as amended*, though these meetings do not occur in lieu of consultation with federally recognized Tribal governments. If the Department includes organizations that do not represent a specific federally recognized Tribal government on advisory committees or workgroups, then Federal Advisory Committee Act (FACA) requirements must be followed.

There are primarily five ways in which HHS consults with Tribes:

- Budget Consultation – The HHS consultation policy states that an annual, Department-wide Tribal budget formulation and consultation session, which includes each Operating and Staff Division that has involvement in Tribal activities, will be conducted to give Indian Tribes and Tribal Organizations the opportunity to present their health and human services budget priorities and recommendations to the Department. In order for Divisions to receive and consider Tribal recommendations in the development of the budget request, the 11th Annual Tribal Budget Consultation Session will be held March 4 and 5, 2010.
- Regional Consultation – The HHS Regional Tribal Consultation Sessions are designed to solicit Tribes' priorities and needs on health and human services and programs. The Sessions provide an opportunity for Indian Tribes to articulate their comments and concerns on budgets, regulations, legislation, and HHS health and human services policy matters. This year marks the seventh year of these consultation sessions in the field, with eight regional sessions scheduled across the country.
- Tribal Delegation Meetings – The Secretary, Deputy Secretary, and IGA Director have created an open door policy in the Immediate Office of the Secretary for Tribal delegations wishing to discuss issues. IGA Tribal Affairs convenes and staffs these meetings to assure Divisions follow up with tribes on issues addressed during the delegations.
- Individual Agency Consultations and Consultation Policies – Many HHS agencies, such as the Indian Health Service, the Substance Abuse and Mental Health Services Administration, the Centers for Disease Control and Prevention, Centers for Medicare & Medicaid Services, and the Administration for Children and Families, host their own consultations with Tribes throughout the year and have established consultation policies specific to their agency. These policies and consultation sessions focus on issues unique to those agencies.
- Consultation Report – The HHS Consultation Policy calls for an annual HHS Consultation Report, compiled by the Office of Intergovernmental Affairs. Once compiled, the report is distributed to every Tribe in the country, as well as national and regional Tribal organizations. This report measures and reports results and outcomes of Tribal consultation activities across the Department held in accordance with the government-to-government relationship with Tribes.

Our consultation policies have also benefited from the establishment of Tribal Advisory Committees, which serve many of our agencies and advise HHS leadership on how best to work with Indian Country. Currently, Tribal Advisory Committees have been established for the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, and Health Research.

These steps highlight HHS's determination to be a leader within the Administration for Tribes and Tribal consultation, and I believe our Department is in full compliance with Executive Order 13175. However, we can and must continually work to improve our services, outreach, and consultation efforts to Indian Country.

In December 2009, I sent a letter to Tribal leaders requesting their feedback and suggestions on how we can improve our consultation efforts. Specifically, I asked how we can improve (1) the accountability of our consultation policy across the Department to ensure all agencies are participating appropriately, (2) our communication and outreach regarding policy or program changes with Tribes, and (3) our annual regional consultation process. I also asked Tribal leaders for any general comments or concerns that would help us improve our policy.

The comments and suggestions we receive will be compiled and used as the foundation for our upcoming regional consultation sessions, to be led by Paul Dioguardi, Director of Intergovernmental Affairs, and Stacey Ecoffey, Principal Advisor for Tribal Affairs – the primary contacts for tribal consultation at HHS. To date, we have received many positive and constructive responses, and I anticipate the regional sessions will focus on our overall policy, format, agency-specific policies, and the Tribal Advisory Committee process. The suggestions we have received to date include improving follow-up to consultation meetings, making clearer distinctions between the Indian Tribes and corporate or non-profit Indian organizations, requiring HHS Operating Divisions to expand consultation opportunities and tailor them to issues particular to those divisions, and allowing Tribes to initiate consultation rather than having federal agencies act unilaterally.

At the conclusion of the planned regional consultation sessions, HHS will convene a Tribal-Federal Work Group whose task it will be to review the reports of the regional sessions and develop a strategy for implementing improvements to our Department-wide consultation policy. Simultaneously, we will work to establish agency-specific consultation policies in those divisions without a current plan, and create a Secretary's Tribal Advisory Committee for the Department. I look forward to sharing the results of these efforts with you next fall.

I take the Department's responsibility with respect to Tribal consultation very seriously and look forward to working with you as we continue to improve our relationship and build healthier communities in this Administration.

Sincerely,

Kathleen Sebelius

Enclosure: HHS Department Tribal Consultation Policy

Dear Tribal Leader:

On November 4, the Department of Health and Human Services (HHS) hosted a Roundtable with Tribal Leaders. Over 115 Tribes participated, and we were grateful for the opportunity to hear from you first-hand about your experiences interacting with the Department and your thoughts on improving our relationship. We have posted the summary of that session on our website at <http://www.hhs.gov/ofta>.

The next day, at the White House Tribal Nations Conference, President Obama signed a Presidential Memorandum outlining his direction to all executive agencies to come into compliance with Executive Order 13175, regarding consultation and coordination with Indian Tribal Governments.

HHS has taken its responsibility to comply with Executive Order 13175 very seriously over the past decade -- including the initial implementation of a Department-wide policy on Tribal consultation and coordination in 1997, and through multiple evaluations and revisions of that policy, most recently in 2008. Many HHS agencies have already developed their own agency-specific consultation policies that complement the Department-wide efforts. Our consultation policies have also benefited from the establishment of Tribal Advisory Committees, which serve many of our agencies and advise HHS leadership on how best to work with Indian Country in order to continue incorporating your ideas and recommendations into our policies.

However, we can and must continually work to improve our services, outreach, and consultation efforts to Indian Country. To ensure HHS is in full compliance with the President's recent memorandum, I am asking for your help to improve our consultation policy. Specific questions we believe need to be addressed, and on which we need your input, are listed below. Of course, in addition to these questions, we recognize you may have comments and suggestions on other issues, and we welcome those as well.

1. How do we improve the accountability of our consultation policy across the Department to ensure all agencies are participating appropriately?
2. How do we improve our communication and outreach regarding policy or program changes with Tribes?
3. How do we improve our annual regional consultations? Should we continue to have sessions every year or every other year, or should we host national sessions? Please provide us with your suggestions.
4. What comments or concerns do you have that will help us improve the Department's Tribal Consultation Policy?

We have posted the HHS Tribal Consultation Policy on our web site at <http://www.hhs.gov/ofta> for your review, and ask that you provide comments no later than January 8, 2009. Please email your thoughts to us at HHSIGA@hhs.gov, or call Stacey Ecoffey, Principal Advisor for Tribal Affairs, at 202-690-6060.

We plan to discuss the feedback we receive about the HHS Consultation Policy during our 2010 Regional Tribal Consultation Sessions, which will also include a discussion of the structure of

these regional sessions and next steps for review and updates to our Departmental consultation policy. Dates and locations for the Regional Consultations will be finalized in early 2010.

Thank you for your continued support and hard work. I take the Department's responsibility with respect to Tribal consultation very seriously, and look forward to working with you as we continue to improve our relationship and build healthier communities.

Sincerely,

Kathleen Sebelius