

UNITED STATES DEPARTMENT OF AGRICULTURE

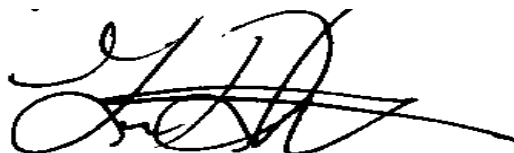
Farm Service Agency
Washington, DC 20250

Notice AO-1665

For: State and County Offices

American Indian Alaskan Native Outreach Responsibilities

Approved by: Deputy Administrator, Field Operations



1 Overview

A Background

The United States Government has a unique, legal and political relationship with Indians and their tribal governments as defined through treaties, statutes, court decisions, and Executive Order 13175.

Tribes are sovereign which means they possess all powers of self-government except those relinquished under treaty with the United States, those that Congress has expressly extinguished, and those that federal courts have ruled are subject to existing federal law or are inconsistent with overriding national policies. This creates a unique opportunity and different responsibilities and practices of which to be aware.

To ensure that American Indians and Alaska Natives (AI/AN) have full access to the programs and services of USDA, it is essential that all agencies of USDA engage with tribes in timely and meaningful consultations, coordinate and collaborate to foster information exchange, mutual understanding and informed decision-making.

It is the policy of USDA to provide opportunities for all rural Americans through effective and efficient coordination of USDA agricultural and rural development programs within each State, county, and tribal jurisdiction. Outreach and education are critical to promoting participation in FSA programs and services with tribes.

Disposal Date	Distribution
January 1, 2017	State Offices; State Offices relay to County Offices

1 Overview (Continued)

B Purpose

This notice:

- educates FSA employees about responsibilities when working with tribal governments and tribal land grant universities
- provides guidance on working with tribes, NRCS, and RD to provide FSA presence at sub-offices or program delivery point on American Indian reservations as determined by SED's and STC
- provides advice about training levels, deadlines, and requirements for all USDA employees
- obsoletes Notice AO-1664.

C Contacts

If there are questions about tribal outreach and non-consultation meetings:

- State Offices shall contact Linda Cronin, Lead Outreach Program Manager, by:
 - e-mail at **fsaoutreach@wdc.usda.gov**
 - telephone at 202-690-1700
- County Offices shall contact the State Outreach Coordinator.

If there are questions about tribal consultations and consultation training, State Offices should contact Ben Horter, FSA's Tribal Consultation Officer, DAFP/CEPD by:

- e-mail at **ben.horter@wdc.usda.gov**
- telephone at 202-690-1164.

2 Defining FSA Responsibilities to Tribes

A Federally Recognized and Non-Federally Recognized Tribes

Currently, there are 567 federally recognized tribes in the United States. The government-to-government relationship between the U.S. and federally recognized Indian tribes dictates that the principal focus for USDA consultation is with individual Tribal governments.

There are also groups of American Indian/Alaska Native people who are either self-organized or recognized by the States, but which do not have status as federally-recognized Tribes. The federal government **does not** have the authority or responsibility to consult with these groups on a government to government basis.

Note: Program outreach and informational meetings (not consultations) shall be conducted with **all** potentially eligible persons, including non-federally recognized tribes.

2 Defining FSA Responsibilities to Tribes (Continued)

B Tribal Consultations

Executive Order (EO) 13175 is the main authority that requires Federal agencies, including FSA, to consult with tribes on policy development through the form of consultations. These consultations are always conducted on a government-to-government basis. A tribal consultation is the timely meaningful, and substantive dialogue between USDA officials who have delegated authority to consult, and the official leadership of federally recognized Indian tribes, or their designated representative(s), pertaining to USDA policies that may have tribal implications. Consultations are always conducted on a government-to-government basis.

Following is an example of how an FSA office consults with tribes.

The National Historic Preservation Act (NHPA) Section 106 Process.

- If a tribe has a Tribal Historic Preservation Officer (THPO), then FSA staff can consult with the officer the same as consulting with the State Historic Preservation Officers (SHPO) for all FSA projects that require review under Section 106.
- If a tribe does **not** have a THPO, FSA should then consult with the tribe on a government-to-government basis unless it has been agreed upon by the tribal government and the SED that this consultation can be delegated to staff members and determine who (by title) these staff members can be.

Each SED is encouraged to work with all resident tribal governments to establish individual tribal protocol agreements to determine how Section 106 consultations should be conducted between FSA and the individual tribes in the State.

For Section 106 purposes, FSA must also consult with Tribes who are no longer resident in that State but have attached religious or cultural significance to parts of the State, as the tribe had ancestral territory in the State.

FSA offices should work with their State Environmental Coordinators (SEC) for guidance on Section 106 consultation policies in their State. Further guidance is forthcoming in a 1-EQ amendment.

C Non-Consultation Meetings

Non-consultation meetings are not dialogues to consult, but to inform. FSA employees should regularly engage in non-consultation activities with tribes that offer educational opportunities about the availability of FSA program assistance. Some activities include:

- notifications (the distribution of information from the FSA office to one or more tribes)
- outreach activities (meetings, workshops, field days with tribal producers/youth).

These are essential activities and are **not** considered government-to-government consultations.

2 Defining FSA Responsibilities to Tribes (Continued)

D FSA Services on Indian Reservations

Departmental Regulation (DR) 1340-002 requires that FSA, NRCS and RD establish consolidated sub-offices at the tribal headquarters of those Tribes requesting additional USDA services from 1 of the State Offices.

SED's and STC's shall meet with tribal contact at each reservation located within State borders to advise if the tribe determines a significant number of tribal members who conduct business or wish to conduct business with FSA, the tribe should request FSA establish a consolidated sub-office or FSA program delivery point, at the tribal headquarters.

FSA SED and STC working with the tribal leaders shall evaluate the level of need and determine 1 or more of the following options to provide the requested service.

- Service can be provided to the reservation at least one day per week by a nearby FSA Service Center, or as otherwise agreed upon by the tribal leaders and the SED.
- Office space can be provided at no cost in tribal headquarters or shall be leased pursuant to federal leasing regulations and the provisions of 33-AS, if needed.
- If NRCS has an existing presence on the reservation, the SED should coordinate with the State Conservationist to share office space.
- A cooperative agreement/memorandum of understanding shall be entered into between FSA, other applicable USDA agencies, and the tribal government to provide FSA services and the necessary office space.

SED's and STC's are encouraged to work with NRCS and RD State leadership (SFAC) to inquire and identify existing agreements and offices that have been provided for USDA in the State. Additional guidance will be providing in a forthcoming 16-AO Amendment.

2 Defining FSA Responsibilities to Tribes (Continued)

E Collaborative Tribal Strategies and Outreach Plans

SED's and State Outreach Coordinators (SOC's) **located in States with federally recognized tribes** should work with the NRCS Chief, RD State Director, NRCS and RD tribal liaisons assigned to the State to develop an outreach plan that includes the following:

- strategy and actions for USDA services on tribal reservations
- strategies and actions for conducting program and COC outreach
- listing of 1994 Morrill Act land grant tribal colleges and universities (TCU's) and high schools located in the State and plans to encourage agribusiness development skills and awareness
- attachment of any current USDA MOU's/agreements with tribe(s) in the State.

SED's and SOC's shall ensure that all County Offices have a copy of the State Tribal Plan and monitor each county's activities with tribes, TCU's and other tribal partner organizations in OTIS.

3 Employee Resources

A Training and Education

There are 567 federally recognized tribes and 34 land grant TCU's located in the United States. All FSA employees are required to complete training before working with federally recognized tribal producers and leaders based on the following employee levels:

- **Level 1 training:** Administrator, Deputy Administrators, senior staff. FSA leaders are required to understand the background and process to successfully implement the President's Tribal Consultation agenda.
- **Level 2 training:** SED's are designated to conduct tribal consultations. Training for those delegated should include the legal relationship between tribes and the U.S. government; the definition of tribal sovereignty trust responsibility; ramifications of the USDA Tribal Consultation; and cultural competency training.
- **Level 3 training:** All State and county employees (Excluding STC's and COC's) are required to complete the online training "Working Effectively with Tribal Governments" available in **AgLearn before September 30, 2016.**

Note: Employees working closely with tribal producers are encouraged to complete other forms of interactive training. Suggestions are posted in the Tribal Outreach Toolkit referenced in subparagraph B.

3 Employee Resources (Continued)

B Tribal Outreach Toolkit

Resources are available to employees on the DAFO Outreach SharePoint web site at <https://sharepoint.fsa.usda.net/mgr/DAFO/Outreach>. The information posted includes:

- executive orders, DR's, MOU's and other useful guidance documents
- map and listing of federally recognized tribes
- tribal leader directory
- tribal outreach plan template (for States with federally recognized tribes)
- NASS census reservation data
- list/map of tribal colleges and universities, and USDA liaisons
- AI/AN culture card
- list of Intertribal Ag Council (IAC) outreach coordinators
- biographies of USDA's Council for Native American Farmers and Ranchers Committee
- FSA tribal cooperators and State work plans
- tribal education training slides.

Link to intranet page: <https://sharepoint.fsa.usda.net/mgr/DAFO/Outreach>.