

National Institutes of Health **Tribal Consultation Policy**

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Council of Councils Meeting
January 27, 2022



National Institutes of Health
Tribal Health Research Office

Building research partnerships for healthy Tribal Nations

Tribal Nations and the U.S. – A Government-to-Government Relationship, The Foundation for Tribal Consultation



The Treaty of Canandaigua, 1794. Parchment, ink, resin and wafer seals, ribbon. National Archives, Washington, D.C.

- Since the formation of the Union, the U.S. has recognized American Indian Tribes as **sovereign nations**.
- Resulted in the transfer of land under treaties
- Federal programs and services that benefit American Indians and Alaska Natives (AI/AN) are based on this **unique government-to-government relationship**.
- **The relationship is political and legal.** It is not based on race.
- The Federal government recognizes **574 Tribal Nations**, each with their own culture, language, government, and history.
- **Tribal Consultation** is an enhanced form of communication that emphasizes trust, respect, and shared responsibility.

Executive Order 13175 and Successive Executive Memoranda



BRIEFING ROOM

Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships

JANUARY 26, 2021 • PRESIDENTIAL ACTIONS

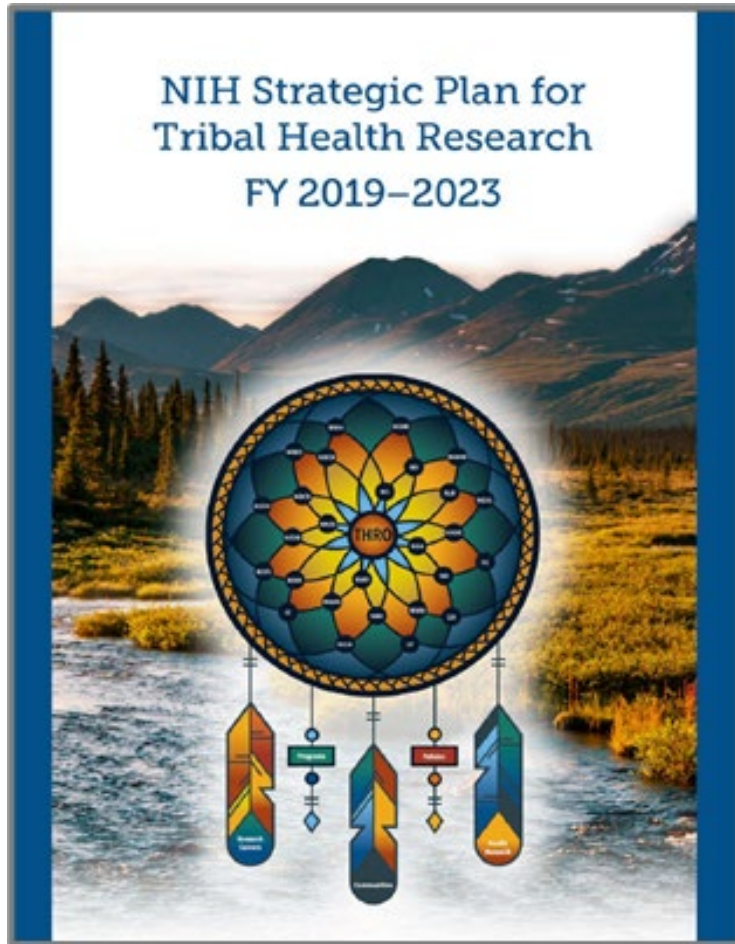
January 26, 2021

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Tribal Consultation and Strengthening Nation-to-Nation Relationships

- Executive Memorandum: January 2021
 - Respect for Tribal Sovereignty
 - Regular, meaningful, and robust consultation with Tribal Nations
- Presidential Memorandum: November 2009
 - Requires agencies to prepare and update plans of action to implement EO 13175.
- Executive Order 13175: November 2000
 - Charges all executive departments and agencies with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of Federal policies that have Tribal implications.

NIH Tribal Health Research Office (Established 2015)

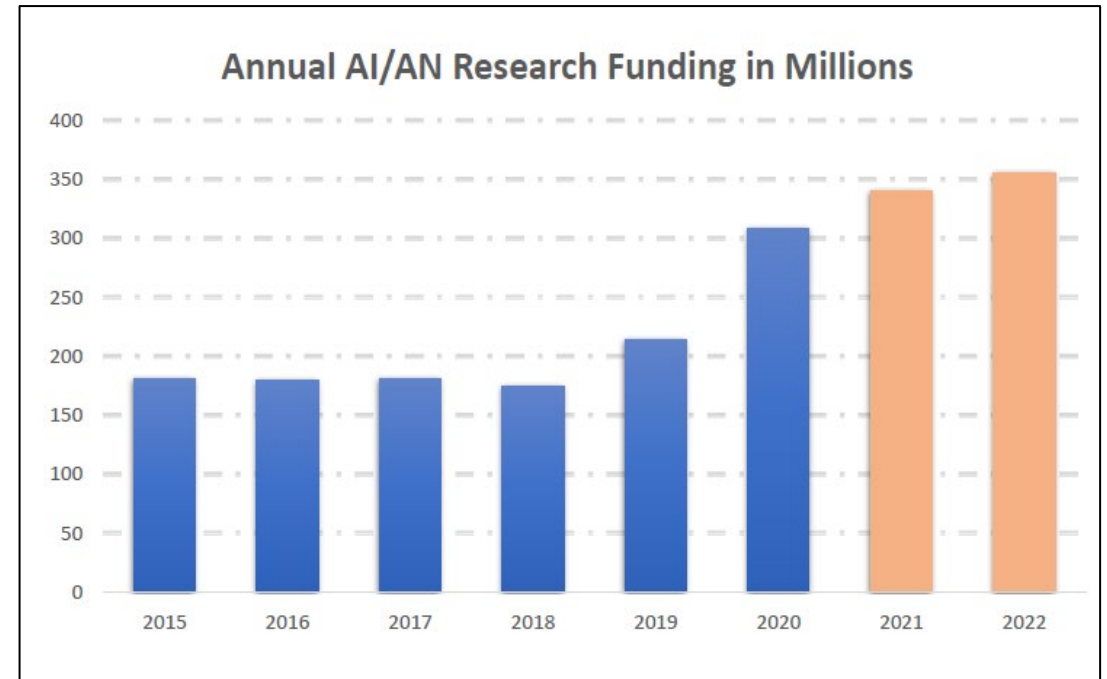


- Central hub for coordinating Tribal health research and AI/AN capacity building across NIH
- Supports IC efforts to meet Strategic Plan Goals and works with the trans-NIH THRO Coordinating Committee (THRCC)
- **Ensures that NIH adheres to the “NIH Guidance on the Implementation of the HHS Tribal Consultation Policy”**
- **Gathers meaningful input from Tribal communities on NIH research policies, programs, and priorities**
- Convenes NIH Tribal Advisory Committee with Tribal leaders from across the country

NIH's AI/AN Research Portfolio

FY2018 Portfolio Analysis:

- **NIH Investment of \$180M**
- Supported **254** research base projects specifically focused on AI/AN health or community resource needs in FY18
- **10 ICs and the OD** provided approximately \$141M or 78% of the funding
- Funding level has remained relatively constant since FY15.
- **43% - Research**
 - 30% - Infrastructure and community outreach
 - 28% - Workforce development
- 16% of the NIH AI/AN funding fell under umbrella funding opportunities, like **NARCH** and **IRINAH**.



<https://report.nih.gov/>

NIH Tribal Consultations: Honoring Commitments, Building Relationships

Past

- 2020 Rapid-Response NIH Tribal Consultation on COVID-19 Research
- 2019-2020 NIH Draft Policy for Data Management and Sharing
- 2019-2020 *All of Us* Research Program
- 2019 Intellectual Property in Biomedical Research
- 2018 Opioid Crisis in Indian Country
- 2017 NIH Strategic Plan for Tribal Health Research

Current

- 2021-2022 NIH Draft Tribal Consultation Policy
- 2021 Native American Research Centers for Health Program (NARCH)
- 2021 RADx Tribal Data Repository (TDR)

Upcoming

- 2022 National COVID-19 Cohort Collaborative (N3C) – *Scheduled for February 11, 2022*

Draft NIH Tribal Consultation Policy

- Extensive input from NIH Tribal Advisory Committee (TAC) and NIH Office of Science Policy (OSP)
- Respects Tribal Sovereignty and strengthens Nation-to-Nation relationships
- Complements HHS Tribal Consultation Policy
- Focuses on NIH-specific issues
- Will replace current 2014 guidance

U.S. Department of Health and Human Services
National Institutes of Health
Tribal Consultation Draft Policy

The National Institutes of Health (NIH), an operating division of the U.S. Department of Health and Human Services (HHS), is committed to supporting the health of American Indians and Alaska Natives (AI/AN). Through enhanced communication and collaboration between NIH and AI/AN communities, NIH strives to build biomedical research capacity, expand research, and enhance cultural competency and community engagement. NIH and Indian Tribes share the goal to establish clear policies that recognize and respect the government-to-government relationship between the Federal Government and Indian Tribes.

1. Purpose

The purpose of the NIH Tribal Consultation Policy (also referred to as “the Policy” in this document) is to establish an effective, meaningful, and transparent process by which the NIH will engage Indian Tribes in Consultation. The Policy is intended to complement the HHS Tribal Consultation Policy by focusing on NIH specific issues and replace 2014 NIH Guidance on the Implementation of the HHS Tribal Consultation Policy (<https://dpcpsi.nih.gov/thro/policy>). This will ensure a standard process for all NIH Institutes, Centers, and Offices (ICOs) to follow.

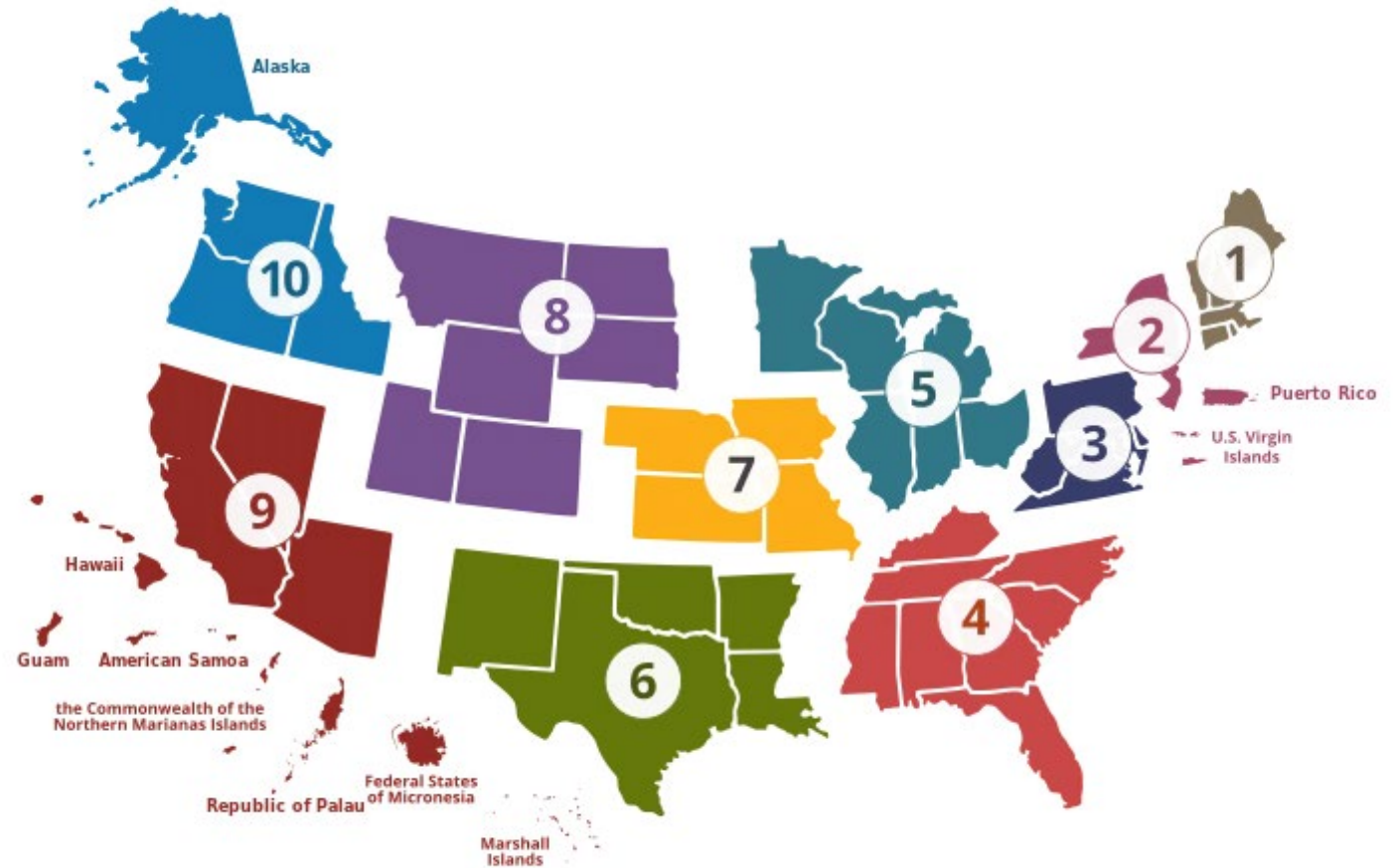
2. Background

In December 2010, HHS issued a Tribal Consultation Policy which states that before any HHS action is taken that will significantly affect Indian Tribes, Consultation with Indian Tribes will occur to the extent practicable and permitted by law. The HHS Tribal Consultation Policy called on each HHS Operating and Staff Division to have an accountable process for ensuring meaningful and timely input by Indian Tribes in the development of policies that have Tribal implications (see <https://www.hhs.gov/about/agencies/iea/tribal-affairs/consultation/index.html>). In 2014, NIH released the *NIH Guidance on the Implementation of the HHS Tribal Consultation Policy* ensure NIH supports establishing a transparent process, including clear expectations for timelines and deliverables, to ensure

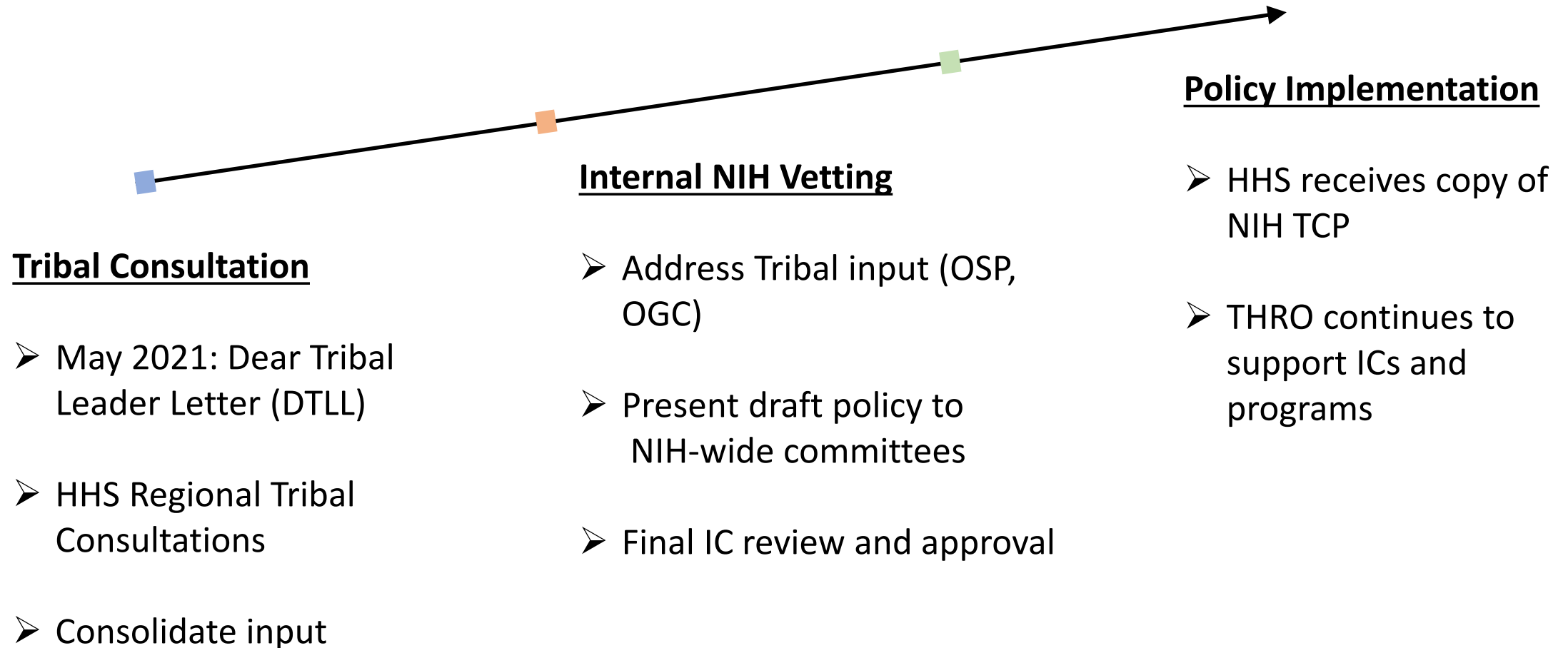
HHS 2021 Regional Tribal Consultations

NIH Tribal Consultation

- May 2021 – September 2021
- Aligned with 10 HHS Regional Tribal Consultations
- NIH Representation:
 - NIH Principal Deputy Director **Dr. Tabak**
 - NIH Deputy Director, DPCPSI Director **Dr. Anderson**
 - NIH THRO Director **Dr. Wilson**



2021-22 NIH Tribal Consultation Process



Tribal Consultation at NIH: The Process

Phases:

Critical Event



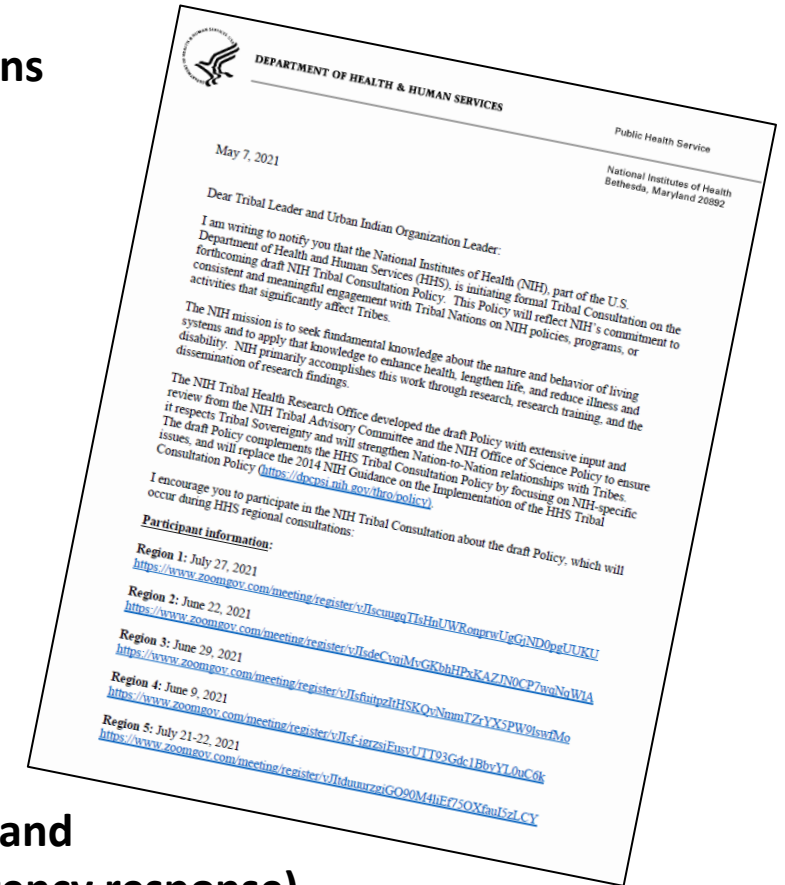
Hold Consultation



Report Outcomes/Decisions

Draft Policy Includes:

- **Timelines** for steps (30 days, 60 days, etc.)
- Descriptions of roles of NIH entities (**Who does what, and when**)
- **Requirements for tracking outcomes and actions**
- **At least one annual Tribal Consultation**
- **A standard process** for all NIH components to follow
- Agency requirements to **seek Tribal feedback, evaluate Policy implementation and effectiveness, and report back** (Consultation Report summarizing input and agency response)



Tribal Consultation at NIH: The Process

Policy Key Components

➤ Critical Events

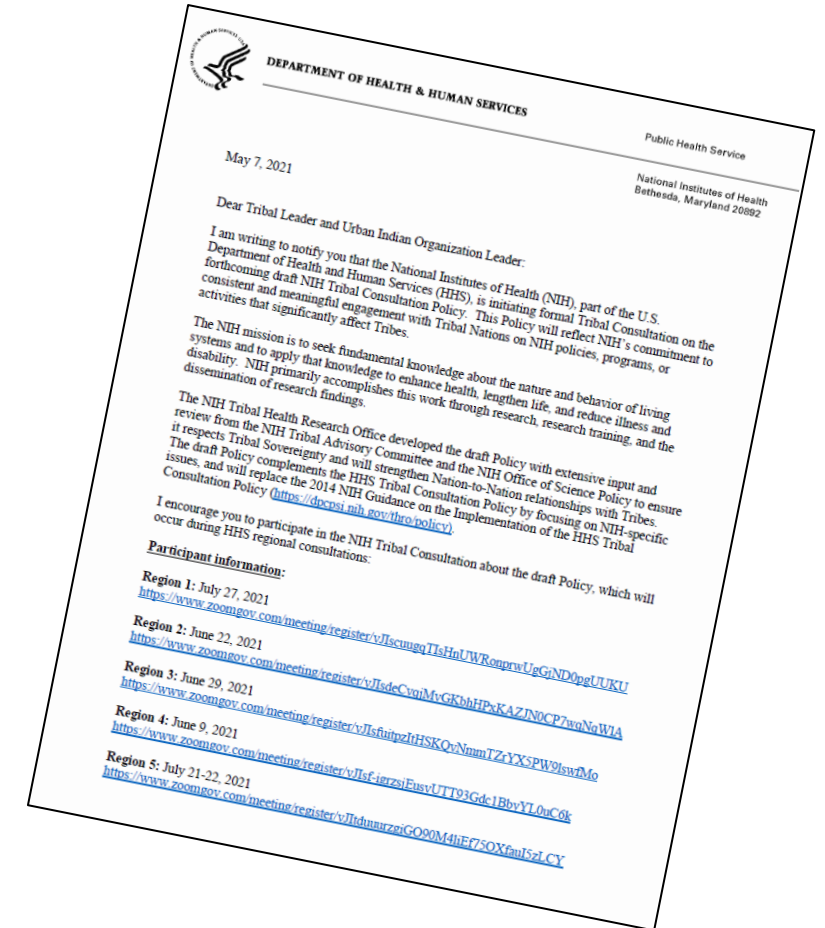
- Planned or unplanned event that has or may have a substantial impact on Indian Tribes. This includes ongoing, proposed, and current NIH policies, programs, and research projects.

➤ Engagement Strategy

- Appropriate to nature of event (*Virtual options well-received during COVID-19*)

➤ Consultation Roles

- NIH ICOs, THRO, NIH TAC



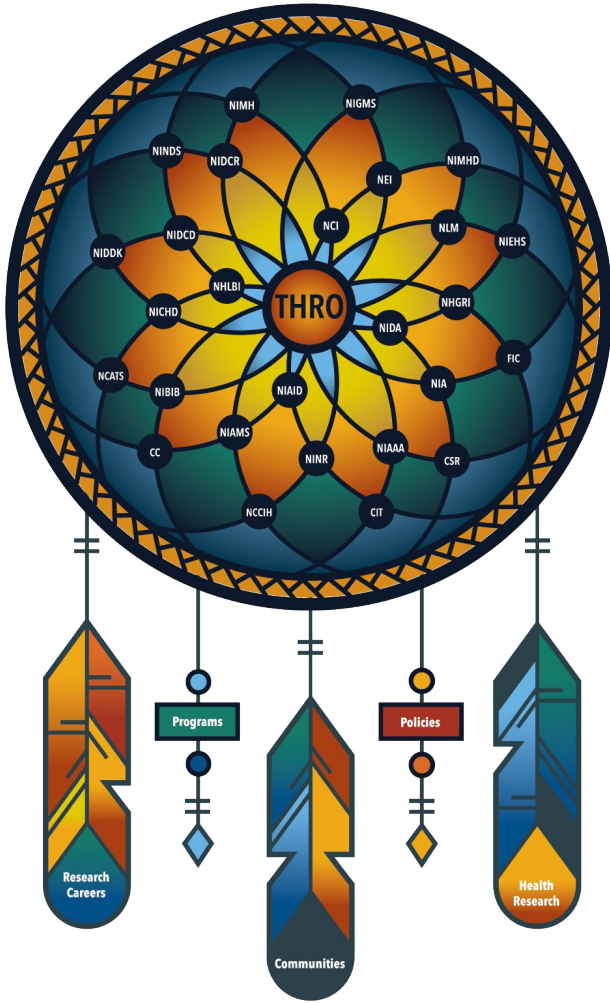
Addressing Tribal Input

Input from Tribal Leaders

- **Consultation Objectives**
 - Improve communication channels with Indian Tribes
 - Increase knowledge and understanding of NIH programs, research projects and priorities.
- **Reporting**
 - Transparency
 - Outcomes of Tribal Input

Input from Tribal Organizations

- **Agency Representation**
 - Nation-to-Nation; Leader-to-Leader
- **Consultation: Early and Ongoing**
 - Executive Order 13175
 - Early engagement for decision-making and agency action
- **Clarity and Transparency**
 - Framing documents, webinars, etc.



Thank you

Questions?

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