

## Questionnaire to Governments

**Country: United States**

### **Question 1**

**Briefly state what recommendations from the Ninth Session of the United Nations Permanent Forum on Indigenous Issues (UNPFII) or recommendations from previous sessions (not addressed in previous reports) were addressed by your Government.**

As President Barack Obama explained at the White House Tribal Nations Conference on December 16, 2010, the United States Government has been working to strengthen its relationship with Native American tribes. As a part of that effort, U.S. and tribal officials have together developed a comprehensive strategy to help meet the challenges facing Native American communities. Many of the priorities identified by tribal leaders correspond to recommendations made by the UNPFII at its Ninth and previous sessions.

Among the most noteworthy steps the United States took last year was President Obama's announcement on December 16, 2010, in response to the many calls from Native Americans and in order to further U.S. policy on indigenous issues, that the United States has changed its position on the UN Declaration on the Rights of Indigenous Peoples and is lending its support to the Declaration.

President Obama indicated that the Administration was releasing a more detailed, written statement regarding U.S. support for the Declaration. That document – titled “Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples – Initiatives to Promote the Government-to-Government Relationship & Improve the Lives of Indigenous Peoples” – explains U.S. support for the Declaration and describes recent federal government work on many indigenous issues. The full text of the statement can be found at: <http://www.state.gov/documents/organization/153223.pdf>

### **Question 2**

**Please provide a brief account of some of your Governments' efforts regarding indigenous peoples and the Millennium Development Goals?**

As detailed in our answer to Question 3, the United States has undertaken various efforts regarding indigenous peoples and the Millennium Development Goals. The Obama Administration has prioritized funding for Indian housing and education, which supports both eradicating extreme poverty and hunger and achieving universal primary education. The United States has also invested significant resources in managing wildfires and improving habitat, addressing contamination and degradation, and supporting renewable energy resources, all of which contribute to realizing environmental sustainability.

### **Question 3**

**At its tenth session in 2011, UNPFII will review its recommendations in relation to (a) Economic and Social Development; (b) Environment; (c) Free, Prior and Informed Consent. Briefly state how your Government deals with these issues in regards to indigenous peoples.**

The United States is engaged in numerous initiatives to address the concerns raised by Native American leaders, including in the areas addressed by the UNPFII recommendations referenced in this question. Many involve the continuation of activities highlighted in the White House Tribal Nations Conference Progress Report released in June 2010.

#### **Q3(a) Economic and Social Development**

The Obama Administration has taken numerous steps, in coordination with the affected tribes, to promote the economic and social well-being of indigenous peoples in the United States. Specific examples in the United States include:

##### *Employment and Training*

- The President's FY 2011 Budget Request includes \$55 million (representing a 4% increase over FY 2010 funding) for the Employment and Training Administration's Indian and Native American Program, which provides grants to tribes and Native American non-profits to provide employment and training services to unemployed and low-income Native Americans, Alaska Natives, and Native Hawaiians. Additionally, the American Recovery and Reinvestment Act of 2009 ("Recovery Act") allocated over \$17 million for the Native American Supplemental Youth Service Program.
- In addition, during the summer of 2010, the United States awarded approximately \$53 million to 178 grantees to provide quality employment and training services specifically for Native American adults who are unemployed, underemployed and low-income individuals. It awarded an additional \$13.8 million in grants to 78 tribes, tribal consortiums, and tribal non-profit organizations to offer summer employment and training activities for American Indian, Alaska Native, and Native Hawaiian youth between the ages of 14 and 21. In addition, the Recovery Act included \$17.8 million in grant funding for Native American youth activities, including summer employment and training opportunities.
- The United States has collaborated with tribal colleges and universities through the Workforce Recruitment Program to provide internship opportunities for students with federal employers. U.S. tribal colleges and universities and the National Indian Health Board have worked together to develop a training curriculum for tribal members with disabilities that will provide the opportunity for them to become Community Health Aides. In addition, an initiative known as

“Add Us In” was designed to identify and develop strategies to increase employment opportunities within the small business community for individuals with disabilities.

- The United States has a program to strengthen the economic health of Native American communities generally. The Native American Community Development Financial Institutions (CDFI) Assistance Program, or NACA Program, now includes 57 certified Native CDFIs. CDFIs are non-government financial entities whose primary mission is to promote community development, principally by serving and being accountable to low-income communities, and by providing development services. Native participation in NACA increased significantly in 2009 and 2010, and on April 30, 2010, the CDFI Fund announced awards totaling \$10.3 million to be used for small business/venture capital, affordable housing, and consumer loans.

### *Housing*

- To assist with addressing housing needs, the Recovery Act allocated \$510 million for the Native American Housing Block Grant program for new housing construction, acquisition, rehabilitation, and infrastructure development. By December 1, 2010, tribal recipients had already expended almost two-thirds of those funds for new construction, rehabilitations, energy-efficient improvements, and infrastructure development in Indian Country.
- On October 12, 2010, President Obama signed into law the Indian Veterans Housing Opportunity Act. The new law will benefit disabled Native American veterans and their families who might otherwise be ineligible for low-income housing assistance under the Department of Housing and Urban Development’s program.
- In 2011 and 2012, the United States will conduct a comprehensive, national Native American Housing Needs Assessment Study.

### *Education*

- The United States is also committed to supporting Native Americans’ success in K-12 and higher education. The Recovery Act invested \$170.5 million in Indian education and \$277 million in Indian school construction. The President’s FY 2011 Budget Request provides \$31.7 million in funding for Tribally Controlled Colleges and Universities, a 5% increase over FY 2010. The Budget Request includes \$127 million for postsecondary education for Native Americans.
- The Health Care and Education Reconciliation Act increases the maximum Pell Grant award by the Consumer Price Index, which is estimated to raise the award from \$5,550 to \$5,975, according to the Congressional Budget Office. In

addition, the law provides \$300 million for Tribally Controlled Colleges and Universities, \$50 million for Native American-Serving Nontribal Institutions, and \$150 million for Alaska Native and Native Hawaiian-Serving Institutions over the next ten years. These efforts are in response to the concerns of Native American leaders.

- The United States is also working to combat discrimination against Native Americans in education. In March 2011, the Department of Education's Office for Civil Rights will provide technical assistance on civil rights issues that affect Native American communities in California, with particular focus on national origin and race discrimination, harassment, and bullying, to an audience of parents, activists, tribal leaders, teachers, and school leaders. In fall 2011, the Office for Civil Rights and the Department of Health and Human Services will provide technical assistance to parents and students, as well as social outreach service providers for the Native American communities, on civil rights issues that affect Native American communities in Minnesota and North Dakota.

#### *Broadband Access*

- The United States recently awarded \$32 million to bring high speed, affordable broadband to the Navajo Nation. The United States also provided grants and loans totaling over \$158 million to expand broadband access in tribal communities through the Broadband Initiatives Program.
- The United States awarded almost 30 percent of the \$4.7 billion that the Department of Commerce received from the Recovery Act to Indian tribes and recipients to benefit tribal areas. This funding will be used to increase access to broadband services in underserved areas of the country.

#### *Infrastructure Development*

- The United States made \$216.3 million in Recovery Act investments benefiting American Indian and Alaska Native populations, including \$36.3 million for community water and wastewater infrastructure, \$97.5 million for community facilities, and \$81.1 million for single family housing (691 home loans). In addition, the Recovery Act allocated \$310 million for the Indian Reservation Roads Program and over \$142 million for roads maintenance.

### **Q3(b) Environment**

The United States is committed to protecting the environment, and recognizes that many indigenous peoples depend on a healthy environment for subsistence fishing, hunting and gathering. While there is far more that needs to be done, the United States is taking many steps, in coordination with the affected tribes, to address environmental challenges in Indian Country and beyond.

Specific examples in the United States include:

*Wildfire Management and Improvement of Habitat*

- The United States devoted \$37.3 million in Recovery Act funds directly to tribes for wild land fire management and the improvement of habitat and watersheds. Of the total Forest Service funding received under the Recovery Act, \$213 million was provided to benefit tribes and tribal lands.
- In 2010, the United States provided grants worth more than \$7 million through the Tribal Wildlife Grants Program for 42 Native American tribes to fund a wide range of conservation projects in sixteen states. The program has provided more than \$50 million in the past eight years for 400 conservation projects administered by 162 federally recognized tribes. The grants provide technical and financial assistance for the development and implementation of projects that benefit fish and wildlife resources and their habitat, including non-game species.
- The United States also consults formally and informally with the Northwest treaty tribes when considering the designation of critical habitat for endangered species, including salmon, to ensure the United States is informed of relevant tribal science and any potential impacts to the tribes that may arise from a designation of tribal lands as critical habitat. Documented information from these consultations has ensured the protection of listed species and minimized any impact to tribal trust resources. Additionally, the United States consults with four tribes with ocean treaty fishing rights for groundfish in conjunction with the Pacific Fishery Management Council process. An example of the success of this practice is that, in 2010, the United States adopted a tribal whiting allocation that was agreed to by all affected tribes and the State of Washington.
- In July 2010, President Obama signed Executive Order 13547, Stewardship of the Ocean, our Coasts, and the Great Lakes, drafted with substantial input from tribes, which established a Governance Coordination Committee with three tribal representatives, as well as tribal engagement in developing priority action areas. Of special interest are the priority areas of the Arctic and developing coastal and marine spatial plans.
- The United States has engaged in numerous cooperative resource protection efforts with tribes, including a water quality and biologic condition assessments agreement with the Sac and Fox on the Iowa River, restoration of the Klamath River through possible dam removal and in partnership with the Klamath River Basin tribes, and assistance to the Great Lakes Indian Fish and Wildlife Commission to assess the impact of land use and climate change on wetlands.

*Addressing Contamination and Degradation*

- In 2009, the United States reached an agreement for over \$1.79 billion to address

contamination at over 80 sites in 19 states pursuant to resolution of the American Smelting and Refining Company, LLC (ASARCO) bankruptcy. The settlement includes approximately \$194 million for the recovery of wildlife, habitat, and other natural resources managed by federal, state, and tribal governments at more than a dozen sites. The settlement is part of the largest environmental damage bankruptcy case in U.S. history, and resolves ASARCO's environmental liabilities from mining and smelting operations that contaminated land, water, and wildlife resources on federal, state, tribal, and private land.

- Over the past year, the United States awarded targeted grants to tribes for specific preventative tasks to address environmental degradation, including \$150,000 to the Eight Northern Indian Pueblo Council to establish a Brownfields Tribal Response Program that will promote environmental health for several Pueblos and tribes in New Mexico and West Texas. Two additional grants were made for projects run by tribes in the Upper Peninsula of Michigan as a part of President Obama's Great Lakes Restoration Initiative, a \$475 million program that represents the largest investment in the Great Lakes in two decades. The grants are to the Keweenaw Bay Indian Community to develop a sustainable hazardous waste collection program to serve tribal and non-tribal community members, and help prevent toxic contaminants from entering Lake Superior, and to the Little Traverse Bay Bands of Odawa to improve habitat and water quality in the Bear River Watershed, which directly affects waters flowing into Little Traverse Bay on Lake Michigan.
- The United States has also worked closely with the Shoshone-Bannock Tribes to clean up contamination from Cold War storage of hazardous waste at the Idaho National Laboratory, the tribes' ancestral home. The Shoshone-Bannock Tribes have the technical capabilities and qualifications, funded by a U.S.-Idaho Cooperative Agreement, to assist the regulators in reviewing the effectiveness of the cleanup work and assuring that the environment, and particularly the Snake River Plain Aquifer, are not contaminated or threatened.

#### *Supporting Renewable Energy Resources and Other Projects*

- The United States provides grants to many Indian communities to allow them to develop renewable energy resources and energy efficiency measures in their communities in ways that benefit not only those communities, but the whole planet, while serving as models for other U.S. communities. With U.S. assistance, tribes are developing a wide range of renewable energy resources and conservation measures, including geothermal, solar energy, wind and biomass technologies and comprehensive recycling programs. These programs reduce the carbon footprint of tribal communities, while creating jobs and reducing costs.
- The United States also invested \$84.8 million in water and environmental projects benefitting tribal communities in the lower 48 U.S. states during FY 2010 and an additional \$66.2 million for similar projects benefitting tribal communities in

Alaska through the Rural Alaska Village Grants program. A further \$120.8 million was invested in essential community facilities benefitting tribal communities.

### **Q3(c) Free, Prior and Informed Consent**

U.S. Government efforts to strengthen the government-to-government relationship with tribes is crucial so that U.S. government agencies have the necessary input from tribal leaders before those agencies take actions that have a significant impact on tribes. It is for this reason that President Obama signed a [Presidential Memorandum](#) in 2009 (available at <http://www.whitehouse.gov/the-press-office/memorandum-tribal-consultation-signed-president>) on the implementation of Executive Order 13175 — Consultation and Coordination with Indian Tribal Governments, and directed all federal agencies to develop detailed plans of action to implement the Executive Order.

In this regard, the United States, in lending its support to the UN Declaration on the Rights of Indigenous Peoples, recognized the significance of the Declaration's provisions on free, prior and informed consent, which the United States understands to call for a process of meaningful consultation with tribal leaders before the actions addressed in those consultations are taken.

The United States intends to continue to consult and cooperate in good faith with federally recognized tribes and, as applicable, Native Hawaiians, on policies that directly and substantially affect them and to improve our cooperation and consultation processes, in accordance with U.S. federal law and President Obama's call for better implementation of Executive Order 13175. The United States does so with the firm policy objective, where possible, of obtaining the agreement of those tribes consistent with our democratic system and laws. At the same time, the United States intends to improve our engagement with other indigenous individuals and groups. The United States will also continue to implement the many U.S. laws that require the agreement of federally recognized tribes or indigenous groups before certain actions can be taken or that require redress for takings of property.

U.S. Government efforts in this area are numerous. U.S. federal agencies have submitted the consultation plans required by the Presidential Memorandum and are currently implementing them. A number of agencies have created new offices to ensure proper implementation of their consultation policies. Examples are the Office of Tribal Government Relations in the Department of Veterans Affairs, which will be established in 2011, and the Office of Tribal Relations in the Department of Agriculture. Other agencies, like the Department of Energy, found it appropriate to establish a Tribal Steering Committee to analyze the agencies' consultation practices. Similarly, the Department of Health and Human Services established a Secretary-level Tribal Advisory Committee to create a coordinated, department-wide strategy to improve consultations with Indian tribes. In addition, some agencies have experimented with webinars and other online technology to permit tribal leaders to participate in consultations without incurring the costs and time commitments of in-person sessions. These innovations show

that federal agencies are taking consultations seriously.

In addition, the Obama Administration is continuing its multi-agency collaborations with tribal governments to develop comprehensive policy for Indian Country. Several agencies are working together on policy priorities and are coordinating on consultation sessions. For example, the Departments of the Interior and Education have been working closely to combine and coordinate their resources, and to maximize their efforts to impact Indian education.

Federal agencies have put their consultation plans to work in a wide variety of contexts, and the valuable input received from tribal leaders is reflected throughout U.S. policies and programs in Indian Country.

#### **Question 4**

**What are some of the obstacles your government has encountered in implementing the recommendations of the Permanent Forum?**

The U.S. change of position on the Declaration has increased the awareness among U.S. federal agencies about the work of the UN regarding indigenous peoples. It would be premature at this point to comment on obstacles.

#### **Question 5**

**What are some of the factors that facilitate your government's implementation of the recommendations of the Permanent Forum?**

See our answer to Question 4.

#### **Question 6**

**Please list specific laws and/or policies that address indigenous peoples' issues in your Country.**

It is not possible to list all of the laws and policies that pertain to indigenous peoples in the United States in this answer. Nevertheless, the United States wishes to note several landmark laws and policies that we believe may serve as a model to other States:

- President Nixon's 1973 Message to Congress on Indian Self-Determination
- The 1974 Indian Self-Determination and Education Assistance Act, and its many innovative amendments, including Self-Governance provisions
- The 1994 Native American Graves Protection and Repatriation Act
- President Clinton's 1996 Executive Order 13007 on sacred sites
- President Clinton's 2000 Executive Order 13175 on tribal consultation
- The 2010 Permanent Authorization of the Indian Health Care Improvement Act
- The 2010 Tribal Law and Order Act

#### **Question 7**

**Does your Government have a national institution (ministry, department, ombudsman, etc.) on indigenous peoples' issues?**

YES

NO

**If "Yes", please provide the names and contact details of the focal point on indigenous peoples' issues?**

Historically, the U.S. Congress has placed broad-ranging authority over Indian affairs with the Secretary of the Interior, as reflected in Acts of Congress and often codified in Title 25 of the United States Code. In recent years, specialized authority has also been given to other parts of the executive branch of the federal government whose responsibilities are typically exercised in consultation with the Secretary of the Interior. Day-to-day operations of Indian Affairs at the Department of the Interior are exercised by the Assistant Secretary of the Interior – Indian Affairs and the Secretary, Presidentially-appointed and Senate-confirmed positions.

The Obama Administration appointed a Senior Policy Advisor for Native American Affairs within the White House Domestic Policy Council. The official in that position coordinates issues within the White House and across the entire executive branch of the U.S. government. The position is currently filled by Ms. Kimberly Teehee.

#### **Question 8**

**Does your Government have any formal or ad hoc capacity-building programmes on indigenous peoples' issues for civil servants?**

YES

NO

**If "Yes", please provide a brief description of these programmes.**

Many agencies of the federal government have training courses for federal officials about federal Indian law and policy. One interagency example, developed in the George W. Bush Administration, is a course titled "Working Effectively with Tribal Governments" that can now be viewed on-line at: <http://tribal.golearnportal.org/>.

#### **Question 9**

**Please list information on how your Government currently promotes and/or implements the U.N. Declaration on the Rights of Indigenous Peoples.**

Please see the "Announcement of U.S. Support for the United Nations Declaration on the Rights of Indigenous Peoples – Initiatives to Promote the Government-to-Government Relationship & Improve the Lives of Indigenous Peoples" for an explanation of U.S. support for the Declaration and a description of many recent federal government initiatives consistent with it. The full text of the announcement can be found at: <http://www.state.gov/documents/organization/153223.pdf>.

