

CONSULTATION POLICY

Ysleta Del Sur Pueblo

Preface: This document formalizes the existing procedures for consultation (government to government, or otherwise) between the Pueblo of Ysleta del Sur and the United States federal government including any and all agencies/offices/departments/bureaus therein. This policy statement reflects completely the procedures followed and adhered to by this federally recognized Indian tribe during previous consultations and therefore the procedures to be followed and adhered to in future consultations.

Consultation: Consultation is the formal, bilateral process of negotiation, cooperation and policy-level decision-making between two sovereign entities: the Tigua Tribe of Ysleta del Sur Pueblo and the United States Government or its designate. Consultation, therefore, is a process that leads ultimately to a decision. Consultation is not just a process or a mean to an end. As such, it should not be viewed by others and is not viewed by the Pueblo of Ysleta del Sur as a mere formality during the stages of any project. Consultation is not notifying our Tribal Council that an action will occur, requesting written comments on the action or alternative actions, and then proceeding with the action or one of the a priori alternatives. Such authoritarian, top-down procedures do not constitute consultation because a decision is not affected bilaterally between two sovereign entities.

Consultation Objectives:

- 1) Assures that the Tribal Council and its designates understand fully the technical and legal issues, implications, and probable impacts involved in and resulting from an action or alternatives so that an informed policy-level decision can be made.
- 2) Improved policy-level decision-making of both the Tribal Council and the federal government.
- 3) Bilateral decision-making between and among sovereigns leading to co-managerial structure.
- 4) Protection of Ysleta del Sur Pueblo's cultural and natural resources, cultural tradition, economy and lifestyle.

- 5) Compliance with and respect for Tribal laws and Tribal integrity.
- 6) Full compliance with federal Indian law, federal statutes, and federal policy.
- 7) Develop and achieve mutual decisions through working relationships.
- 8) Improve the integrity and efficacy of decisions over time.
- 9) Recognition that the Tribe is both a stakeholder and regulator in projects that have potential or real impacts on tribal resources, culture, and lifestyle.

Consultation Procedures:

The consultation venue works or proceeds in much the same way that federal agencies typically operate. This means a series of technical meetings followed by a series of policy meetings. The technical meetings provide opportunities for consultation by and with the appropriate technical staff of both entities. The policy meetings provide opportunities for the resolution of those issues left unresolved at the technical level and for the resolution of those issues that are clearly policy grounded. The outcome of this procedure is the development of a common understanding of the technical and legal issues affecting or are affected by a decision. It is this common understanding in a democratized context that provides the basis for decision-making. The Tigua Tribal Council will address more cooperatively those issues with which they had been thoroughly consulted with prior to a decision.

Consultation requires that federal agencies and the Tribal Council fully understand their roles in the context of the federally-mandated government-to-government relationship and the responsibilities which devolve upon the federal government under the Trust doctrine. In this environment, both the Tribal Council and the federal agency will benefit from the perspectives each brings to the table. This means personal communication, which is one of the foundations for meaningful consultation. To make this process work, the following series of activities should guide consultation:

1. Federal agency contacts the Governor of the Pueblo of Ysleta del Sur to inform him of an impending project or to conduct an activity which may or may not impact a tribal resource or tribal concern.
2. The Governor, after meeting with the Tribal Council and/or it designates, responds back to the federal agency that this issue is or is not important. If it is important, the Governor will communicate to the federal agency that the Tribe will initiate consultation.
3. Consultation is initiated through technical staff meetings which will inform the respective staffs in a comprehensive way so that each can brief and/or make recommendations to their

respective policy level entities in an informed way.

4. After the technical staff has briefed the Tribal Council, the Council will define the consultation protocol it wishes to follow, which will typically entail additional technical and policy level meetings, research activities, and a final policy level meeting to make a decision. These are then transmitted in written form to the federal agency. The outcome here should be a memorandum of agreement to establish a working relationship between entities.

5. The consultation protocol is followed.

6. A decision couched in bilateral cooperation between the federal agency and the Tribal Council is formulated. This decision will be fully compliant with federal and tribal laws and policies. The decision will protect the resources to which the Tigua Tribe of Ysleta del Sur Pueblo has specific aboriginal and Spanish land grant reserved rights. The decision will protect the cultural tradition and the religious practices of the Tribe.

This consultation policy will insure that Tribal Council and the federal government have not only communicated but have developed mutual understanding and trust. Within this context, policy level decision-making can and must work.