

# **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**

### **I. Introduction**

In his Presidential Proclamation last month honoring National Native American Heritage Month, President Obama recommitted “to supporting tribal self-determination, security and prosperity for all Native Americans.” He recognized that “[w]hile we cannot erase the scourges or broken promises of our past, we will move ahead together in writing a new, brighter chapter in our joint history.”

It is in this spirit that the United States today proudly lends its support to the United Nations Declaration on the Rights of Indigenous Peoples (Declaration). In September 2007, at the United Nations, 143 countries voted in favor of the Declaration. The United States did not. Today, in response to the many calls from Native Americans throughout this country and in order to further U.S. policy on indigenous issues, President Obama announced that the United States has changed its position. The United States supports the Declaration, which—while not legally binding or a statement of current international law—has both moral and political force. It expresses both the aspirations of indigenous peoples around the world and those of States in seeking to improve their relations with indigenous peoples. Most importantly, it expresses aspirations of the United States, aspirations that this country seeks to achieve within the structure of the U.S. Constitution, laws, and international obligations, while also seeking, where appropriate, to improve our laws and policies.

U.S. support for the Declaration goes hand in hand with the U.S. commitment to address the consequences of a history in which, as President Obama recognized, “few have been more marginalized and ignored by Washington for as long as Native Americans—our First Americans.” That commitment is reflected in the many policies and programs that are being implemented by U.S. agencies in response to concerns raised by Native Americans, including poverty, unemployment, environmental degradation, health care gaps, violent crime, and discrimination.

### **II. The Review of the U.S. Position on the Declaration**

The decision to review the U.S. position on the Declaration came in response to calls from many tribes, individual Native Americans, civil society, and others in the United States, who believed that U.S. support for the Declaration would make an important contribution to U.S. policy and practice with respect to Native American issues. The decision by the United States to support the Declaration was the result of a thorough review of the Declaration by the relevant federal agencies.

In conducting its review of the Declaration, U.S. agencies consulted extensively with tribal leaders during three rounds of consultations, one in Rapid City, South Dakota, and two in Washington, D.C. In addition, the agencies conducted outreach to indigenous organizations, civil society, and other interested individuals. Tribal leaders and others contributed to the review through their attendance at the consultation and outreach sessions, participation in those sessions by means of conference calls, and written submissions. In total, over 3,000 written comments were received and reviewed.

Tribes, groups, and individuals who participated in the review of the U.S. position on the Declaration presented a wide range of views on the meaning and importance of the Declaration. While they could not all be directly reflected in the U.S. position on the Declaration, they were all considered in the process.

### **III. The Declaration and U.S. Initiatives on Native American Issues**

The United States is home to over two million Native Americans, 565 federally recognized Indian tribes, and other indigenous communities. U.S. support for the Declaration reflects the U.S. commitment to work with those tribes, individuals, and communities to address the many challenges they face. The United States aspires to improve relations with indigenous peoples by looking to the principles embodied in the Declaration in its dealings with federally recognized tribes, while also working, as appropriate, with all indigenous individuals and communities in the United States.

Moreover, the United States is committed to serving as a model in the international community in promoting and protecting the collective rights of indigenous peoples as well as the human rights of all individuals. The United States underlines its support for the Declaration's recognition in the preamble that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess certain additional, collective rights. The United States reads all of the provisions of the Declaration in light of this understanding of human rights and collective rights.

U.S. agencies are currently engaged in numerous initiatives to address the concerns raised by Native American leaders and issues addressed in the Declaration. Many involve the continuation of activities highlighted in the White House Tribal Nations Conference Progress Report released in June 2010. Additional efforts to strengthen the government-to-government relationship, protect lands and the environment and provide redress, address health care gaps, promote sustainable economic development, and protect Native American cultures are addressed below.

#### ***III. 1 Strengthening the Government-to-Government Relationship***

As President Obama noted: "Washington can't – and shouldn't – dictate a policy agenda for Indian Country. Tribal nations do better when they make their own decisions." The record over the forty years since the United States adopted its policy of greater tribal autonomy is clear

– tribal self-determination has enabled tribal governments to establish, develop, and enhance tribal institutions and infrastructure ranging from those addressing the health, education, and welfare of their communities to those such as tribal courts, fire protection, and law enforcement. The clear lesson is that empowering tribes to deal with the challenges they face and that taking advantage of the available opportunities will result in tribal communities that thrive.

The United States is therefore pleased to support the Declaration's call to promote the development of a new and distinct international concept of self-determination specific to indigenous peoples. The Declaration's call is to promote the development of a concept of self-determination for indigenous peoples that is different from the existing right of self-determination in international law. The purpose of the Declaration was not to change or define the existing right of self-determination under international law. Further, as explained in Article 46, the Declaration does not imply any right to take any action that would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States. For the United States, the Declaration's concept of self-determination is consistent with the United States' existing recognition of, and relationship with, federally recognized tribes as political entities that have inherent sovereign powers of self-governance. This recognition is the basis for the special legal and political relationship, including the government-to-government relationship, established between the United States and federally recognized tribes, pursuant to which the United States supports, protects, and promotes tribal governmental authority over a broad range of internal and territorial affairs, including membership, culture, language, religion, education, information, social welfare, community and public safety, family relations, economic activities, lands and resource management, environment and entry by non-members, as well as ways and means for financing these autonomous governmental functions.

Federal agencies are engaged in a wide range of activities to enhance tribal self-determination in areas crucial to the well-being of tribal members.

The Department of Justice (DOJ), for example, is deeply committed to strengthening tribal police and judicial systems. Accordingly, the President's FY 2011 Budget Request provides \$321 million to DOJ for tribal public safety initiatives, an increase of 42% over FY 2010. This includes \$255.6 million for grants to Indian tribes for tribal law enforcement efforts. The FY 2011 Budget Request also sustains FY 2010 appropriations increases of over 21% for Bureau of Indian Affairs-funded public safety and law enforcement efforts and includes an additional \$19 million to support 81 new FBI positions (45 agents) to investigate violent crimes in Indian Country. These increases build on over \$250 million in American Reinvestment and Recovery Act (Recovery Act) funds made available to tribes in FY 2009 to address criminal justice needs.

In addition, on July 29, 2010, President Obama signed into law the Tribal Law and Order Act (TLOA). This comprehensive bill is aimed at improving public safety on tribal lands. The statute gives tribes greater authority to prosecute crimes and increases federal accountability for public safety in tribal communities. In conformity with the TLOA, the Attorney General established the Office of Tribal Justice as a separate component within the organizational structure of the Department of Justice. The Office has played, and will continue to play, a key role in DOJ's ongoing initiative to improve public safety in Indian Country, and it serves as the

primary channel for tribes to communicate their concerns to the Department, helps coordinate policy on Indian affairs both within DOJ and with other federal agencies, and seeks to ensure that DOJ and its components work with tribes on a government-to-government basis. The Departments of the Interior, Justice, and Health and Human Services are engaged in an unprecedented effort to consult with tribes to develop policy and implement this new law.

In response to tribal input, DOJ has also streamlined its grant-making process. The Coordinated Tribal Assistance Solicitation (CTAS) combines ten different grant programs into a single solicitation. In September 2010, hundreds of American Indian and Alaska Native communities received the first grants under CTAS – almost \$127 million to enhance law enforcement, bolster justice systems, prevent youth substance abuse, serve sexual assault and elder abuse victims, and support other tribal efforts to combat crime.

During consultation sessions conducted by the Department of Education with over 350 tribal leaders in 2010, those leaders stressed the importance of greater tribal control over the education of Indian students. The Administration agrees. Therefore, the Department of Education has proposed changes to the Elementary and Secondary Education Act of 1965 (ESEA) to enhance the role of tribes in Indian education and allow greater flexibility in the use of federal education funds to meet the unique needs of Native American students.

Sixteen different tribes, from Maine to Alaska, participated this summer in the Department of the Interior's Bureau of Indian Affairs Water Training Program. The Training Program is taught by instructors from several Department of the Interior bureaus. The program strengthens tribal governments and prepares them to manage their own natural resources with qualified tribal government employees who have the necessary expertise to help alleviate the shortage of technical expertise on Indian reservations.

Other agency programs that enhance tribal self-determination are discussed in subsequent sections.

In addition to enhancing the self-determination of federally recognized tribes, the Obama Administration has supported the Native Hawaiian Government Reorganization Act, which provides a process for forming a Native Hawaiian governing entity that would be recognized by, and have a government-to-government relationship with, the United States. Congress has also enacted many more narrowly focused statutes for Native Hawaiians similar to those for other native people, such as the National Historic Preservation Act, which provides protections to properties with religious and cultural importance to Native American Indian tribes and Native Hawaiians; the Native Hawaiian Education Act, which establishes programs to facilitate the education of Native Hawaiians; the Native American Housing Assistance and Self-Determination Act, which provides housing assistance in the form of grants and loans; and the Native American Graves Protection and Repatriation Act, which protects Native American Indian, Alaska Native, and Native Hawaiian gravesites.

U.S. Government efforts to strengthen the government-to-government relationship with tribes cannot be limited to enhancing tribal self-determination. It is also crucial that U.S. agencies have the necessary input from tribal leaders before those agencies themselves take

actions that have a significant impact on the tribes. It is for this reason that President Obama signed the Presidential Memorandum 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 recognizes 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, but not necessarily the agreement of those 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 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. 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 the seriousness with which federal agencies are taking consultations.

In addition, the 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. As part of the United States review of its position on the Declaration, fourteen federal agencies participated in tribal consultations, which included sessions held in Indian Country and at the State Department.

Federal agencies have put their consultation plans to work over the past year 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.

### ***III. 2 Protection of Native American Lands and the Environment, and Redress***

The United States recognizes that some of the most grievous acts committed by the United States and many other States against indigenous peoples were with regard to their lands, territories, and natural resources. For this reason, the United States has taken many steps to ensure the protection of Native American lands and natural resources, and to provide redress where appropriate. It is also for this reason that the United States stresses the importance of the lands, territories, resources and redress provisions of the Declaration in calling on all States to recognize the rights of indigenous peoples to their lands, territories, and natural resources. Consistent with its understanding of the intention of the States that negotiated and adopted the Declaration, the United States understands these provisions to call for the existence of national laws and mechanisms for the full legal recognition of the lands, territories, and natural resources indigenous peoples currently possess by reason of traditional ownership, occupation, or use as well as those that they have otherwise acquired. The Declaration further calls upon States to recognize, as appropriate, additional interests of indigenous peoples in traditional lands, territories, and natural resources. Consistent with that understanding, the United States intends to continue to work so that the laws and mechanisms it has put in place to recognize existing, and accommodate the acquisition of additional, land, territory, and natural resource rights under U.S. law function properly and to facilitate, as appropriate, access by indigenous peoples to the traditional lands, territories and natural resources in which they have an interest.

U.S. agency initiatives in this area are numerous.

Perhaps most significantly, the Obama Administration has acquired over 34,000 acres of land in trust on behalf of Indian tribes, which is a 225 percent increase since 2006. Lands held in trust for tribes are used for housing, economic development, government services, cultural and natural resource protection, and other critical purposes. Recovering and protecting the tribes' land base is a hallmark objective of this Administration. After the recent Supreme Court decision in *Carcieri v. Salazar*, Congress introduced, and the Administration has fully supported, legislation to reaffirm the authority of the United States to take land into trust on behalf of all federally recognized Indian tribes.

In addition, the United States intervened in a federal suit, *Saginaw Chippewa Indian Tribe of Michigan and United States v. Granholm*, and worked to facilitate a settlement that recognizes the tribe's entire reservation to be Indian Country, resolving over a century of disputes over the boundaries and existence of the reservation. The court approved that settlement on November 23, 2010. This settlement, which involves the tribe, the United States, the State of Michigan, and local governments, will promote greater intergovernmental cooperation and provide the clarity necessary for effective law enforcement and civil regulation on the reservation. The United States has also sought to protect tribal lands, and tribal jurisdiction over those lands, in several other court cases, including the *City of Sherrill v. Oneida Indian Nation*, *Cayuga Nation v. Gould*, and *Water Wheel v. LaRance*.

Other agency initiatives include the release by the Forest Service of \$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.

The Obama Administration has also made extensive efforts to resolve longstanding Native American legal claims against the United States and private entities related to lands, natural resources, and other issues.

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 the 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.

In late October 2010, the Administration reached a \$760 million settlement with Native American farmers and ranchers, in *Keepseagle v. Vilsack*, a case alleging discrimination by the Department of Agriculture in loan programs. Under the agreement, the Department of Agriculture will pay \$680 million in damages and forgive \$80 million of outstanding farm loan debt. The federal government also agreed to create a 15-member Native American Farmer and Rancher Council to advise the Department, appoint a Department ombudsman, provide more technical assistance to Native American borrowers, and conduct a systematic review of farm loan program rules.

On December 9, 2010, President Obama signed into law the Claims Resolution Act, which includes the *Cobell v. Salazar* settlement agreement. In 1996, Elouise Cobell charged the Department of the Interior with failing to account for billions of dollars that it was supposed to collect on behalf of more than 300,000 individual Native Americans. After fourteen years of litigation, enactment of the Claims Resolution Act finally closes an unfortunate chapter in our history. The Act creates a fund of \$1.5 billion dollars to address historic accounting and trust management issues, and it also allocates up to \$1.9 billion dollars to convert some of the most highly fractionated individual Indian lands into land that can be managed for the broader benefit of the respective tribe. As part of the \$1.9 billion, a trust fund of up to \$60 million dollars is being created for a scholarship fund for Native Americans.

In addition, this law includes an unprecedented package of four water settlements benefitting seven tribes in Arizona, Montana, and New Mexico. This law finally gives the Crow, White Mountain Apache Tribe, and the Pueblos of Taos, Tesuque, Nambe, Pojoaque, and San Ildefonso permanent access to secure water supplies year round.

As noted by Secretary of the Interior Salazar, "Congress' approval of the Cobell settlement and the four Indian water rights settlements is nothing short of historic for Indian nations." He explained that the settlements "represent a major step forward in President Obama's agenda to empower tribal governments, fulfill our trust responsibilities to tribal members and help tribal leaders build safer, stronger, healthier and more prosperous

communities.” They demonstrate not only that the United States has a well-developed court system that provides a means of redress for many wrongs suffered by U.S. citizens, residents and others – including federally recognized tribes and indigenous individuals and groups -- but also that redress is available from the U.S. Congress under appropriate circumstances. The United States will interpret the redress provisions of the Declaration to be consistent with the existing system for legal redress in the United States, while working to ensure that appropriate redress is in fact provided under U.S. law.

The Administration is likewise committed to protecting the environment, and recognizes that many indigenous peoples depend upon a healthy environment for subsistence fishing, hunting and gathering. The Administration therefore acknowledges the importance of the provisions of the Declaration that address environmental issues. While there is far more that needs to be done, the United States is taking many steps to address environmental challenges in Indian Country and beyond.

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.

In 2010, the Department of the Interior (DOI) 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 Tribal Wildlife Grants 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.

DOI has also 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.

Over the past year, the U.S. Environmental Protection Agency (EPA) 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 Department of Agriculture also invested \$84.8 million dollars in water and environmental projects benefitting tribal communities in the lower 48 U.S. states during FY 2010 and an additional \$66.2 million dollars 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.

The Department of Energy (DOE) 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 DOE 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.

DOE 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 DOE-Idaho Cooperative Agreement, to assist the Department and 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.

The Fisheries and the Northwest Protected Resources Division of the National Oceanic and Atmospheric Administration (NOAA) 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 agency is informed of relevant tribal science and any potential impacts to the tribe that may arise from a designation of tribal lands as critical habitat. Documented information from these consultations with NOAA has ensured the protection of listed species and minimized any impact to tribal trust resources. Additionally, NOAA Fisheries and NOAA General Counsel for the Northwest consult 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, NOAA Fisheries adopted a tribal whiting allocation that was agreed to by all affected tribes and the State of Washington.

### ***III. 3 Addressing Health Care Gaps***

The Obama Administration understands the priority tribal leaders place on improving the delivery of health care services in their communities, as well as the significance of related provisions in the Declaration. The Administration has responded, as evidenced by the 13% increase in funding for the Indian Health Service (IHS) in FY 2010 and the 9% additional increase for IHS proposed in the President's FY 2011 Budget Request. These increases are on top of \$500 million provided to the IHS under the Recovery Act.

After President Obama signed the Affordable Care Act into law in March, making permanent the Indian Health Care Improvement Act, IHS initiated consultations with tribal leaders to implement the Act and determine their priorities. Tribes identified long-term care, behavior health, and diabetes/dialysis as their primary concerns. IHS held a meeting on Long Term Care in Indian Country on November 1-2, 2010 to begin the conversation about implementation priorities with tribes. IHS is also continuing the Special Diabetes Program for Indians, a Congressionally-approved grant program now in its thirteenth year, which has resulted in increased control of diabetes in indigenous communities and decreasing rates of end stage renal disease. Related demonstration projects have also shown significant promise.

Tribes also stressed the need to improve the collaboration and coordination of services for veterans eligible for both the Department of Veterans Affairs (VA) and IHS services. The IHS Director met with VA Secretary Shinseki in May 2010, and they agreed to update the 2003 VA-IHS MOU governing their agencies' cooperation. The updated MOU was signed in October 2010 and a letter to tribal leaders initiating a consultation on the implementation of the MOU was released in November 2010.

The Department of Health and Human Services and the Department of the Interior are working together to combat the problem of suicide in Indian Country. The two Departments launched a series of listening sessions between November 2010 and February 2011 to obtain the input of tribal leaders on how the agencies can effectively work within their communities to prevent suicide. The information gathered will inform a major Suicide Prevention Summit to be held in Spring 2011.

### ***III. 4 Promoting Sustainable Economic Development***

The Obama Administration has also taken numerous steps, consistent with the Declaration, to promote the economic wellbeing of indigenous peoples in the United States.

A priority for the Administration has been to combat unemployment in Indian Country as evidenced by the President's FY 2011 Budget Request, which includes \$55 million, representing a 4% increase over FY 2010 funding, for the Department of Labor's Employment and Training Administration's Indian and Native American Program, which grants funding 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 Recovery Act allocated over \$17 million for the Native American Supplemental Youth Service Program to support summer employment and training opportunities for disconnected youths.

In addition, this summer, the Department of Labor 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, residing on or near Indian

reservations or Alaska Native villages. The youth program targets high school dropouts and youth in need of basic skills training and provides an array of employment and training services, including job placement assistance, work experience, and occupational skills training. In addition, the Recovery Act included \$17.8 million in grant funding for Native American youth activities, including summer employment and training opportunities.

The Department of Labor has also been working to address the needs of Native Americans with disabilities. It has collaborated with tribal colleges and universities through the Workforce Recruitment Program to provide internship opportunities for students with federal employers. The Department, 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, Add Us In, a new initiative sponsored by the Department, is designed to identify and develop strategies to increase employment opportunities within the small business community for individuals with disabilities. This initiative includes targeted Native American owned and operated small businesses.

In addition, the Treasury Department 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 a low-income community, 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.

Tribal leaders regularly identify the lack of adequate housing as a major impediment to economic development in their communities. To assist with addressing housing needs, the Recovery Act allocated \$510 million to the Department of Housing and Urban Development (HUD) 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.

In addition, the Department of Housing and Urban Development (HUD) has a number of other housing initiatives.

On October 12, 2010, President Obama signed into law the Indian Veterans Housing Opportunity Act. The Act amends the definition of “income” for HUD’s Indian Housing Block Grant program so that the determination of a family’s income excludes amounts received from the Department of Veterans Affairs for a service-related disability, dependency, or indemnity compensation. The new law will benefit disabled Native American veterans and their families who might otherwise be ineligible for low-income housing assistance under HUD’s program.

In 2011 and 2012, HUD will conduct a comprehensive, national Native American Housing Needs Assessment Study. Before field research begins, the Office of Native American Programs is sponsoring a series of seven regional outreach meetings with tribal housing stakeholders, including tribal leaders; federal agencies; and private sector, non-profit, and state entities to discuss the upcoming study and to lay the groundwork for maximum participation. These outreach meetings will provide a forum for discussing the community and economic impact housing has on tribal communities as well as identifying the needs for creating sustainable reservation communities and economies. These meetings will continue the ongoing dialogue between HUD and tribal leaders in Indian Country.

The Administration is also committed to supporting Native Americans' success in K-12 and higher education. The Recovery Act invested \$170.5 million in Indian education at the Department of Education and \$277 million in Indian school construction at the Department of the Interior. The President's FY 2011 Budget Request provides \$31.7 million in funding for Tribally Controlled Colleges and Universities in the Department of Education, a 5% increase over FY 2010. The Budget Request includes \$127 million for postsecondary education for Native Americans under the Department of the Interior.

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 investments will be made in order to renew, reform, and expand programming so that students at these institutions are given every chance to reach their full potentials. These efforts respond to the concerns of Native American leaders as well as priorities identified in the Declaration.

In addition, President Obama appointed members to the Department of Education's National Advisory Council on Indian Education (Council), as authorized by the ESEA, who met for the first time on November 3, 2010. The current Council consists of fourteen members who are Native Americans. The Council is required to advise the Secretary of Education concerning the funding and administration of Department programs that include or may benefit American Indians and Alaska Natives, make recommendations to the Secretary of Education for filling the position of Director of Indian Education, and submit a report to Congress on any recommendations that the Council considers appropriate for the improvement of federal education programs that include or may benefit Native Americans.

The Department of Education is also working to combat discrimination against Native Americans in education. In March 2011, the Department'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. Together with the Department of Health and Human Services, it will also provide in Fall 2011 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.

The Administration is also working with tribal leaders to bring their communities into the 21<sup>st</sup> Century by equipping them with high speed access to the Internet. Both the Department of Agriculture and the Department of Commerce have programs to do so.

The Department of Agriculture recently awarded \$32 million to bring high speed, affordable broadband to the Navajo Nation. The Department of Agriculture also received Recovery Act funds to expand broadband access. It provided grants and loans totaling over \$158 million to expand broadband access in tribal communities through the Broadband Initiatives Program. This included ten infrastructure investments directly to tribes and tribally-owned businesses and eleven technical assistance awards to tribes to assist with regional broadband plans to promote economic development.

The National Telecommunications and Information Administration of the Department of Commerce awarded almost 30 percent of the \$4.7 billion that the Department received from the Recovery Act to Indian tribes and recipients that indicated that their projects will benefit tribal areas. This funding will be used to increase access to broadband services in underserved areas of the country.

Similarly, the Department of Agriculture's Rural Development office 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 to the Department of Transportation for the Indian Reservation Roads Program and over \$142 million to the Department of the Interior for roads maintenance.

### ***III. 5 Protecting Native American Cultures***

As President Obama has recognized, the indigenous peoples of North America have “invaluable cultural knowledge and rich traditions, which continue to thrive in Native American communities across our country.” The many facets of Native American cultures – including their religions, languages, traditions and arts – need to be protected, as reflected in multiple provisions of the Declaration.

Because of the breadth and depth of Native American cultures, they affect and are affected by the activities of many U.S. agencies. Some of those agencies' efforts are noted in this section.

In July, President Obama signed into law the Indian Arts and Crafts Amendments Act to strengthen the Indian Arts and Crafts Act, which makes it illegal to sell, offer, or display for sale any art or craft product in a manner that falsely suggests it is Indian-produced, an Indian product, or the product of a particular Indian tribe. The new act empowers all federal law enforcement

officers to enforce this prohibition and differentiates among penalties based on the price of the goods involved in the offense. The total market for American Indian and Alaska Native arts and crafts in the United States is estimated at a billion dollars, with an unknown but substantial amount of those sales going to misrepresented, non-authentic works.

The Secretary of Agriculture, in a letter of July 2, 2010, directed the Department of Agriculture's Office of Tribal Relations and the Forest Service to begin a process of review of all Forest Service policies and to consult with interested tribes about how the Department and the Forest Service can do a better job addressing sacred site issues while simultaneously balancing pursuit of the agency's mission to deliver forest goods and services for current and future generations. He emphasized the need to examine the effectiveness of existing laws and regulations in ensuring a consistent level of sacred site protection that is more acceptable to the tribes.

On July 30, 2010, the United Nations inscribed the Papahānaumokuākea Marine National Monument as the first mixed (natural and cultural) World Heritage Site in the United States. The Department of the Interior played a leading role in coordinating the development of the nomination dossier and successful inscription by the World Heritage Committee. Papahānaumokuākea's inscription as a World Heritage Site is important to Native Hawaiians because it recognizes and incorporates the richness of the habitat and wildlife with the living, indigenous, cultural connections to the sea – where modern Hawaiian wayfinders (non-instrument navigators) still voyage for navigational training on traditional double-hulled sailing canoes; an aspect of inscription unique to Papahānaumokuākea. Additionally, World Heritage status places this traditional skill, which was used to navigate across the world's largest ocean – one of the greatest feats of human kind – onto the world stage.

Since April 2010 the Department of Education has held six regional consultations with tribal officials regarding reauthorization of the ESEA. Among the statements heard time and time again were those on the importance of preserving Native languages. In response, the Administration has proposed changes to the ESEA that support, among other things, flexibility in the use of federal education funds to allow funding for Native language immersion and Native language restoration programs.

Due to joint efforts of federal agencies and tribes, 152 notices of decisions to repatriate human remains and cultural items were published in the Federal Register in 2010. Each of these notices is a direct consequence of museums and federal agencies consulting with tribes concerning the repatriation of human remains and cultural items previously held in collections. These notices account for 1,628 human remains and 9,062 associated funerary objects, an additional 2,052 funerary objects not associated with an individual, 11 sacred objects, 10 objects of cultural patrimony, and an additional 388 items that are both sacred objects and objects of cultural patrimony. In addition, the Forest Service is exercising its authority to assist tribes over the next several years in reburial of over 3,000 sets of human remains and their associated cultural items that had been removed from National Forests.

The Department of the Interior, through the Fish and Wildlife Service, has also begun efforts with tribes to facilitate eagle feather possession for cultural and traditional uses and to

promote coordination in wildlife investigations and enforcement efforts to protect golden and bald eagles.

Moreover, the Department of the Interior awarded over \$8 million to support historic preservation programs and projects for Indian tribes, Alaska Natives, and Native Hawaiian organizations. \$7,250,000 was awarded to 100 Tribal Historic Preservation Officer programs, and \$899,316 to 26 communities for a broad range of cultural heritage projects.

#### **IV. Conclusion**

The United States has made great strides in improving its relationship with Native Americans and indigenous peoples around the world. However, much remains to be done. U.S. agencies look forward to continuing to work with tribal leaders, and all interested stakeholders, so that the United States can be a better model for the international community in protecting and promoting the rights of indigenous peoples.