



April 22, 2021

MEMORANDUM

TO: Office of Management and Budget

FROM: U.S. Office of Government Ethics

SUBJECT: Plan of Actions to Implement the Policies and Directives of Executive Order 13175

OGE is pleased to transmit to you its Plan of Actions to Implement the Policies and Directives of Executive Order 13175 (Plan).

To develop the Plan, OGE considered how it will screen its policies for potential Tribal implications moving forward, whether it has outreach intended for the general public in the United States, and how that outreach could be extended to include Tribal consultation, to the extent practicable. On April 20, 2021, OGE conducted a consultation with Tribal Nations and Tribal officials. Their feedback has been incorporated into OGE's Plan. If you require additional information or have questions regarding OGE's Plan, please contact OGE's point of contact for this Executive Order, Nicole Stein, at 202-482-9255.

Plan of Actions to Implement Executive Order 13175

- *Timely Identification of Policy Matters that may Warrant Tribal Consultation.* To timely identify policy matters that may warrant Tribal consultation, OGE will incorporate a step into its rulemaking process that requires the agency to consider potential Tribal implications. To establish this new process, OGE will first review its current statutes and regulations for references to Tribes, potential impact to Tribes, and for impact on the general public that may be of interest to Tribes. Based on that review, OGE will create a list of those statutes and regulations that may trigger policy matters that may warrant Tribal consultation. OGE will then add an affirmative step to its process for developing rulemaking or policy related to the statutes and regulations on this list. That step will require OGE to analyze and determine if the pending regulations, legislative comments, or proposed legislation, and other policy statements or actions, have Tribal implications.ⁱ If OGE determines that its policy actions have Tribal implications, OGE will engage and consult as described below:



- *Engagement and Consultation.* If OGE determines that a Tribal consultation is required, OGE will demonstrate respect for Tribal sovereignty and the Nation-to-Nation relationship in the consultation process. As part of the engagement process, OGE will contact OMB to ensure OGE has the most up-to-date list of Tribal Stakeholders. OGE will then email the individuals using a “Dear Tribal Leader” letter and post the notice of the consultation on its website. Within the letter, OGE will provide the purpose of the consultation, relevant background materials, and framing questions. OGE will provide as much advance notice as practicable. Tribal consultation may include, but is not limited to, one or more of the following:
 - Meetings, written correspondence, conference calls, and videoconferences. Tribal consultation may be conducted through email, regular mail, telephone calls (including conference calls), and video conferences. Where appropriate, OGE may use intra- and inter-agency meetings to address areas of concern, conserve resources, and ensure comprehensive coverage of an issue. Disparities in time zones and travel costs, including those of Alaskan Native Tribes, will be taken into account when scheduling phone calls and conferences. OGE will provide an email address for Tribes to submit written comments regarding the action.
 - Federal Register (FR) notices or other published guidance soliciting comments. OGE may announce Tribal consultation opportunities in FR notices. OGE will publish FR notices and other published guidance requesting comments from Tribal officials as soon as practicable after OGE determines that Tribal consultation is appropriate. When practicable, OGE will provide a comment period of 60 to 120 days to allow sufficient time for Tribal officials to consult with their members and legal counsel on any matters of concern.
 - Targeted outreach. OGE may also directly contact Tribal officials to discuss policies that have Tribal implications.

OGE will ensure that its Tribal consultations are conducted by OGE officials who are knowledgeable about the matters at issue and are authorized to speak for the agency.

- *Consideration of Input.* OGE will engage in a meaningful consultation process. OGE will consider the information received through the Tribal consultation process before it has made final decisions on a policy. OGE will, as it does with the comments received through the notice and comment rulemaking process, summarize the comments it receives and explain why they were, or why they were not, accepted.

ⁱAs defined by Executive Order 13175, "Policies that have Tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

