

TRIBAL SOVEREIGNTY

Key Points:

- The first federal recognition of tribes as sovereign governments is in the United States Constitution.
- The recognition of tribal sovereignty has been affirmed in treaties, executive orders, and laws and has established the government-to-government relationship between tribal governments and the federal government.

Tribal Sovereignty is a legal term describing a basic concept—the authority of tribes to exercise their right to self-govern. Hundreds of treaties, along with the Supreme Court, the President, and Congress, have repeatedly affirmed that tribal nations retain their inherent powers of self-government. These treaties, executive orders, and laws have created a fundamental contract between tribes and the United States.

Tribal nations ceded millions of acres of land to make the United States what it is today and, in return, received the guarantee of ongoing self-government on their own lands. The treaties and laws create what is known as the federal “trust responsibility,” to protect both tribal lands and tribal self-government, and to provide for federal assistance to ensure the success of tribal communities.

Today, tribal governments maintain the power to determine their own governance structures, pass laws, and enforce laws through police departments and tribal courts. They also provide multiple programs and services, including, but not limited to, social programs, infrastructures, first-responder services, education, workforce development, and energy and land management.

The governmental status of tribal nations is at the heart of nearly every issue that touches Indian Country. The acknowledgment of tribal sovereignty and self-governance is essential if tribal communities are to continue to protect their unique cultures and identities. However, there are several obstacles to tribal self-governance based on three thematic areas that have been identified in recent years: (1) outdated bureaucratic processes; (2) lack of federal agency coordination; and, (3) regulations and laws that prevent tribal governments from equitable access to federal programs on par with state and local governments.

In order to fulfill the trust responsibility in the 21st Century, the federal government must update the laws and regulations that administer the trust responsibility to recognize tribes as 21st Century sovereign governments.

- **Strengthen Tribal Sovereignty**
 - Recognize that tribal governments are best suited to meet the needs of their communities because they are more directly accountable to the people they

represent, more aware of the problems their communities face, and more agile in responding to changing circumstances.

- Each tribe must be able to decide for itself the specific role(s) that it wants to play when exercising self-determination and self-government.
- **Strengthen Trust Standards**
 - Strengthen and codify federal trust standards, consistent with a set of specific legal principles, and apply them uniformly among all federal agencies.
 - Trust standards must reflect the modern capabilities and realities of tribes.
- **Strengthen Federal Management of Trust Assets**
 - The laws and regulations that govern tribal land and resources management must be responsive to tribal needs as defined by that tribe's leadership.
 - Federal agencies must recognize the differences between all tribes and their unique government-to-government relationship.
- **Strengthen Federal-Tribal Relations and Engage in Full Consultation**
 - Indian tribes must have a seat at the table during all federal discussion of Indian policy and their opinions should be sought, respected, listened, and incorporated in the policy development process to have a successful Federal-Tribal trust relationship.
 - Coordinate consultation throughout all agencies to provide more efficient and effective policies that address the issues and concerns of Indian Country.
- **Strengthen Federal Funding and Improve Its Efficiency**
 - Indian programs and services must be funded at a level necessary to fulfill the federal government's fiduciary responsibilities to Indian tribes and their citizens.
 - Funding the trust responsibility should be mandatory, not discretionary.
 - Funding should never be subject to "means testing" or any other inapplicable standards.