

# Implementation Guide: Submission – Tribal Input

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## **Contents**

POLICY CITATION .....	2
BACKGROUND .....	2
INSTRUCTIONS.....	3
Tribal Input Options.....	3
Solicitation of advice and/or Tribal consultation was conducted in the following manner: .....	3
Upload Notices and Documents and Summarize Comments .....	3
Indicate the key issues raised (optional) .....	4
REVIEW CRITERIA.....	4

## Submission – Tribal Input

### **POLICY CITATION**

**Statute:** 1902(a)(73) of the Social Security Act

Formal Guidance: State Medicaid Director Letters No. 10-001 - ARRA Protections for Indians in Medicaid and CHIP dated January 22, 2010.

### **BACKGROUND**

On this screen, states provide information about solicitation of advice from Indian Health Programs and Urban Indian Organizations. This screen must be completed for all official state plan amendments to indicate if the state has solicited advice and/or received input from Indian Health Programs and Urban Indian Organizations, when the state has at least one of these entities within the state. Indian Health Programs and Urban Indian Organizations are programs operated by the IHS or by an Indian Tribe, Tribal Organization, or Urban Indian Organization (otherwise known as an I/T/U) as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

If the state is completing a draft submission package, the fields are all optional and may be left blank.

Section 5006(e) of the American Recovery and Reinvestment Act (ARRA)(Public Law 111-5) added a new section 1902(a)(73) to the Social Security Act. Section 1902(a)(73) requires that in any state in which one or more Indian Health Programs or Urban Indian Organizations furnishes health care services, the state must provide for a process under which the state seeks advice on a regular, ongoing basis from designees of those programs and organizations on certain matters that are likely to have a direct effect on them.

The statute further provides that the state must solicit advice prior to submission of any SPAs, waiver requests, and proposals for demonstration projects likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations. In order to determine whether a specific SPA is likely to have a direct effect, the state should refer to the consultation page(s) in the state plan. If “direct effect” is defined, the state should determine whether this SPA meets the definition. If it does, the state must have solicited advice following the process described in the state plan. If “direct effect” is not defined, the state must solicit advice for ALL SPAs.

The state can also appoint an advisory committee and a designee of the Indian Health Programs and Urban Indian Organizations to the medical care advisory committee advising the state on its state plan.

## INSTRUCTIONS

Note: All of the fields in this screen are optional if you are completing a draft submission package.

### **Tribal Input Options**

First, respond, *Yes* or *No*, to whether one or more Indian Health Programs or Urban Indian Organizations furnish health care services in the state.

- If *No*, the screen is complete and no further action is required.
- If *Yes*, respond, *Yes* or *No* to indicate whether this state plan amendment is likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations. Please see page 2, Background, for information for guidance on when a SPA may have a “direct effect.”
  - If *Yes*, you must indicate that the state has solicited advice as required by law and in accordance with the state consultation plan, and complete the next section, ***Solicitation of advice and/or Tribal consultation was conducted in the following manner.*** To do this, check the box next to the assurance.
  - If *No*, explain in the text box provided why the SPA is not likely to have a direct effect on Indians, Indian Health Programs or Urban Indian Organizations.

### **Solicitation of advice and/or Tribal consultation was conducted in the following manner:**

Select from the two options presented to indicate the type of tribal organization from which advice was solicited or which was consulted. Select one or both. For each of the choices selected,

- Enter the date of solicitation or consultation
- Describe the method of solicitation or consultation in the text box
- If there was more than one date or method of consultation, add additional spaces by selecting the ***+Add a Solicitation/Consultation*** link.

If the state plan requires consultation with Indian Tribes, also select the third option, ***All Indian Tribes***, to indicate how and when you consulted with one or more of them.

- Enter the date of solicitation or consultation
- Describe the method of solicitation or consultation in the text box
- If there was more than one date or method of consultation, add additional spaces by selecting the ***+Add a Solicitation/Consultation*** link.

### **Upload Notices and Documents and Summarize Comments**

In accordance with statutory requirements and the state consultation plan, upload copies of any notices or other documents sent to Indian Health Programs and Urban Indian Organizations to solicit their advice concerning the submission package, and any attendee lists for meetings conducted with these entities.

You must either upload copies of documents with comments received from Indian Health Programs or Urban Indian Organizations and the response to these comments or summarize the comments and responses in the next section, ***Indicate the key issues raised***.

**Indicate the key issues raised (optional)**

If you elect to provide a summary of the input and comments instead of uploading appropriate documents, select as many of the options that apply. For each option selected, enter the following information:

- A summary of the comments.
- A summary of the response to the comments.
- If ***Other issue*** is selected, enter:
  - The name of the issue
  - A summary of the comments.
  - A summary of the response to the comments
- If there is another issue, add additional spaces by selecting the ***+Add an Other Issue*** link.

**REVIEW CRITERIA**

***The reviewable unit (RU) must be completed and the review criteria apply only if this is an official submission package – states do not have to complete any fields in this RU if they are submitting a draft package.***

***If the state responds No to “This state plan amendment is likely to have a direct effect on Indians, Indian Health Programs, or Urban Indian Organizations,” the state’s explanation must provide a reasonable basis for this determination.***

***Indian Health Programs, Urban Indian Organizations and Tribal Governments (if required by the State Plan)***

***In reviewing the solicitation activities, the analyst should determine whether:***

- The solicitation of advice notice met timeframes prior to submission as required in the local state consultation plan pages.
- The solicitation of advice was sent to all required Indian Health Programs, Urban Indian Organizations and Tribal Governments (if applicable) in the state, as required in the local state consultation plan pages.
- The solicitation of advice contained all the required content and elements (e.g. the purpose of the SPA, a description of its impact, state contact information, etc.) as required in the local state consultation plan pages.
- The submission contains a copy of the solicitation of advice that was sent to all required persons and entities.
- The submission contains other documentary evidence of the solicitation process such as: meetings held, concerns and objections, presentation materials, agendas, etc.
- The submission contains how the state responded regarding issues identified.