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**Building on a Common Desire for Better Tribal/State Governmental Relationships:
The 2002 Four Corners Institute for Tribal/State Relations**

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ABSTRACT

Overcoming the 500-year history of fractious relations between Tribal and Non-tribal cultures and governments in America is an endeavor in which progress has not always been steady or easily achieved. Interpretations of “Tribal sovereignty” have been long-disputed. In the last thirty years, this often-debated concept has become an issue of great importance to State and Federal governments, even as some differences of opinion continue over the impact of Tribal sovereignty on policies, procedures, or protocol. State and Federal policy-makers have begun to view the Tribes as entities entitled to consideration and the appropriate cultural sensitivity. All branches and levels of governments—including Tribal ones—struggle to define mutual areas of responsibility, communication, and cooperation. Opportunities for decision-makers from State, Federal, and Tribal governments to share experiences and information have been available in the past. But this practice is still a work in progress despite the most sincere wishes for a better outcome by those participating on a policy level. The common desire of the parties is that inter-governmental relations becoming more symbiotic and less adversarial, as cooperation facilitates the mutual interests of all. Accomplishing this task in ways which do not threaten Tribal sovereignty is difficult. The paper covers the 2002 Four Corners Institute for Tribal/State Relations concept, its participants, methodology, results, limitations, and recommendations for further research. New methodology will be discussed herein, including: the remote venue, Native Americans as facilitators, and participants as Fellows, who chose the format and topics to be discussed.

INTRODUCTION

Born from a sense of frustration and history of inter-governmental relations that has been decidedly a mix of success and failure, the Four Corners Institute for Tribal/State Relations of 2002 was created to be an interactive process in which the participants, decision-makers from State, Federal, and Tribal governments and enterprises, were asked to discuss the barriers to and opportunities for creating a new model of working cooperatively on a government-to-government. Implicit in this paradigm of symbiosis is the understanding that all parties must negotiate to move the process of working together forward, but that no one entity will be asked to take the first steps toward its own cultural and political extinction for the “good of the whole.”

The short-term goal of the gathering is to produce white papers from discussions as a whole and in break-out groups. The Four Corners Institute for Tribal/State Relations is dedicated to the premise that all citizens deserve the best service available by their government. The long-term goal of the Institute is to explore ways to improve relations between State governments and Tribal governments in meaningful ways that would serve all parties.

The meeting of Four Corners Institute for Tribal / State Relations was the first effort using new methodologies to address a variety of shared issues through the development of policy which is meant to transcend individual personalities and terms of elected office. With the frequent change of Tribal and State leadership routine among democratic governments, the existence of developed policies leading to long-lived and institutionalized processes facilitates and strengthens the collaborative work that States and Tribes do together. The critical developmental issue is the formation of policy rising above politics and the confines of institutional pressures, while retaining the key elements necessary to respect and preserve the full rights and sovereignty of Tribal and State governments.

A Linguistic Exploration of the Concept of the Institute

Because the Four Corners Institute for Tribal/State Relations of 2002 has, through its occurrence, sought to open new doors to understanding, a linguistic exploration of the conception of the Institute in its fullness is worthwhile. The Four Corners Institute was not a “conference” in the original sense of the word meaning “to summon,” as in “a professor summoning a student to confer (*I*).” The two-day Institute was not a “symposium,” where “several speakers talk before an audience.” The Four Corners Institute was more than a “conversation;” more than “an informal exchange of ideas,” although participants were not required to speak with great formality but were free to bring forth their thoughts and ideas while

respectful to all participants; conversation did take place among participants regarding many topics of interest. Conversations did occur along specific relevant lines of interest, and moved along a “dialectic,” meaning “the art, or practice, or very nature of logical discussion as employed in investigating the truth of theory or an opinion.” The concept the Institute meant to embody was a “dialogue” whereby “two or more people meet to discuss areas of disagreement frankly in order to resolve them,” it somewhat resembled a “colloquium” in the sense of a body of “learned and equal parties present to speak, analyze, and discuss a specific topic.” Most aptly put, the proceedings were an “institute,” or “a society or organization for carrying out a particular work.” Held in Colorado, 18-miles northeast of Durango, the Institute was located in the Four Corners region of the US. The term “four corners” actually embodies oppositional forces from all directions meeting in one mutually shared space, elbow-to-elbow in partnership.

THE PARTICIPANTS

The Four Corners Institute sought to attract the participation of opinion leaders, with the ability to set or greatly influence the formation of policy for their Tribal, State, Local or Federal agencies and enterprises. Approximately 100 participants from a pre-determined list of individuals from Western states were invited to participate in the Four Corners Institute by the two organizers and originators of this project, Ronald Hall, Esq., the Executive Director of the Tribal Transportation Assistance Program (TTAP) and James Kozak, the Deputy Director of the New Mexico State Highway and Transportation Department (NMHSTD) Transportation Planning Division. Registration was limited to 50 participants.

Participants included, in roughly equal proportions, officials from Tribal governments and enterprises, and from the Highway Departments of States in the West, with a few officials from Federal agencies such as, Federal Highway Administration (FHWA) the Bureau of Indian Affairs from the US Department of the Interior and the US Department of Energy (DOE), National Transportation Program (NTP). The BIA and the FHWA jointly administer funds for Indian Reservation Roads (IRR), the public roads providing access to and within Indian reservations, Indian trust land, restricted Indian land, and Alaska native villages (2). The NTP has an interest in Tribal transportation and roads because many Interstate Highways in the western US are along or pass through Indian Reservations.

Twenty-two participants attended with Native Americans working for their Tribes or in some Tribal capacity. Actual representation from Tribal legislative bodies, Tribal Governors, Presidents or Chiefs was eight percent or only two participants; however, Native American representation was present in staff from federal government and enterprise. Institute organizers sought to provide its “Fellows,” the participants, with a high caliber staff of nine professionals composed of researchers, facilitators and writers, plus two organizers, to provide the background, facilitation, and motivation for the Institute’s work. One staff person served as moderator of the event. For breakout sessions, the three facilitators were Native American with mediation backgrounds in the areas of academia, labor dispute and policy development. These facilitators were given information packets and briefings via telephone regarding the Institute’s concept, expected process and outcomes, as well as duties as facilitators during the two-day event. The meetings of all participants, as well as the two breakout groups, were provided with facilitators. Staff served as recorders, writers, and runners, as needed. The Institute believes that mealtime speakers serve as motivational and unifying elements enhancing the efforts of the study groups. Although only one of four scheduled speakers attended, due primarily to a lack of follow up, additional staff support for future events should increase availability of speakers to travel to key events.

THE METHODOLOGY

Day One

Introduction of a Participant-Directed Format

The Institute concept was conceived of as a two-day event, with the Fellows and professional staff arriving the afternoon before the event. A buffet breakfast was served at 7:00 a.m. on the first morning, with the work of the Institute commencing at 8:00 a.m. Following the Welcoming Ceremonies

and the Fellows' introductions, an overview of the unique concept of "institute" was provided to the participants. The Fellows were ascribed with the responsibility to determine the general flow of the proceedings, the topics discussed, and the timeliness of discussion groups. The Fellows were informed that white papers would be written documenting the results. The participants listed key issues and general discussion ensued.

Consensus Style of Facilitation

Rather than adopting a hierarchical style of group moderation typically used in official meetings held by Non-Indians, the facilitators who were Native American used more consensus-oriented style proving to be a characteristic of the entire two-day event. This style was thought to be more in keeping with a participant-directed format. The more democratic, consensus style of facilitation generally uses more time than that of the more linear and hierarchical style. Increased time consumption to create a consensus for the Institute's format proved to be the case throughout the two-day meeting. Reluctant to break into groups initially, success was achieved on the third try at the end of the first morning. One facilitator attributed the reluctance of the participants to break into groups as a reaction to the fear of the unknown nature of this process.

Breaking into Tribal and Non-Tribal Groups

At approximately 11:00 a.m., by suggestion, the Institute broke into two caucuses, a group consisting of Native Americans and a group consisting of State and Federal officials. Participants representing both groups were allowed to select the group to join. In meetings that lasted until noon, each group determined a set of four or five subjects for consideration during the remainder of the two-day proceedings.

Formation of the Tribal/Multi-Jurisdictional Coordination and the Tribal/State Revenue Groups

After lunch, the Fellows from each group met to report the chosen discussion subjects, and to provide brief explanations of the significance of each. The selected subjects of the two groups overlapped and participants were asked how they wanted to break into working groups. They were given the choice of all participants discussing one of two main issues for the first half of the time remaining, and then all discussing the second subject in the latter half of the meeting, or breaking into two groups, one for each subject to discuss only their chosen issue, with the option to form a third group and a third subject, if needed. A lengthy, but convivial conversational exchange was attendant, resulting in the body deciding on two primary subjects for discussion, Tribal/Multi-Jurisdictional Coordination or Tribal/State Revenue. With the topics chosen, the participants self-selected either group. Those people choosing Tribal/Multi-Jurisdictional Coordination became the "Star" Group, while those choosing Tribal/State Revenue became the "Dollar" Group. Both groups were provided with a facilitator, recorder, writer, and a runner. Because the body was smaller than expected, the conscious decision of the whole body was that three facilitators were not needed, and one of the facilitators chose to continue as a Fellow.

During mid-afternoon break participants chose which group to join, either "Dollar" or "Star," then, the group sessions began. A few last-minute shifts from one group to the other occurred as a result of concern by the Fellows that the two groups should have roughly the equivalent number of Native Americans to State and Federal officials in each group and equilibrium was quickly achieved. The Stars and Dollars selected four to five issues germane to their chosen subject for discussion on Day Two.

Day Two

Cross Pollination in Joint Session

The meeting opened at 8a.m. with a joint session in which both groups reported back to the whole. The Fellows overwhelmingly preferred frequent reports to the whole, because they wanted to facilitate additional idea generation/cross-pollination.

Discussing the Issues in Groups

For the morning session, participants broke into their respective Star and Dollar groups for discussion of two issues within their topic. Following lunch on the on Day Two, a few of the Fellows left, not participating in the afternoon's activities. Although not all of the selected items had been discussed, each group concluded their proceedings in late afternoon by consensus. The formal closing of the 2002 Four Corners Institute occurred at a dinner feast, with speeches and acknowledgements.

The reports from the 2002 Tribal/ Multi-Jurisdictional Coordination "Star" and the 2002 Tribal/State Revenue "Dollar" Groups will be submitted as separate papers to the Transportation Research Board of the National Academy of Sciences, A5020 Committee on Native American Transportation Issues. The reports of these two groups will offer an overview of the area of study, policy suggestions, and ideas for future research.

SUGGESTIONS FROM THE ORGANIZERS AND FELLOWS

The organizers of the 2002 Four Corners Institute for Tribal/State Relations make the following suggestions regarding future meetings of the Four Corners Institute based on feedback from the Fellows.

Topic Selection

One subject area (Tribal/State Revenue) was specialized to the extent that pre-Institute preparation would be very beneficial to production of a paper. For example, research on the coordination of Tribal/State tax policies would provide beneficial information and advance notice would allow the experts time to research and prepare positions to share with their counterparts. However, the factor of keeping topics timely and the total integration of the Fellows with Institute should not be overlooked. Future Institutes should consider a mix of study areas. Those study areas of a highly technical nature should be determined and a core study group established prior to meeting, with more general areas of study selected during the Institute.

Joint Review of Each Break-Out Group's Work-in-Progress

The limited time available to the Fellows is well noted. Reconvening of groups took away from the activities of the breakout groups, but reconvening the groups did seem to provide a common knowledge base for all the Fellows. While the two groups did not exchange much hard information on the study areas, the practice added to the quality of "down-time" and allowed for a more cohesive group. This part of the Institute should continue, perhaps as a feature of a working lunch to ensure that group time is not diminished.

Institute Setting

The somewhat remote location of the Institute added to the Institute's sense of shared mission. Future Institutes will be held in moderately remote locations so that the Fellows may work together without outside distractions.

Speakers

The Institute believes that mealtime speakers serve as motivational and unifying elements enhancing the efforts of the study groups. Although only one of four scheduled speakers attended, due primarily to a lack of follow up, additional staff support for future events should increase availability of speakers to travel to key events.

Leisure Time

Two factors apparently raised the issue of the need for more "down-time:" first was the beautiful setting of the resort, and second was the intensive work schedule for the Fellows. The participants met for breakfast at 7:00 a.m., had lunch together, had an approximately one-hour break before dinner and concluded the day's activities around 8:00p.m. An objective of the Institute was to capitalize on the expertise of the Fellows. The men and women who attended are some of the best minds in the country on

issues of Tribal/State Relations and failure to utilize this potential would have been a waste of their time. The intensity of the format is important to keeping the group on-task and focused for the several days available for the effort. To enjoy the facilities and scenery to a greater extent, those persons who wish to extend their stay should be encouraged to remain at the resort on their own time.

The Professional Staff of the Institute

The facilitators are key to maintaining a tight work schedule and must be able to demonstrate their ability to guide the group through the entire process. Facilitators should be very well trained and experienced in the management of professionals.

Equipment

The issue of visual acuity as we age is well taken, and at future Institutes, overhead or computer projectors will be used in both large and small group settings.

Presenting the Paper

The presentation by the Fellows is one of the unique aspects of the Institute. As authors and reviewers of future papers, the Fellows developed ownership in the process of the Institute and achieved a comfortable level of sharing not only their expertise but their viewpoints. This is the level of response for which organizers had hoped. At this time, the presentation of the papers is a future activity that cannot take place until after the documents are written and edited. The organizers will document the actual number of presentations made over the next year.

Organizational Involvement in Future Institutes

The desire of the Fellows to include a great number of other organizations speaks to the tremendous need for more effective policy formation at all levels of government interacting with the Tribes. This long list of organizations also points to the many areas of concern that Tribes routinely must manage. As the Institute establishes itself, it is hoped many other organizations including Tribal, government and enterprises will be willing to participate as co-sponsors. But the Institute must retain its ability to serve as a forum for frank and open discussions without “political spin.” To retain the focus, format, and mission of future Institutes, the number of persons in attendance must be limited.

Framework of Future Institutes

The organizers of the Institute will continue to use the same framework established for the inaugural meeting but, as mentioned, highly technical topics will be predetermined to provide background for Fellows. In discussing highly technical topics, a reading list or selected papers can be provided and the possibility of establishing on-line chat rooms should be explored.

CONCLUSION

The Four Corners Institute for Tribal/State Relations is attempting to address a variety of shared issues. With ever changing leaderships, there must be developed policies that lead to processes that are long-lived and institutionalized for continued use by future generations. The critical developmental issue is to form policy in a manner that survives political change while retaining those critical elements necessary to preserve the sovereignty of both the Tribes and other multi-jurisdictional governmental entities.

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REFERENCES

1. Webster's Encyclopedic Unabridged Dictionary of the English Language, (2nd Edition). New York, NY: Gramercy Books. (1996).
2. The Federal Lands Indian Highway Program, authorized under Title 23 US Code.