



UNITED SOUTH AND EASTERN TRIBES, INC.

USET Resolution No. 2008:027

REQUEST FOR HOUSING AND URBAN DEVELOPMENT TO HONOR THEIR GOVERNMENT-TO-GOVERNMENT TRIBAL CONSULTATION RESPONSIBILITIES

- WHEREAS,** United South and Eastern Tribes, Incorporated (USET) is an intertribal organization comprised of twenty-five (25) federally recognized Tribes; and
- WHEREAS,** the actions taken by the USET Board of Directors officially represent the intentions of each member Tribe, as the Board of Directors comprises delegates from the member Tribes' leadership; and
- WHEREAS,** government-to-government consultation with Indian Tribes is an aspect of the unique relationship between the Federal government and Indian Tribes. This exclusive relationship is upheld in the United States Constitution, treaties, non-intercourse statutes, other statutes, influential court decisions establishing the tenets of Federal Indian law, and executive branch authority. Tribal consultation has been reiterated through numerous administrations through the present day; and
- WHEREAS,** Housing and Urban Development (HUD) has interpreted the Housing and Community Development Act (HCDA) of 1974, as amended in 1979, to permit HUD to delegate its government-to-government tribal consultation to non-federal recipients of HUD funds, and that this interpretation is reflected in HUD regulations at 24 C.F.R. Part 58.; and
- WHEREAS,** nowhere does the language of the HCDA mention delegation of government-to-government consultation with Indian Tribes. The statutory exception contained in the statute applies primarily to compliance under the National Environmental Policy Act (NEPA), although the National Historic Preservation Act (NHPA) is mentioned in the legislative history of the bill. However, neither the statute nor the legislative history of HCDA contains any language indicating the requisite intent by Congress that HUD should subvert the unique government-to-government relationship between the Federal government and Indian Tribes by unilaterally delegating Tribal consultation to non-federal entities such as funding recipients; therefore, be it
- RESOLVED** the USET Board of Directors requests that Housing and Urban Development discontinue its improper practice of delegating to non-federal funding recipients in order to facilitate government-to-government Tribal consultation under the National Historic Preservation Act and to reestablish their responsibilities for government-to-government consultation directly with Indian Tribes.

CERTIFICATION

This resolution was duly passed at the USET Impact Week Meeting, at which a quorum was present, in Arlington, VA, Thursday, February 14, 2008.

Brian Patterson, President
United South and Eastern Tribes, Inc.

Cheryl Downing, Secretary
United South and Eastern Tribes, Inc.

"Because there is strength in Unity"