

FY 2014 Environmental Collaboration and Conflict Resolution (ECCR) Policy Report

Submitted to the Office of Management and Budget (OMB) and the President's Council on Environmental Quality (CEQ) pursuant to the OMB/CEQ ECCR Memorandum of September 7, 2012

Name of Department/Agency responding:

Udall Foundation – U.S. Institute for Environmental Conflict Resolution

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FY 2014 TEMPLATE
Environmental Collaboration and Conflict Resolution (ECCR)¹
Policy Report to OMB-CEQ

On September 7, 2012, the Director of the Office of Management and Budget (OMB), and the Chairman of the President's Council on Environmental Quality (CEQ) issued a revised policy memorandum on environmental collaboration and conflict resolution (ECCR). This joint memo builds on, reinforces, and replaces the memo on ECR issued in 2005.

The memorandum requires annual reporting by departments and agencies to OMB and CEQ on progress made each year in implementing the ECCR policy direction to increase the effective use and institutional capacity for ECCR.

ECCR is defined in Section 2 of the 2012 memorandum as:

“ . . . third-party assisted collaborative problem solving and conflict resolution in the context of environmental, public lands, or natural resources issues or conflicts, including matters related to energy, transportation, and water and land management.

The term Environmental Collaboration and Conflict Resolution encompasses a range of assisted collaboration, negotiation, and facilitated dialogue processes and applications. These processes directly engage affected interests and Federal department and agency decision makers in collaborative problem solving and conflict resolution.

Multi-issue, multi-party environmental disputes or controversies often take place in high conflict and low trust settings, where the assistance of impartial facilitators or mediators can be instrumental to reaching agreement and resolution. Such disputes range broadly from policy and regulatory disputes to administrative adjudicatory disputes, civil judicial disputes, intra- and interagency disputes, and disputes with non-Federal persons and entities.

Environmental Collaboration and Conflict Resolution can be applied during policy development or planning in the context of a rulemaking, administrative decision making, enforcement, or litigation with appropriate attention to the particular requirements of those processes. These contexts typically involve situations where a Federal department or agency has ultimate responsibility for decision making and there may be disagreement or conflict among Federal, Tribal, State and local governments and agencies, public interest organizations, citizens groups, and business and industry groups.

Although Environmental Collaboration and Conflict Resolution refers specifically to collaborative and conflict resolution processes aided by third-party neutrals, there is a broad array of partnerships, cooperative arrangements, and unassisted negotiations that Federal agencies may pursue with non-Federal entities to plan, manage, and implement department and agency programs and activities. The Basic Principles for Agency Engagement in Environmental Conflict Resolution and Collaborative Problem Solving are presented in Attachment B. The Basic Principles provide guidance that applies to both Environmental Collaboration and Conflict Resolution and unassisted collaborative problem solving and conflict resolution. This policy recognizes the importance and value of the appropriate use of all forms collaborative problem solving and conflict resolution.”

¹ The term ‘ECCR’ includes third-party neutral assistance in environmental collaboration and environmental conflict resolution

This annual report format below is provided for the seventh year of reporting in accordance with the memo for activities in FY 2014.

The report deadline is February 15, 2015.

We understand that collecting this information may be challenging; however, the departments and agencies are requested to collect this data to the best of their abilities. The 2014 report, along with previous reports, will establish a useful baseline for your department or agency, and collect some information that can be aggregated across agencies. Departments should submit a single report that includes ECCR information from the agencies and other entities within the department. The information in your report will become part of an analysis of all FY 2014 ECCR reports. You may be contacted for the purpose of clarifying information in your report. For your reference, prior year synthesis reports are available at <http://www.udall.gov/OurPrograms/Institute/ECRReport.aspx>

1. **ECCR Capacity Building Progress:** Describe steps taken by your department or agency to build programmatic and institutional capacity for environmental collaboration and conflict resolution in FY 2014, including progress made since FY 2013. Include any efforts to establish routine procedures for considering ECCR in specific situations or categories of cases. To the extent your organization wishes to report on any efforts to provide institutional support for non-assisted collaboration efforts include it here. If no steps were taken, please indicate why not.

[Please refer to the mechanisms and strategies presented in Section 5 and attachment C of the OMB-CEQ ECCR Policy Memo, including but not restricted to any efforts to a) integrate ECCR objectives into agency mission statements, Government Performance and Results Act goals, and strategic planning; b) assure that your agency's infrastructure supports ECCR; c) invest in support, programs, or trainings; and d) focus on accountable performance and achievement. You are encouraged to attach policy statements, plans and other relevant documents.]

The U.S. Institute for Environmental Conflict Resolution (the U.S. Institute) is a federal program established by the 1998 Environmental Policy and Conflict Resolution Act (P.L. 105-156) to help public and private parties resolve environmental conflicts involving the federal government. It is part of the Udall Foundation, an independent federal agency.

The U.S. Institute works with multiple federal agencies to build case-level and programmatic capacity for environmental collaboration and conflict resolution (ECCR). The U.S. Institute's range of services include: consultations, assessments, process design, convening, neutral selection, mediation, facilitation, training, case management, and other related undertakings covered by the U.S. Institute's enabling legislation.

During FY 2014, Institute staff provided case support and/or consultation for 72 environmental conflicts and challenges. The U.S. Institute also continued to manage a national roster of professionals with expertise in ECCR. This publically accessible online roster empowers all stakeholders whether federal managers or members of the public to identify qualified mediators and facilitators to assist with a spectrum of environmental conflicts or challenges.

In addition to case services, the U.S. Institute delivered eight in-depth collaboration and conflict resolution trainings during FY 2014. The U.S. Institute's trainings ranged from basic to advanced, as well as customized workshops designed for stakeholders involved in specific conflicts. The U.S. Institute's trainings are designed to empower federal agency staff, tribal leaders, and members of the public with the skills necessary to work to prevent, manage, and resolve environmental conflicts.

In terms of ECCR leadership, to build programmatic and institutional capacity for ECCR, the U.S. Institute's FY 2014 initiatives included: assisting with implementation of the March 2012 Executive Order – Improving Performance of Federal Permitting and Review of Infrastructure Projects, and assisting OMB and CEQ with implementation of the September 2012 Memorandum on Environmental Collaboration and Conflict Resolution.

2. ECCR Investments and Benefits

- a) Please describe any methods your agency uses to identify the (a) investments made in ECCR, and (b) benefits realized when using ECCR.

Examples of investments may include ECCR programmatic FTEs, dedicated ECCR budgets, funds spent on contracts to support ECCR cases and programs, etc.

Examples of benefits may include cost savings, environmental and natural resource results, furtherance of agency mission, improved working relationship with stakeholders, litigation avoided, timely project progression, etc.

(a) Methods for identifying investments made in ECCR

The U.S. Institute is a federal program entirely dedicated to ECCR. Through a Project Management Database (PMD), the U.S. Institute tracks the delivery of direct and contracted ECCR services and the budgets that underwrite its ECCR projects and programs. Investments are summarized and reported in federal compliance reports such as Annual Financial Reports, Annual Performance Reports, Budget Requests and Congressional Justifications.

(b) Methods for identifying benefits realized when using ECCR

Since FY 2002, the U.S. Institute has received OMB approval to administer a suite of questionnaires to evaluate the outcomes and gain stakeholder perspectives on the anticipated impacts of ECCR services. Using these questionnaires, the U.S. Institute solicits performance feedback from members of the public and agency representatives who are participants in, and users of, U.S. Institute services. Respondents are surveyed at the conclusion of services (e.g., the end of a training, the completion of a mediation).

In FY2014, the U.S. Institute undertook a revision of its evaluation program and instruments by identifying essential core needs and those methods that might work to address them. Three core needs were identified: (1) Data that give sufficient information for performance reporting on Strategic Plan; (2) data sufficient to identify lessons learned: what's working and what isn't working; and (3) data that reflects the value of ECCR to the external world. In response to the three core needs, the U.S. Institute has proposed to reduce (11) eleven ICR questionnaires to three (3):

- A single ECR services questionnaire replacing eight current instruments
- A single Roster Services questionnaire replacing 2 instruments
- The current training questionnaire instrument

Other evaluation-related needs will be addressed through methods that may not require an ICR because the methods are either (a) general solicitations of information seeking unstructured responses; (b) solicitations only of respondents exempted from PRA/ICR; or (c) solicitations are used for capturing and sharing lessons learned or project-specific insights, not for programmatic evaluation purposes.

- b) Please report any (a) quantitative or qualitative investments your agency captured during FY 2014; and (b) quantitative or qualitative results (benefits) you have captured during FY 2014.

(a) Overview of FY 2014 quantitative and qualitative investments

- For FY 2014, Congress appropriated \$3.4 million for the U.S. Institute's operations.
- Congress authorized the U.S. Institute to accept and retain fees for conflict resolution services. The U.S. Institute earned \$2.9 million during FY 2014 from reimbursable ECCR project services.
- Of the total FY 2014 project earned revenue, 33% was retained by the U.S. Institute and 67% was passed through to private sector ECCR practitioners who performed services under contract with the U.S. Institute.
- The U.S. Institute dedicated a small proportion of its overall FY 2014 budget to underwriting training and leadership initiatives. Reimbursable training and leadership services brought in \$53,265.
- As a service organization, personnel represents the largest expense category for the U.S. Institute. The U.S. Institute's FTE count fluctuated during FY 2014, the FTE count was 23 at the close of the fiscal year (September 30, 2014).

(b) Overview of FY 2014 quantitative and qualitative ECCR results (benefits)

Benefits of ECCR Training

During FY 2014, the U.S. Institute delivered eight (8) trainings in collaborative problem solving and conflict resolution. The U.S. Institute evaluated all completed trainings. The training evaluations measured trainer effectiveness, quality of materials, relevance of trainings, and anticipated impacts from the perspective of training participants. For example, evaluation feedback on the FY 2014 sessions indicated that 94% of respondents felt the training will have a very positive impact on their effectiveness in the future.

The following are examples of the training impacts as described by participants:

"ECR courses have greatly improved my skills on the job."

"I plan on using these tools when I develop a process and begin selecting clean-up sites with renewable energy potential."

"More collaborative outcomes to positively impact relationships and my agency."

"In my work – better skills set to address Tribal issues."

"I feel that I now have a better understanding of the process to use to 1. determine if there is the need for collaboration and 2. the process to use when needs are identified. This will significantly improve my job function."

"Useful framework to get workable solutions for multiple parties."

Benefits of ECCR Mediations and Facilitations

During FY 2014, the U.S. Institute assisted with 33 mediation, facilitation and assessment processes. The U.S. Institute provided services directly or through contracted private sector practitioners. Ten (10) mediation/facilitation processes were either brought to completion or the U.S. Institute's role in an ongoing process ended during FY 2014.

Based on the evaluation feedback received on FY 2014 mediations and facilitations, third-party assistance consistently helped the federal agency representatives and stakeholders make progress toward addressing their issues or resolving their conflicts.

When asked to encapsulate what the collaborative processes accomplished, the top three most frequently identified outcomes were:

- *Relationships among parties improved*
- *Timely decisions and outcomes*
- *The conflict didn't escalate*

These outcomes were accomplished in project contexts that included: marine planning, species recovery, Tribal consultation, national park overflight conflicts, toxic substance clean-up, mitigation banking, and large landscape planning.

Process outcomes such as timely decisions and improved working relationships create a constructive platform for federal project and program execution. As a result of positive process outcomes (contingent on the quality and sustainability of the outcomes), federal projects and programs should progress with greater stakeholder buy-in and commitment to actions and solutions, and avoidance or minimization of instances of litigation and appeals.

In the words of FY2014 process participants, the following are examples of process outcomes achieved and/or anticipated as a result of the ECCR efforts:

"Consensus on a programmatic biological assessment and improved relationships among the agencies."

"This whole experience was phenomenal. Being chosen to participate was an honor and the committee and facilitators were able to come together and work to make recommendations that were solid and representative across the board. We all hope that the various ideas truly get implemented. To get 21 different people to work closely together respecting one another's position was unbelievably refreshing."

"This project will enable more constructive engagement and communication with West Coast Tribes as we move forward with marine planning."

- c) What difficulties have you encountered in generating cost and benefit information and how do you plan to address them?

Process Costs

- To track staff time, contracted mediator/facilitator costs, and direct process costs (such as travel and meeting rooms), the U.S. Institute found it necessary to design and develop a customized project management database.
- The U.S. Institute has found it difficult to get an appreciation for time and cost investments (e.g., travel) of process participants. For example, not all participants record the time they spend participating in collaborative processes. This information is needed for extensive cost-benefit analysis. For agreement-seeking processes, the U.S. Institute does ask process participants for their perspective on whether their investments (time and money) were worth the investment.

The Costs of Conflict (associated with a given project pre-ECCR intervention)

- From case consultations and assessment work the U.S. Institute can provide qualitative perspectives on the costs of conflict associated with individual projects (e.g., characterize when a conflict has stalled a federal project, describe where unattended conflict has led to divisive polarized relationships among stakeholders). The U.S. Institute does not have methodologies to monetize these costs.

Benefits - Tracking and Measuring

- Given the unique attributes and complexities of ECCR processes, it is challenging to summarize outcomes into a few key measures, and it is difficult to create informative multi-case aggregations.
- Measuring less tangible outcomes such as relationship improvements is challenging and can be costly to measure appropriately (e.g., survey stakeholders on relationships at the beginning of processes and again at the conclusion of processes). Currently, the U.S. Institute simply asks stakeholders at the end of processes for their perspectives on changes in working relationships.
- The U.S. Institute does not have mechanisms to monetize process outcomes. The U.S. Institute can quantify some process outcomes such as the percent of cases that reach agreement and can describe process outcomes using qualitative data.
- Process outcomes are a snapshot in time and do not capture the quality or durability of agreements reached, the value of stakeholder buy-in or commitment to solutions, or the benefits of more informed decisions that balance public and private interests.

- The U.S. Institute has experienced challenges with low response rates on some process evaluations. The U.S. Institute is reviewing survey administration strategies to improve response rates.
- Measuring the absence (e.g., negative effects avoided by ECCR) of events or conditions is challenging. Negative effects avoided as a result of successful ECCR processes, such as reduced litigation and appeals are an often-cited benefit of ECCR. The U.S. Department of Justice, Environmental and Natural Resource Division, is in a unique position to provide perspective on the outcomes of similar cases that have been handled via mediation versus litigation. The U.S. Institute does not have comparison cases to evaluate. The U.S. Institute does collect stakeholder perspectives on negative effects avoided.
- The U.S. Institute experiences challenges with tracking and aligning the costs and benefits of processes because of differences in timing associated with when costs are incurred and benefits are realized. For example, while process costs may occur over a number of months, benefits such as the timely progression on an uncontested construction project may take years to confirm.
- There are institutional costs (e.g., staff time) and challenges associated with the long-term tracking of cases. To the extent possible, the U.S. Institute stays in contact with federal project managers to remain apprised of final project outcomes. However, the social, economic, cultural and environmental benefits that are enabled or enhanced through an ECCR intervention are the fundamental outcomes of the specific federal project or program. The U.S. Institute does not have a role in tracking or quantifying such final project outcomes and impacts and the extent to which they were influenced by the ECCR intervention.
- The U.S. Institute will begin the renewal process for its OMB approved information collections (surveys) in FY 2015. The U.S. Institute will work with federal partners and with OMB representatives to strengthen the ECCR data collections to meet the needs of this report.

3. **ECCR Use:** Describe the level of ECCR use within your department/agency in FY 2014 by completing the table below. [Please refer to the definition of ECCR from the OMB-CEQ memo as presented on page one of this template. An ECCR “case or project” is an instance of neutral third-party involvement to assist parties in a collaborative or conflict resolution process. In order not to double count processes, please select one category per case for decision making forums and for ECCR applications.

	Total FY 2014 ECCR Cases ²	Decision making forum that was addressing the issues when ECCR was initiated:				ECCR Cases or projects completed ³	ECCR Cases or Projects sponsored ⁴	Interagency ECCR Cases and Projects	
		Federal agency decision	Administrative proceedings /appeals	Judicial proceedings	Other (specify)			Federal only	Including non federal participants
<i>Context for ECCR Applications:</i>									
Policy development	1	1				1			1
Planning	19	14			5	11		3	16
Siting and construction									
Rulemaking									
License and permit issuance									
Compliance and enforcement action									
Implementation/monitoring agreements	2	2							2
Other (specify): _____	11	5			6	6		3	8
TOTAL	33	22			11	18		6	27
		(the sum of the Decision Making Forums should equal Total FY 2014 ECCR Cases)							

² An “ECCR case” is a case in which a third-party neutral was active in a particular matter during FY 2014.

³ A “completed case” means that neutral third party involvement in a particular ECCR case ended during FY 2014. The end of neutral third party involvement does not necessarily mean that the parties have concluded their collaboration/negotiation/dispute resolution process, that all issues are resolved, or that agreement has been reached.

⁴ Sponsored - to be a sponsor of an ECCR case means that an agency is contributing financial or in-kind resources (e.g., a staff mediator's time) to provide the neutral third party's services for that case. More than one sponsor is possible for a given ECCR case.

Note: If you subtract completed ECCR cases from Total FY 2014 cases it should equal total ongoing cases. If you subtract sponsored ECCR cases from Total FY 2014 ECCR cases it should equal total cases in which your agency or department participated but did not sponsor. If you subtract the combined interagency ECCR cases from Total FY 2014 cases it should equal total cases that involved only your agency or department with no other federal agency involvement.

4. ECCR Case Example

Using the template below, provide a description of an ECCR case (preferably completed in FY 2014). Please limit the length to no more than 2 pages.

Name/Identification of Problem/Conflict
Overview of problem/conflict and timeline, including reference to the nature and timing of the third-party assistance, and how the ECCR effort was funded
<p>SHERMAN MARSH MITIGATION BANKING DEPOSIT ASSESSMENT AND MEDIATION January 2013 – October 2013</p> <p>This case occurred in coastal Maine and involved complex issues related to mitigation banking for wetlands or other aquatic resources. The controversy surrounded the State of Maine Department of Transportation’s (MaineDOT) decision to restore a salt marsh and to seek compensation, in the form of mitigation banking credits, for that restoration.</p> <p>A severe rain event had caused a dam to fail under a Maine Department of Transportation (MaineDOT) bridge. Given the impact to the natural environment and damage to the bridge brought on by the dam failure, MaineDOT decided not to replace the dam and, instead, to explore options for restoring what was believed to be one of the most significant salt marshes on the East Coast. Following federal guidelines, MaineDOT submitted a “prospectus” to the USACE asking to deposit the Sherman Marsh site into MaineDOT’s Umbrella Mitigation Bank. USACE, in turn, consulted with an Interagency Review Team and with a Commenting Federal Agency to consider how to handle the deposit request. The Interagency Review Team included the Environmental Protection Agency, U.S. Fish & Wildlife Service, Maine Department of Environmental Protection, and National Marine Fisheries Service; the Commenting Federal Agency was the Federal Highway Administration. The review brought to light conflicts over differing agency mission-related needs and project-related interests that called for the assistance of a third party neutral to assess the situation, to substantiate and clarify the relevant issues, and to help identify ways to resolve the issues.</p>
Summary of how the problem or conflict was addressed using ECCR, including details of any innovative approaches to ECCR, and how the principles for engagement in ECCR outlined in the policy memo were used
<p>In response to conflicting perspectives of the Interagency Review Team, MaineDOT brought in the U.S. Institute to conduct assessment interviews with 16 individuals representing seven agencies including the Interagency Review Team, Federal Commenting Agency, and MaineDOT staff associated with the Sherman Marsh project. Interviews focused on exploring project history, issues, working relationships, and a potential collaborative process for resolving the conflict. Most of the participants in the process had little or no prior experience with neutral third party assisted conflict resolution.</p> <p>After receiving the assessment report, participants asked the U.S. Institute to facilitate an issue resolution meeting involving representatives of the agencies interviewed to explore how to move forward together on the Sherman Marsh mitigation bank deposit prospectus.</p>

Identify the key beneficial outcomes of this case, including references to likely alternative decision making forums and how the outcomes differed as a result of ECCR

The U.S. Institute’s assessment report provided participants with a greater level of understanding about each other’s perspectives and needs, key issues, and a recommended process for conflict resolution. At the issue resolution meeting, all participants reached consensus on how to resolve all the identified issues, including next steps with a timeline for finalizing the prospectus, allowing for public comment, and moving to a draft Instrument documenting agreement on the deposit prospectus.

Participants commented that the facilitators kept the process on track, found ways to move forward constructively, made sure the process was fair and unbiased, efficiently managed technical discussions, and helped document the work as it was done. Because of assistance from the U.S. Institute for Environmental Conflict Resolution, participants found they were able to work together successfully and reach consensus on the immediate issues. Perhaps equally importantly, participants say the assistance also built greater capacity to work together in the future. For example, after the U.S. Institute’s assistance, participants moved forward effectively on their own and made progress toward a final instrument to guide a local mitigation banking process.

Reflections on the lessons learned from the use of ECCR

The case highlights the value of third party neutral assessment and conflict resolution, particularly in projects with complex technical and regulatory issues, as well as in processes that are new to participants and to a region of the country. Having neutral third party involvement helped participants reach common understanding of the situation, including the history, technical issues, and regulatory requirements, as well as helping participants identify key issues in need of resolution and agree to a collaborative conflict resolution process.

Some lessons learned from the process include:

- Helped participants gain a better understanding of each other’s views, perspectives, and needs
- Helped participants identify and focus on key issues to be addressed
- Helped break through a stalemate
- Prevented conflict escalation
- Opened lines of communication
- Helped participants explore options on resolutions that meet their common needs
- Improved participants’ ability to work together collaboratively
- Improved professional relationships
- Helped participants achieve consensus
- Resulted in more timely decisions and outcomes

5. Other ECCR Notable Cases: Briefly describe any other notable ECCR cases in the past fiscal year. (Optional)

6. Priority Uses of ECCR:

Please describe your agency’s efforts to address priority or emerging areas of conflict and cross-cutting challenges either individually or in coordination with other agencies. For example, consider the following areas: NEPA, ESA, CERCLA, energy development, energy transmission, CWA 404 permitting, tribal consultation, environmental justice, management of ocean resources, infrastructure development, National Historic Preservation Act, other priority areas.

The U.S. Institute works with multiple federal agencies and provides assistance across a spectrum of substantive areas including planning, regulation and management. The U.S. Institute’s services are applied in the following areas of emphasis:

- Interagency/intergovernmental conflicts and challenges;
- Environmental conflicts and challenges involving levels of government (federal, tribal, state, local) and the public; and
- Conflicts and challenges where area expertise is required (e.g., conflicts involving tribes and native people, land management, water resources, transportation and infrastructure, the National Environmental Policy Act).

In FY 2014, the U.S. Institute’s services supported the majority of the example areas noted in this question (e.g., NEPA, ESA, energy development, tribal consultation, management of ocean resources, infrastructure development).

7. Non-Third-Party-assisted Collaboration Processes: Briefly describe other significant uses of environmental collaboration that your agency has undertaken in FY 2014 to anticipate, prevent, better manage, or resolve environmental issues and conflicts that do not include a third-party neutral. *Examples may include interagency MOUs, enhanced public engagement, and structural committees with the capacity to resolve disputes, etc.*

Not Applicable

8. **Comments and Suggestions re: Reporting:** Please comment on any difficulties you encountered in collecting these data and if and how you overcame them. Please provide suggestions for improving these questions in the future.

In general, the Udall Foundation/U.S. Institute did not encounter any difficulties in collecting these data. Challenges specific to generating cost and benefit information are addressed as part of the Foundation/U.S. Institute's response to question 2c.

Please attach any additional information as warranted.

Report due February 15, 2015.

Submit report electronically to: ECRReports@omb.eop.gov

**Basic Principles for Agency Engagement in
Environmental Conflict Resolution and Collaborative Problem Solving**

Informed Commitment	Confirm willingness and availability of appropriate agency leadership and staff at all levels to commit to principles of engagement; ensure commitment to participate in good faith with open mindset to new perspectives
Balanced, Voluntary Representation	Ensure balanced inclusion of affected/concerned interests; all parties should be willing and able to participate and select their own representatives
Group Autonomy	Engage with all participants in developing and governing process; including choice of consensus-based decision rules; seek assistance as needed from impartial facilitator/mediator selected by and accountable to all parties
Informed Process	Seek agreement on how to share, test and apply relevant information (scientific, cultural, technical, etc.) among participants; ensure relevant information is accessible and understandable by all participants
Accountability	Participate in the process directly, fully, and in good faith; be accountable to all participants, as well as agency representatives and the public
Openness	Ensure all participants and public are fully informed in a timely manner of the purpose and objectives of process; communicate agency authorities, requirements and constraints; uphold confidentiality rules and agreements as required for particular proceedings
Timeliness	Ensure timely decisions and outcomes
Implementation	Ensure decisions are implementable consistent with federal law and policy; parties should commit to identify roles and responsibilities necessary to implement agreement; parties should agree in advance on the consequences of a party being unable to provide necessary resources or implement agreement; ensure parties will take steps to implement and obtain resources necessary to agreement