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Office of Counsel (25-55)

via email

SUBJECT: Freedom of Information Act (FOIA) 23-0065 (FP-23-017161)

This is in response to your FOIA/PA request:

- Copy of the Tribal Protocols Guidebook for DoD Legacy Resource Management Program developed through a cooperative agreement with Colorado State University during 2021-2022.

Enclosed, please find a copy of the request information.

Since the cost of providing you with the requested information was less than \$25.00, there is no charge for the requested information.

Should you have any questions, please feel free to contact me via email at [FOIA-SWF@usace.army.mil](mailto:FOIA-SWF@usace.army.mil) and reference FOIA 23-0065 (FP-23-017161).

Sincerely,

*Delene Smith*

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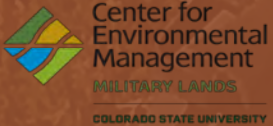
Enclosures





# Department of Defense Tribal Engagement Guidebook

DoD Legacy Resource Management Program



**Prepared for the Department of Defense Legacy Resource  
Management Program**

**W9126G-21-2-0059 / Legacy CR-21-001**

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**Figure I (Cover photo):** Navajo Code  
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*Photo Credit: Mr. Michael Fedoroff*

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# Acronyms

## Agencies/Programs

**ACHP** – Advisory Council on Historic Preservation

**AFCEC** – Air Force Engineering Center

**AFN** – Alaska Federation of Natives

**AIBL** – American Indian Business Leaders

**AICCCC** – American Indian Cultural Communications and Consultation Course

**AIPC** – All Indian Pueblo Council

**ANCCCC** – Alaska Native Cultural Communications and Consultation Course

**ARNG** – Army National Guard

**ARARNG** – Arkansas Army National Guard

**ATNI** – Affiliated Tribes of Northwest Indians

**AZARNG** – Arizona Army National Guard

**CEM** – Conceptual Ecological Model

**CEMML** – Center for Environmental Management of Military Lands

**CEQ** – Council on Environmental Equality

**CRITFC** – Columbia River Inter-Tribal Fish Commission

**CRM** – Cultural Resource Manager

**CNO** – Choctaw Nation of Oklahoma

**DAF** – Department of Air Force

**DoD** – Department of Defense

**FWS** – Fish & Wildlife Service

**GLIFWC** – Great Lakes Indian Fish and Wildlife Commission

**GLITC** – Great Lakes Intertribal Council

**IDARNG** – Idaho Army National Guard

**IHS** – Indian Health Services

**ITBC** – Intertribal Buffalo Council

**ITC** – Inter-Tribal Council of the Five Civilized Tribes

**I.T.C.** – Inter-Tribal Council of Michigan, Inc.

**ITCA** – Inter-Tribal Council of Arizona, Inc.

**ITCC** – The Intertribal Council of California



**ITCN** – Inter-Tribal Council of Nevada, Inc.

**ITEMC** – Inter-Tribal Emergency Management Coalition

**LRMP** – Legacy Resource Management Program

**MAST** – Midwestern Alliance of Sovereign Tribes

**MNARNG** - Minnesota Army National Guard

**NATHPO** – National Association of Tribal Historic Preservation Officers

**NDDOT** – North Dakota Department of Transportation

**NPS** – National Park Service

**NRCS** – USDA-Natural Resources Conservation Service

**NTEC** – National Tribal Environmental Council

**NWIFC** – Northwest Indian Fisheries Commission

**OKARNG** – Oklahoma Army National Guard

**OPM** – Office of Personnel Management

**RMTLC** – Rocky Mountain Tribal Leaders Council

**RRA** – Rivercane Restoration Alliance

**SALNAA** – Senior Advisor and Liaison for Native American Affairs

**SCTCA** – Southern California Tribal Chairmen’s Association

**SRP** – USACE Sustainable Rivers Program

**SWF** – USACE Southwest Division-Fort Worth District

**OSD** – Office of the Secretary of Defense

**TASIN** – Tribal Alliance of Sovereign Indian Nations

**TCC** – Tanana Chiefs Conference

**TCU** – Tribal Colleges and Universities

**THPO** – Tribal Historic Preservation Officer

**TNC** – The Nature Conservancy

**TNTCX** – Tribal Nations Technical Center of Expertise

**TNARNG** – Texas Army National Guard

**USACE** – United States Army Corps of Engineers

**USDA** – United States Department of Agriculture

**USET** – United South & Eastern Tribes

**USFS** – United States Forest Service

**UTARNG** – Utah Army National Guard

**UTTC** – United Tribes Technical College

**UTTC** – United Tribes Technical College  
**WYARNG** – Wyoming Army National Guard

### **Laws and Terms**

**AOR** – Area of Responsibility  
**BIA** – Bureau of Indian Affairs  
**CFR** – Code of Federal Regulations  
**DoDI** – Department of Defense Instruction  
**EIS** – Environmental Impact Statement  
**EO** – Executive Order  
**ICRMP** – Integrated Cultural Resource Management Plan  
**IPA** - Intergovernmental Personnel Act  
**MFR** – Memorandum for Record  
**MOA** – Memorandum of Agreement  
**MOU** – Memorandum of Understanding  
**NEPA** – National Environmental Policy Act  
**NHPA** – National Historic Preservation Act  
**NRHP** – National Register of Historic Places  
**SOP** – Standard Operating Procedure  
**TCP** – Traditional Cultural Property  
**TEK** – Traditional Ecological Knowledge  
**TJS** – Tribal Justice Support  
**TPA** – Public Law 638 Tribal Priority Allocations  
**USC** – United States Code





**Figure II:** Moundville Archaeological Park, Moundville, Alabama, *Photo Credit: Mr. Michael Fedoroff*

*For the purposes of this document, the following definition is applied from DOD Instruction 4710.02:*

*Tribe: Indian Tribes as defined in EO 13175, “an Indian or Alaskan Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1991, 25 USC 479a.”*

*Any findings or recommendations of this report are that of the principal investigator and contributors. This report should not be construed as official Department of Defense policy or position unless so designated through other issuances.”*

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# Introduction

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The history between the United States (U.S.) Department of Defense (DoD) and Native American Tribes is complex to say the least. Proactive consultation and collaboration with Tribes are legally and morally essential to the development and maintenance of Government-to-Government relationships between the two (*Seminole Nation v. U.S.*, 1942). All lands managed by the Department of Defense (DoD) continue to have cultural and/or historic significance to many Native American Tribes. Through open consultation and collaborative engagement with those Tribes, even simple phone and mail correspondence, the DoD can be more effective in the management of cultural and natural resources protected by federal law and recognized in at least 22 treaties. These resources include Sacred Sites, ancestral homelands, geological materials, plants, and animals – all of which have been found on military-managed lands. In addition, federal law dictates that the DoD shall pursue consultation, specific Government-to-Government engagement through a formalized process further explained in this guidebook, with any and all Tribes whose lands, rights, or resources may be affected by military activities such as weapons testing, practice bombing runs, training, and field maneuvers.

As of July 28, 2022, the federal government currently recognizes 574 Native American Tribes in the continental U. S. and Alaska. Each of these Tribes has a unique culture, history, and government. The relationship between the federal government and each of these Tribes reaches back to the first contact between Europeans and Indigenous groups and is documented in the U.S. Constitution, treaties, decisions of the U.S. Supreme Court, federal statutes, and Executive Orders (EOs). A number of these documents require federal agencies to consult and coordinate with any federally recognized Tribe(s) that have historical, cultural, or religious interests in a geographic area that will be or is currently being impacted by a federal undertaking. In recognition of the special legal standing of federally recognized Tribes, and to meet the DoD's Federal Trust Responsibility to those Tribes, the DoD Legacy Resource Management Program (LRMP) engaged the Center for Environmental Management of Military Lands (CEMML) and the U.S. Army Corps of Engineers (USACE) Tribal Nations Technical Center of Expertise (TNTCX) to develop a Tribal Engagement Guidebook. The purpose of this guidebook is to aid DoD components in the implementation of their responsibilities to Tribes.

## **KEY RESOURCE**

### **For more background on the complex history of the relationship between Tribes and the Federal Government:**

- Educating America: The Historian's Responsibility to Native Americans and the Public (2001), [Educating America: The Historian's Responsibility to Native Americans and the Public | Perspectives on History | AHA \(historians.org\)](#)
- An Indigenous Peoples' History of the United States (2015), [An-Indigenous-Peoples-History-of-the-United-States-Ortiz.pdf \(sackett.net\)](#)
- American Indians, Alaska Natives & The Department of Defense: A Brief History (1999), [DoD-Brief-History-with-Native-Americans.pdf \(osd.mil\)](#)

**Table 1: The Legal Context of Why We Consult, *Table Credit: Mr. Michael Fedoroff***

<p style="text-align: center;"><b><u>US Constitution:</u></b></p> <ul style="list-style-type: none"><li>• Commerce Clause, Article I, Section 8: gives the right to do business with Tribes to the federal government, not states.</li><li>• Supremacy Clause, Article VI: treaties are the supreme law of the land.</li></ul> <p style="text-align: center;"><b><u>Treaties:</u></b></p> <ul style="list-style-type: none"><li>• More than 500 were signed (about 380 ratified by Senate). Reference: <a href="https://treaties.okstate.edu/">https://treaties.okstate.edu/</a>.</li></ul>
<p style="text-align: center;"><b><u>Federal Trust Doctrine:</u></b></p> <ul style="list-style-type: none"><li>• The U.S., and individual agencies of the federal government owe a fiduciary duty to Indian Tribes. The nature of that duty depends on the underlying substantive laws creating the duty (i.e., treaties, statutes).</li><li>• Consultation is required by Executive Orders, statutes, and treaties. Only the U.S. Congress can diminish Tribal treaty rights.</li><li>• Consultation is a means for actualizing the Federal Trust Doctrine.</li><li>• Agency policies are developed to establish guidelines as to what is required by or involved in fulfilling the Trust Doctrine.</li></ul>
<p style="text-align: center;"><b><u>Federal Laws:</u></b></p> <ul style="list-style-type: none"><li>• National Historic Preservation Act (NHPA)</li><li>• National Environmental Policy Act (NEPA)</li><li>• Endangered Species Act (ESA)</li><li>• American Indian Religious Freedom Act (AIRFA)</li><li>• Archaeological Resources Protection Act (ARPA)</li><li>• Native American Graves Protection and Repatriation Act (NAGPRA)</li></ul> <p style="text-align: center;"><b><u>Executive Orders:</u></b></p> <ul style="list-style-type: none"><li>• EO 13287: Preserve America (2003)</li><li>• EO 13175: Consultation and Coordination with Indian Tribal Governments (2000)</li><li>• EO 13007: Indian Sacred Sites (1996)</li></ul>

DoD Instruction (DoDI) 4710.02, *DoD Interactions with Federally Recognized Tribes*, establishes the DoD's principles for interacting and working with federally recognized American Indian and Alaska Native governments. With the intent to provide guidance to DoD components, these principles are based on Tribal input, constitutional law, treaties, Supreme Court cases, federal statutes and their regulations, and pursuant federal-level policies. When applying these principles, DoD personnel, particularly at the installation level, must consider the unique qualities and rights of individual Tribes. These principles recognize the importance of increasing, understanding, and addressing Tribal concerns – past, present, and future. Federal agencies must address any Tribal concerns prior to reaching decisions on matters that may have the potential to adversely affect protected Tribal resources, rights, or lands.

This guidebook serves to aid DoD personnel who engage with federally recognized Tribes in the process of meeting Federal Trust Responsibilities. Such personnel include commanders, cultural resource professionals, natural resource professionals, Tribal liaisons, legal counsel, public affairs and protocol staff, and more, as duties require. The goals of this guidebook are to offer:

- 1) Compassionate and respectful approaches to establishing and maintaining Government-to-Government relationships,
- 2) Consistency of engagement methods with federally recognized Tribes, and
- 3) Effective management strategies of Tribal resources on DoD-managed lands.

The principal investigators and contributors reviewed over 200 documents for this project and identified 154 of those documents as related to the roles and responsibilities of staff assignments regarding Tribal interaction. They identified five major types of data bibliographic collections, which were aggregated into the following categories by document type: 1) DoD agency guidance, protocols, and regulations; 2) other agency guidance, protocols, and regulations; 3) federal laws and their corresponding CFR publications and EOs; 4) related resources (e.g., specified references, Tribal publications, etc.); and 5) superseded guidance, protocols, and regulations.



Table 2: **Section 1.2 of DoDI 4710.02, September 24, 2018, Table Credit: DoD**

**1.2 POLICY.** It is DoD policy that:

- a. Any interaction between DoD and Tribes, including implementation of DoD responsibilities, must comply with:
  - (1) Federal Trust doctrine, treaties, and agreements between the U.S. Government and Tribal governments.
  - (2) Federal Statutes, regulations, Presidential memorandums, and EOs governing DoD interactions with Tribes.
- b. Relations between DoD and federally recognized Tribal governments will be maintained in a manner that sustains the DoD mission and minimizes effects on protected Tribal resources in accordance with DoDI 4715.16, EO13175, the September 23, 2004 Presidential Memorandum, and other applicable federal laws or policies affecting American Indians or Alaska Natives.
- c. Installation commanders fully integrate the principles and practices of meaningful consultation and communication with Tribes in accordance with DoDI 4715.16, EO 13175, and the September 23, 2004 Presidential Memorandum.
- d. Consideration is given to the significance that Tribes give to protected Tribal resources on protected land in accordance with, but not limited to, DoDI 4715.16; Section 229.7 of Title 32, Code of Federal Regulations (CFR); Part 800 of Title 36, CFR; Part 10 of Title 43, CFR; Sections 300101 et seq. of Title 54, United States Code (U.S.C.), also known and referred to in this issuance as the “National Historic Preservation Act of 1966,” as amended; and EO 13007.

During the initial data collection phases, the principal investigators and contributors noted the following key points:

- The bulk of DoD protocols involve citing the purpose and need of Tribal consultation rather than outlining detailed guidance on operationalizing Tribal consultation goals.
- When detailed guidance is referenced, it is typically embedded over several different documents that require the reader to cross-reference.
- Rarely do DoD personnel who interact with Tribal governments have specified position descriptions, skills, and training for those duties.
- Some DoD organizations, such as the Department of the Air Force (DAF), do outline roles and responsibilities for communication on Tribal matters in their policies; however, details on operations are not included.
- While the bulk of DoD protocols are focused on Tribal consultation compliance, operationalizing the delivery of the Federal Trust Responsibility at an installation level is often superficial at best.

- The most detailed guidance on Tribal Liaison best practices and Tribal engagement are often found in outside agency documents, such as the U.S. Department of Agriculture (USDA) and U.S. Forest Service (USFS), and in underutilized Legacy products.
- DoD offers few digital toolboxes and digital footprints (dedicated webpages, social media, etc.) aimed at effective Tribal engagement methods and practices.

**Figure IV:**  
Thlopthlocco Tribal  
Town Veteran’s Day  
Dinner, Okemah,  
Oklahoma, *Photo  
Credit: Mr. Matthew  
Grunewald*



# Organization of the Guidebook:

This guidebook is divided into five chapters with the intent of providing a comprehensive overview on the subject of DoD Tribal engagement. While not exhaustive, the material within these pages highlights training, tools, and techniques available to DoD staff to improve Tribal engagements in their respective areas.

**Chapter 1: Sovereignty and Trust** – Introduces the project and the guidebook intent and defines Tribal Sovereignty and Federal Trust Responsibility in the context of working with Tribal Nations

**Chapter 2: Tribal Liaison Training and Professional Development** – Outlines an example 4-year Tribal Liaison training program and offers relevant course recommendations.

**Chapter 3: Collaboration, Consultation, and Coordination: Three Different Forms of Communication** – Outlines Collaboration, Consultation, and Coordination, three different communication methods when engaging Tribes

**Chapter 4: Conducting Tribal Engagement** – Provides best practices of formal Government-to-Government Tribal consultation

**Appendices A-E** – Includes additional resources related to topics covered in this guidebook.



**Figure V:** Mississippi Band of Choctaw Dancers, Jackson, Mississippi 2009,  
*Photo Credit: Mr. Michael Fedoroff*





# CHAPTER 1: Sovereignty and Trust

Figure 1: Portrait of John Ross, *Image Credit: The Art Archive*



*“With the help of Tribal leaders, our federal partners, and those working at the grassroots level in communities across the land, we are working for a better life for Native peoples.”*

**Figure 1.1:** President Brian Cladoosby, the 2014 President of the National Congress of American Indians, *Photo Credit: NCAI*

As any person new to working with Tribes can attest, cultivating relationships with Indigenous communities in proper and respectful ways can be daunting. An understanding of the specific legal and long diplomatic history between Tribal Nations and the U.S. is crucial to the successful engagement of Tribes today. DoD engagement with federally recognized Tribes is rooted in principles such as **Tribal Sovereignty** and the **Federal Trust Responsibility** and is mentioned many times in DoD guidance. The definitions of these concepts must be well understood to effectively fulfill the DoD’s obligations to Tribal Nations. This chapter provides context and discussion of these two terms. It also provides resources for clarification of these responsibilities for installation managers.

## John Ross (ᏊᏍᏏᏉ)

John Ross, pictured in the Chapter 1 cover image, was the Principal Chief of the Cherokee Nation from 1828-1866. He led the Tribe throughout a tumultuous Supreme Court litigation that led to the acknowledgement of the Cherokee Nation as sovereign, and the eventual establishment of the Federal Trust Responsibility, as argued by Chief Justice John Marshall.



# Sovereignty

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## What is Tribal Sovereignty?

**Tribal Sovereignty** is the recognition that Tribal governments are sovereign entities—distinct governments that have the power to regulate their internal affairs. Accordingly, it affirms the right of Native Americans and Native Alaskans to govern themselves (NCAI, 2001-2022).

## What establishes Tribal Sovereignty?

Tribal Sovereignty is rooted in the U.S. Constitution (Article 1, Section 8, clause 3; Article VI, clause 2), and has been reaffirmed through legal precedents (*Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831), *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832)), and by EOs. Together, the Constitution and Tribal treaties recognize the inherent sovereignty of Tribal Nations as governments pre-existing the U.S. and with pre-existing powers.

### **KEY RESOURCE**

For help identifying treaties visit:

**The Indigenous Digital Archive's Treaties Explorer**

<https://digitreaties.org/treaties/>

## What does Tribal Sovereignty mean for DoD installation managers?

Sovereignty mandates that decisions affecting Tribes and their resources must be made with Tribal participation and input. This means that installation managers must engage Tribes with cultural or historic ties to the DoD-managed land to consult about projects, preferably from the initial phases of those projects. In areas of the country such as the Southeast, many Tribes were removed from their traditional homes and resources.

Although no longer living in their traditional homelands, removed Tribes still have the same rights to those resources as Tribal entities that do still reside in their respective homelands.

# Federal Trust Responsibility

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The **Federal Trust Responsibility** to Native Nations does not have a single, set definition. Opinions differ on how far this responsibility extends, how it should be carried out and enforced, and, in the minds of some, whether it should exist at all. More than two centuries of judicial decisions, statutes, regulations, executive branch directives, and policies (both official and unofficial) have contributed to the understanding of appropriate ways in which the federal government should engage Tribes, while upholding Tribal Sovereignty and legal rights.

**TAKEAWAY**

The **Federal Trust Responsibility** is both a **legal** and **moral** obligation to protect Tribal Sovereignty and protect Tribal trust resources.

## What is the Federal Trust Responsibility?

The Federal Indian Trust Responsibility, most commonly referred to as the Federal Trust Responsibility in this guidebook and elsewhere, is the cornerstone of the Government-to-Government relationship. It is a legal obligation under which the U.S. “has charged itself with moral obligations of the highest responsibility and trust” toward Tribes (*Seminole Nation v. U.S.*, 1942; Pleasant Point Tribal Council 2022). This obligation was first discussed by Chief Justice John Marshall in *Cherokee Nation v. Georgia* (1831). Over the years, the trust doctrine has been at the center of numerous Supreme Court cases, making it one of the most important principles in federal Indian law (Pleasant Point Tribal Council 2022).

The Federal Trust Responsibility is a legally enforceable fiduciary obligation on the part of the U.S. to protect Tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of federal law with respect to American Indian and Alaska Native Tribes and villages (Federal Emergency Management Agency 2022). In several cases discussing the trust responsibility, the Supreme Court has used language suggesting that the responsibility entails legal duties, moral obligations, and the fulfillment of understandings and expectations that have arisen over the entire course of the relationship between the U.S. and federally recognized Tribes (Quilt 2022 and DOD 4710.02).

## **KEY RESOURCE**

### **National Congress of American Indians (NCAI)**

<https://www.ncai.org/>

This link identifies the National Congress of American Indians (NCAI) as a non-profit organization that was founded in 1944 and is both the oldest and largest organization representing American Indians and Alaska Natives. NCAI's membership includes Tribal government representatives, Tribal members, and non-Native organizations. This organization is heavily involved in shaping, commenting, and tracking policy and legislation impacting Tribal Communities, and is a great resource for information.



## Origins of The Federal Trust Responsibility

The Federal Trust Responsibility, and the related power to exercise control over Indian affairs in aid of that responsibility, is rooted in the U.S. Constitution – most significantly the Indian Commerce Clause, the Treaty Clause, and the exercise of the Supremacy Clause (MNSure 2022). The Constitution contains no explicit language that establishes or defines the trust relationship. Rather, the parameters of the Trust Responsibility have evolved over time through judicial pronouncements, treaties, acts of Congress, EOs, regulations, and the ongoing course of dealings between the federal government and Tribal governments.

The earliest formal dealings between the federal government and Indian Tribes were undertaken through treaty-making (MNSure 2022). Treaty objectives from the U.S. perspective were essentially two-fold: 1) cessation of hostilities to achieve and maintain public peace, and 2) acquisition of land occupied by Tribal inhabitants. Tribes, too, without a doubt, had a peace-making motive; but in return for the land, they relinquished to the more powerful federal government. Tribes also obtained the U.S. government's promise – expressed or implied – of support for the social, educational, and welfare needs of their people (MNSure 2022). These treaties and promises were the first expression of the federal government's obligation to Indian Tribes.

In the landmark case of *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831), Chief Justice John Marshall established the legal foundation for the trust responsibility by describing Indian Tribes as "domestic dependent nations" whose relationship with the U.S. "resembles that of a ward to his guardian." That theme carried forward some 50 years later when, in *United States v. Kagama*, 118 U.S. 375, 384 (1886), the Supreme Court acknowledged that Tribes are under the protection and care of the U.S.: "From their very weakness and helplessness, so largely due to the course of dealing of the federal government with them, and the treaties in which it has been promised, there arises the duty of protection, and with it the power [of protection]" (MNSure 2022).

Agency officials often describe consultation as the "right thing to do," but it is the inherent nature of the government's trust relationship that mandates consultation. This fiduciary relationship is deeply rooted in land and resource cessions made by Tribes as part

of treaties and rights conveyed through them. As a result, both the Tribes and the federal government understood that the federal government would safeguard the autonomy of Native Nations, their resources, and their treaty-reserved rights, as common law trustees.

This relationship, often referred to as the “trust relationship,” requires that, where the federal government has asserted management and control of Native American resources, the federal government has an obligation to use due care with those resources. In decision-making that potentially affects cultural resources of Native peoples, both on and off Native-owned land, the Government-to-Government relationship requires, at a minimum, the careful and strategic input of interested Tribes (National Association of Tribal Historic Preservation Officers ([NATHPO] 2005). Tribes are not merely another consulting party; they are the primary consulting party. The understanding derived from consultation between agencies and Tribes contributes to a more wholistic set of information about project impacts on the landscape, for all Native Nations and federal agency fiduciaries. Better information, in turn, should produce sounder project planning. As such, consultation is not only legally mandated and integral to efficient project planning, but also the legal, right course of conduct. However, there are additional considerations to effective Tribal consultation to evaluate, engage, and document (NATHPO 2005).

**KEY RESOURCE**

**For help Identifying Tribal Historic Preservation Officers visit  
National Park Service Tribal Preservation Program**

[https://grantsdev.cr.nps.gov/THPO\\_Review/ListTHPO.cfm](https://grantsdev.cr.nps.gov/THPO_Review/ListTHPO.cfm)

**OR**

**National Association of Tribal Historic Preservation Officers (NATHPO)**

<https://www.nathpo.org/>

The National Association of Tribal Historic Preservation Officers (NATHPO) was founded in 1998 and is a non-profit that focuses on preservation issues, supports Tribal Historic Preservation Officers in partnerships with federal agencies, and promotes Tribal Sovereignty and traditional cultural practices.

**Table 3: Trust Responsibility and Consultation Matrix, *Table Credit: Mr. Michael***

*Fedoroff*

Duty	When the Duty Applies
<p><u>Federal Trust Responsibility</u> Protect “to the highest degree of fiduciary standards” trust lands, and water and land habitats that support meaningful exercise of off reservation hunting, trapping, fishing, and gathering rights.</p> <p>Where trust responsibility applies, Indian interests cannot be subordinated to interests of the DoD absent overriding legal authority to do so.</p>	<ul style="list-style-type: none"> <li>Proposed action may affect* trust lands, trust lands are (1) Tribally owned lands held in trust by the federal government; and (2) allotted lands owned by individual Indians but held in trust by the federal government; and (3) restricted fee allotments.</li> <li>Proposed action may affect* off reservation treaty rights, off-reservation treaty rights are those use, and occupancy rights reserved for Indians in a treaty, statute, judicial decision, or EO establishing a reservation.</li> </ul> <p><i>*Even actions on DoD or other non-Indian-owned lands may affect trust land or off-reservation treaty rights and be conditional by the trust responsibility.</i></p>
<p><u>Consult with Indian Tribe and obtain consent under the Archaeological Resources Protection Act (ARPA) for resources on Indian Lands.</u></p> <p>*If it is on <b>Indian lands</b>, the federal agency is not the “Federal Land Manager”, thus consultation is required under ARPA and NAGPRA unless superseded by other legislation.</p>	<ul style="list-style-type: none"> <li>Prior to issuing an ARPA permit concerning excavation or removal on any archeological resource on Indian lands, 16 USC 470cc (g)(2) [ARPA §4].</li> <li>When determining disposition of archeological items removed from Indian lands, 16 USC 470dd (2) [ARPA §5].</li> <li>Before removing Native American human remains or cultural items from Tribal lands, 25 USC 3002(c)(2) [NAGPRA §3].</li> </ul>
<p><u>Consult with Indian Tribe</u></p>	<ul style="list-style-type: none"> <li>Prior to completing inventories of Native American human remains and associated</li> </ul>



Duty	When the Duty Applies
<p><u>Consult with Indian Tribe (Cont.)</u></p>	<p>funerary objects in an agency’s possession, 25 USC 3003 (b)(1)(A) [NAGPRA §5].</p> <ul style="list-style-type: none"> <li>• When determining the cultural affiliation of unassociated funerary objects, sacred objects, and objects of cultural patrimony, 25 USC 3004(b)(1)(B) [NAGPRA §6],</li> <li>• When determining how to return cultural items or human remains, 25 USC 3005 (a)(3) [NAGPRA §7].</li> <li>• When creating NAGPRA Comprehensive Agreements and Plans of Action with all interested Tribes.</li> <li>• When carrying out an agency’s NHPA responsibilities where an Indian Tribe or Native Hawaiian organization attaches religious or cultural significance to National Register-eligible site, 16 USC 470a(d)(6)(B) [NHPA §101],</li> <li>• When agency’s preservation work may affect Tribal concerns, 16 USC 470h-2 (a) (2)(D) [NHPA §110],</li> <li>• When deciding how to address adverse effects of federal undertakings on National Register-eligible properties, 16 USC 470h-2 (a)(2)(E)(ii) [NHPA §110].</li> <li>• During development of regulatory policies that have Tribal implications, EO 13175, 6 Nov 2000, Sec. 5.</li> <li>• Before taking actions that will affect federally recognized Tribal governments, Executive Memorandum, 29 April 1994, Section (b).</li> <li>• Before taking actions that adversely affect access to, the ceremonial use of, or the</li> </ul>

Duty	When the Duty Applies
<p><u>Consult with Indian Tribe (Cont.)</u></p>	<p>physical integrity of Sacred Sites, EO 13007, 24 May 96, Section 2(b)(iii).</p> <ul style="list-style-type: none"> <li>• In preparing for Environmental Assessments, invite affected Indian Tribe to participate in scoping, 40 CFR 1501.7 (a)(1) [Council on Environmental Equality (CEQ) National Environmental Policy Act (NEPA) Regulations].</li> <li>• Invite comments on draft Environmental Impact Statement (EIS), 40 CFR 1503.1 (a)(2)(ii) [CEQ NEPA Regulations].</li> <li>• May request Indian Tribe to become a cooperating agency when proposal may affect trust lands or treaty rights, 40 FR 1503.5 [CEQ NEPA Regulations].</li> </ul>

*(Adapted and modified from OSD Office of General Counsel (2004))*

# Federal Indian Law

Federal Indian law involves a distinct body of law that relates to the legal relationships between the federal government and Indian Tribes. Felix Cohen's *Handbook of Federal Indian Law* (1940), often referred to as the “standard” of federal Indian law, is an encyclopedic treatise written by experts in the Indian law field which provides general overviews to relevant information as well as in-depth study of specific areas within this complex area of federal law. This publication focuses on the relationship between Tribes, the states, and the federal government within the context of civil and criminal jurisdiction, as well as areas of resource management and government structure.

## KEY RESOURCE

For a better understanding of the history of federal Indian law, refer to the video below:

**Tribal Nations: The Story of Federal Indian Law (Tanana Chiefs Conference, 2006)**

<https://www.youtube.com/watch?v=UZXWGkN1dhc>



**Figure 1.2:** Chickasaw Warrior Statues  
Chickasaw Cultural Center, Sulphur Springs, Oklahoma 2020, *Photo Credit: Mr. Michael Fedoroff*

## Key Points to Understanding the US Federal Court System and Tribal Justice

### Systems:

- The Federal court system has three main levels: district courts, the trial court; circuit courts, the first level of appeal; and the Supreme Court of the U.S., the final level of appeal. There are 94 district courts, 13 circuit courts, and one Supreme Court throughout the country.
- There are approximately 400 Tribal justice systems throughout the U.S. These courts are partially funded through Public Law 638 Tribal Priority Allocations (TPA). Tribal Sovereignty is protected throughout the Tribal justice system or through a traditional court.
- The Bureau of Indian Affairs (BIA) does not manage Tribal justice systems; however, the Tribal Justice System at the BIA does have contact information for Tribes. Tribes that do not have their own Tribal justice system, the Court of Indian Offences (CFR Courts) provides that service on behalf of the Tribe (Title 25 CFR Part 11). There are five Regional CFR Courts.
- Title 25 U.S. Code 3601 et. seq mandates that the BIA provide training, technical support, and funding (when available) to all Tribal courts, including CFR Courts. The Tribal Justice Support (TJS) Directorate furthers the development and enhancement of Tribal justice systems. This includes respecting traditional justice systems and supporting coordination between federal, state, and Tribal courts.

### **KEY RESOURCE**

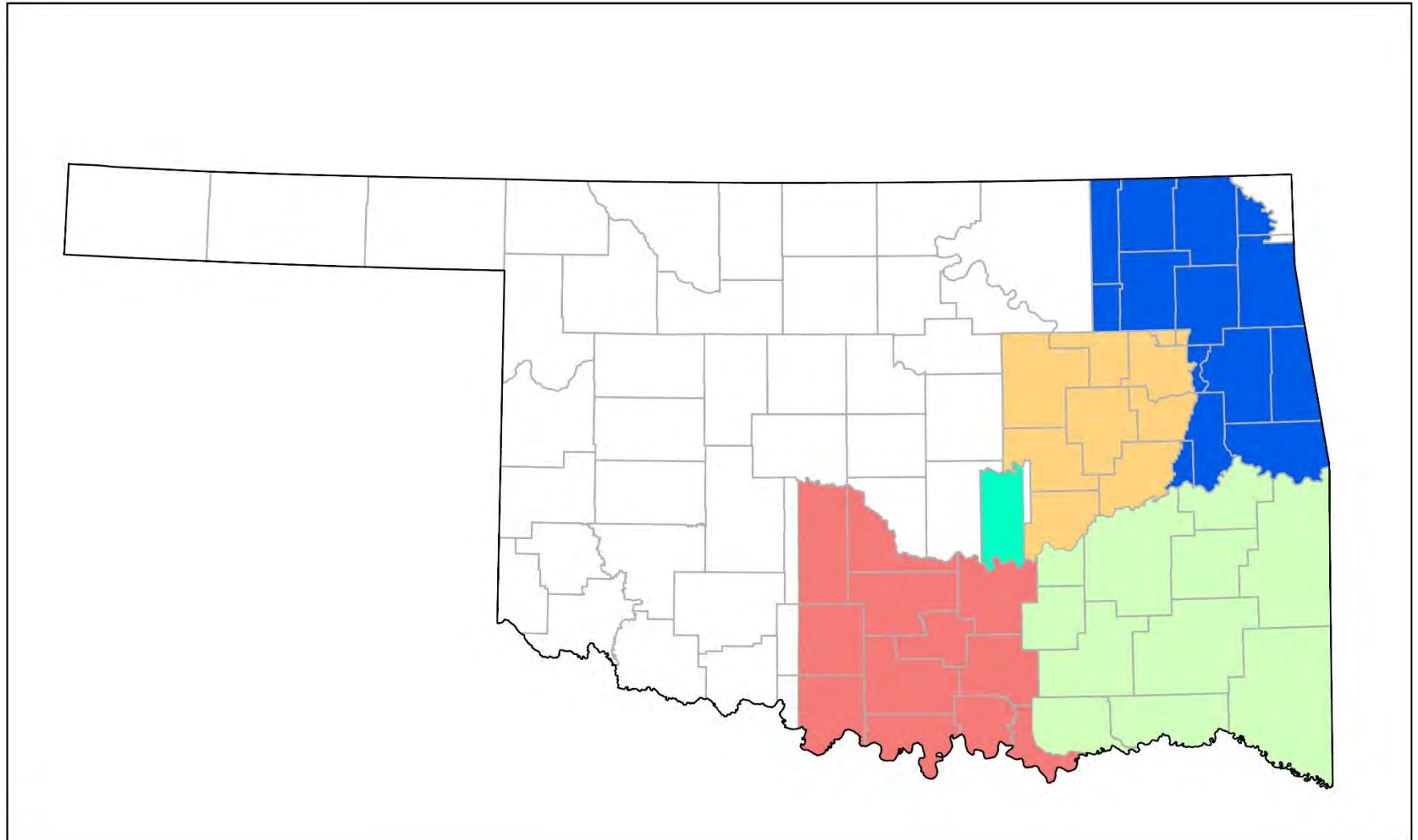
You can also search the Supreme Court Website directly for Indian Law Cases:

<https://www.supremecourt.gov/search.aspx?Search=Indian+Law+related+cases&type=Site>



Cases relevant to Indian Law are the Indian Law News Bulletins published by the National Indian Law Library and sponsored by the Native American Rights Fund:

<http://www.narf.org/nill/bulletins/>

**Figure 1.3:** Tribal Reservations Recognized since 2020 U.S. Supreme Court Decision, *Map Credit: Ms. Ann Strange*



Map Date: 11/7/22

-  Oklahoma State Boundary
-  Oklahoma County Boundary
- Tribal Reservations**
-  Cherokee
-  Muscogee Creek
-  Chickasaw
-  Seminole
-  Choctaw



## Sovereignty and Federal Indian Law Case Example: Tribal Jurisdiction in Oklahoma – McGirt v. Oklahoma

The case of McGirt v. Oklahoma is the most important Tribal Sovereignty decision in the history of Oklahoma. It involves criminal jurisdiction in Indian Country. The Choctaw, Chickasaw, Seminole, Muscogee Creek, and Cherokee Tribes (i.e., the Five Tribes) were all forcibly relocated by the U.S. government in the 1830s, from their homes in Southern states, including Mississippi, Alabama, Georgia, Tennessee, and Florida. The Tribes' reservations comprised millions of acres known as Indian Territory before Oklahoma statehood. In the run-up to Oklahoma statehood, there was no legislation explicitly disestablishing any of the Five Tribes' reservations.

In 2020, the U.S. Supreme Court ruled in McGirt v. Oklahoma by a vote of 5-4, that a large portion of eastern Oklahoma, which was reserved for the Muskogee Creek Nation in the 19th century, remains a reservation (see Figure 1.3). In its ruling, the Supreme Court determined that Congress had never officially disestablished the reservation when Oklahoma became a state in 1907, and that McGirt should have been prosecuted in federal court (federal law dictates that major crimes involving American Indians in Indian Country be prosecuted in federal court). The Supreme Court has yet to consider how broadly McGirt applies to the other four Tribes originally relocated to Indian Territory (now Oklahoma).

### TAKEAWAY

The **fundamental takeaway** for DoD installations regarding the McGirt case is not the specifics of criminal or civil jurisdiction but rather the extent of the exterior **boundary of reservation lands, cultural resources, areas of “significant” interest**, among other Sovereignty concerns, to the Tribes which may not have been previously considered by DoD and are **constantly changing** as legal reviews continue. For further guidance and application, the DoD-Native American Affairs Office should be consulted

<https://www.denix.osd.mil/na/index.html>.



## CASE STUDY

### **Minnesota Army National Guard's Works with Tribes on Camp Ripley Sentinel Landscape Partnership**

Camp Ripley's 53,000-acre training center is positioned at the nexus of powerful historical forces which have shaped the region encapsulating its footprint for millennia. The area saw its early inhabitants shortly after the retreat of the last glaciation roughly ten thousand years ago. In the ensuing generations, cultures have come and gone, all leaving their marks on the landscape. The Dakota and Ojibwe, who reside in the area, have rich traditions here and their ancestors witnessed the arrival of French, British, and then American explorers. These groups all grappled over the vast resources that were present and flowed through the area in trade and commerce on the Mississippi River and overland ox trails. With trade came settlers who began arriving in the early 1700s. Their voracious appetite for land and lumber resulted in the displacement of many of the original inhabitants and clear cutting of forests that forever changed the face of the landscape. The newly cleared land was primed for the introduction of farming and farmsteads dotting the terrain, many of which are still in use.

These events have left their indelible mark in the land and communities surrounding Camp Ripley. In 2019, the Camp Ripley Sentinel Landscape (CRSL) partnership adopted a strategic plan that identified a cultural resources protection strategy under the broad goal of protecting lands and promoting land uses compatible with Camp Ripley's military training mission. To achieve this goal, Sylvan Township, a CRSL partner, was approached with a proposal to facilitate a contract to conduct a comprehensive archaeological and historic literature assessment of the CRSL.

On December 1, 2020, Sylvan Township accepted an award of \$130,000 from the Minnesota Historical and Cultural Heritage Grants program. Source funding for this grant was the Arts and Cultural Heritage Fund administered by the Minnesota Historical Society. This innovative landscape-level survey involves gathering detailed information about known archaeological sites and historic standing structures within the project area by working with state agencies, visiting local historical societies, and partnering with Tribal historians. The information gathered is being built into a GIS database that will allow researchers and land managers to identify areas where future development could impact important archaeological and historic spaces. The database will be as inclusive as possible including information from the 1950s spanning back nearly 10,000 years. Sites of local, state, and national significance will be treated equally as well as locations of Native American and Euro American importance.

## CASE STUDY CONTINUED

While still early in the implementation of this program, several noteworthy results have already been revealed. Many archaeological sites including a previously unknown 1800s Native American camp under a railroad bridge in the town of Brainerd have been uncovered. The locations of fire towers, schools, logging camps and early settlements have also been recorded. One of the most significant discoveries was a medicine wheel and burial complex found near the Camp Ripley boundary on private property. This site was located through the cooperation of several CRSL partners including the Mille Lacs Band of Ojibwe, local historians, Camp Ripley's environmental staff, and the landowners themselves. This important location is in the process of gaining protections through the CRSL program. The success of this project has been noted by the archaeological community and inquiries into replicating this framework are being made for other state-level land protection programs. With the risk from Covid-19 lowering in community, the Minnesota Army National Guard (MNARNG) will begin planning for additional meetings to continue researching and working on the Sentinel Landscape project with Tribes and the local community.

*Contributed by Patrick Neumann, Cultural Resources Manager, Minnesota Army National Guard*



**Figure 1.4:** 1800s Native American camp under a railroad bridge in the town of Brainerd, previously unknown to the Army, *Photo Credit: Mr. Patrick Neumann*

## **Traditional Cultural Properties and Sacred Sites**

While the term “**Traditional Cultural Property**” (TCP) has not appeared in formal legislation, it is, in fact, backed by the NHPA and its regulations. TCP was first coined by the National Park Service (NPS) in a 1990 National Register Bulletin, which defined the term as a **property of cultural, religious, and/or historical significance to existing communities, while also being of importance to the populations’ cultural continuity**. TCPs are eligible for listing in the National Register of Historic Places (NRHP), a register of significant historic sites and properties spelled out in the NHPA.

**Sacred Sites** are similar to TCPs in that they are places of significance to Tribes. Specifically, Sacred Sites are sites located on federal and federally managed lands and have ties to Tribal religious beliefs. Further, the site itself may be sacred due to its location, or it may contain resources necessary for the ceremony or practice of Native religions. As discussed in EO 13007, federal agencies must adequately manage Sacred Sites, ensure the sites will not be adversely affected by federal projects, and allow Tribal members and religious practitioners access to the sites and resources.

The most critical aspect of the TCP and/or Sacred Site classification is consultation. Federal agencies cannot make the determination of this classification; it must be made by Tribespeople based on various aspects of their culture including oral histories, linguistics, and ancestral ties to Tribal homelands. Also note that Tribes are not required to disclose the information leading to a TCP or Sacred Site classification. This information is not subject to retrieval under the Freedom of Information Act (FOIA); and Tribes can make the choice of disclosure based on their own cultural practices and beliefs.





# CHAPTER 2: Tribal Liaison Training and Professional Development

Figure 2: Bandolier Petroglyphs, New Mexico, *Photo Credit: Mr. Michael Fedoroff*





*“Rivers also were  
water roads travelled  
by Tribes”*

**Figure 2.1:** Kirk Perry, a Tribal elder from the Chickasaw Nation, as he explains consultation during a DoD sponsored Tribal Consultation training in Mobile, Alabama, *Photo Credit: Mr. Matthew Grunewald*

## The First Steps to Effectively Deliver the Federal Trust Relationship to Tribes:

Tribal relationship building and responsibilities can be complex and time consuming. Like any complex relationship, thoughtful approaches and planning lead to successful outcomes. As outlined in the previous chapter, there is much an installation commander and staff must consider regarding their Federal Trust Responsibilities to Tribes. This begs the question on how best to operate and deliver the mission for and with Tribal partners on the installation level. To develop the trust required for effective operations with Tribal communities, one must first train and prepare the correct way. These training and professional standards begin at the highest level of leadership and are modeled at every level of the pyramid of responsibility. Installation commanders must train on Government-to-Government relationship building to prioritize the Trust Responsibility and must be clearly briefed during change of command on installation Tribal relations so that they can effectively embrace their Tribal engagement and consultation responsibilities and efficiently delegate down to staff. This type of preparation is unique, as it involves cross-cultural communication, learning the compliance process as it relates to Tribal trust resources, strategic planning, the art of diplomacy, understanding national, local, and Tribal history and Indian Law as they relate to Tribes in the **Area of Responsibility (AOR)**; Treaties in the AOR; and, in some cases, specific subject matter expertise such as

cultural or natural resources. As such, there is no “one size fits all” training plan; however, there are a few basic “one size fits most” topics with which DoD staff working in this arena should become familiar. Furthermore, as relationships evolve and Tribal priorities change, so to must the training and agency personnel adapt to meet evolving needs of both the mission and the intent of delivering the Federal Trust Responsibility to Tribes.

## TAKEAWAY

The **AOR** includes the area within which a DoD entity has decision-making authority.

This AOR is often made up of individual installation or district boundaries and may include Tribal areas of interest, trust lands, treaty areas, TCPs, Sacred Sites, etc. Each agency must assess its AOR, in partnership with Tribal Nations, to gain a full picture of the lands and natural and cultural resources present within it.

### **Training and Professional Development Opportunities**

One of the hallmarks of the DoD’s high-performance standards is its investment in training and professional development. This is evident in the professional bearing and technical proficiency of DoD staff serving in both military and civilian occupations. This same level of investment on the individual level must be made in training installation staff who regularly interact or collaborate with Tribes. There are numerous training options available for DoD personnel to explore to help fulfill the DoD Federal Trust Responsibility. The following pages offer a sample training schedule as a template for staff assigned to Tribal Liaison duties or positions, in addition to a short list of trainings and resources available. This list is not exhaustive, but rather a compendium of resources for new and experienced staff to develop their skills. Following, general examples of creative development opportunities are explained to generate ideas for installation staff to pursue and tailor to their program needs.

#### ***Sample Training Plan by Year***

Installation level Tribal Liaison training recommendations include, but are not limited to:



## **First year:**

- [\*American Indian Cultural Communications and Consultation Course \(AICCCC\)\*](#)

This introductory seminar/workshop provides valuable information for DoD employees whose work could affect Indian Tribes and for those already working with Tribes and Native individuals. The training includes a history of Indian laws and the legal basis for DoD American Indian and Alaska Native Policy, federal law and policies that impact DoD relationships with Indian Tribes, explanation of DoD's Instruction 4710.02: DoD Interactions with Federally Recognized Tribes, introduction to Tribal concepts and cultures; intercultural communication practices, and strategies and steps for consulting with Tribes.

- [\*Working Effectively with American Indian and Alaska Native Tribal Governments \(ACHP\)\*](#)

This course was initially developed by the Interagency Indian Affairs Executive Working Group and released in January 2008 as a White House E-Government and Technologies Initiative with the Office of Personnel Management (OPM). The updated program launched in March 2022 and is presented by a working group consisting of the Advisory Council on Historic Preservation (ACHP) Office of Native American Affairs; the Department of Justice's National Indian Country Training Initiative; and the Department of the Interior, Bureau of Indian Affairs, Office of Justice Services; and with hosting and delivery support provided by the OPM USA Learning program office.

- [\*Section 106: An Introduction \(NPI\)\*](#)

Hosted by NPI, this course offers an overview of Section 106 of the NHPA in a 3-day seminar style class. Students learn the basics of the law, how it relates to other laws such as the National Environmental Policy Act (NEPA) and NAGPRA, important definitions that affect the law and its implementation, the basics of Section 106 consultation, and relevant legal documents such as MOAs and MOUs.

- [\*Alaska Native Cultural Communications and Consultation Course \(ANCCCC\)\*](#)

This introductory course provides valuable information for DoD employees whose work could affect Alaska Natives and for those already working with Alaska Native peoples and governments. The training includes History of Alaska Native law and the legal basis

for DoD policy, federal law and policies that impact DoD relationships with Alaska Native entities, Introduction to Alaska Native cultures and concepts, Intercultural communication, and Strategies and steps for consulting with Alaska Native governments.

### **Second year:**

- [\*NAGPRA Essentials \(NPI\)\*](#)

This course reviews the NAGPRA compliance process for Indian Tribes, Native Hawaiian organizations, lineal descendants, federal agencies, and museums. Explore how consultation can inform caretaking in curation and documentation of inventories, summaries, cultural affiliation, notices, repatriations, and dispositions.

- [\*Implementing Indigenous Knowledge into Federal Land Management \(TNTCX\)\*](#)

This course is created by the TNTCX on a case-by-case basis, specifying information from respective regions and peoples. The course utilizes Traditional Ecological Knowledge (TEK) methodologies gathered from Indigenous groups and assists in the creation of strategic engagement plans to build on the TEK knowledge base and establish meaningful Tribal relationships in an effort to promote co-stewardship of federal lands.

- [\*Section 106 Agreements Seminar \(ACHP\)\*](#)

This 4-hour e-course focuses on Section 106 compliance and is targeted towards cultural resources, environmental, and legal practitioners. The course covers legal documents, including MOAs, MOUs, and Programmatic Agreements, in addition to methods of successful Section 106 consultation.

### **Third year:**

- [\*How to build a Federal Tribal Consultation Program 101 \(TNTCX\)\*](#)

This course brings together Tribal and federal agency perspectives to present successful methods of establishing Government-to-Government collaborative relationships, planning and managing Tribal consultation programs, and data co-management strategies.

- [\*Native American Cultural Property Law \(NPI\)\*](#)

This course offers an overview of federal legislation, policies, and guidance related to the federal government's responsibilities to the protection of Native sacred lands and cultural practices. In addition to legality, the course provides cultural and historical perspectives to better understand the cultural resources, consultation process, and past successful Government-to-Government collaborations.

- [\*Collaboration with Native Nations and Tribal Consultation \(Udall\)\*](#)

Offered both virtually and in-person, this interactive course teaches students the ins and outs of Government-to-Government consultation, pulling from legal, historic, and cultural sources to provide a full picture of the entire consultation process. Aimed at bettering intergovernmental relations, the course is designed as a broad overview of these topics, which can then be further developed through additional region- and topic-specific trainings.

- [\*Working with Indigenous Knowledge Keepers to Inform Science \(WARNER Research Group\)\*](#)

Offered in-person, this interactive course teaches students the ins and outs of working with Indigenous knowledge keepers to inform science decision-making. The course is designed as a broad overview of these topics, which can then be further developed through additional region- and topic-specific trainings.

- [\*Engineering for Nature and Cultural Keystone Species \(WARNER Research Group\)\*](#)

Offered in-person, this interactive course exposes students to the concept of cultural keystone species as a tool for engineering with and for nature. The class is designed to focus on regional cultural keystone species to maximize geographic coverage and utility for federal, state, and Tribal land managers, environmental restoration specialists, and engineers.

#### **Fourth year:**

- *120-day Detail Assignment in a job position solely dedicated to Tribal engagement/liaison activities*

#### ***Recommended Training Courses***

#### **Department of Defense**

### ***Native Hawaiian Cultural Communications and Consultation Course (NHCCCC)***

This introductory seminar/workshop provides valuable information for DoD employees whose work could affect Native Hawaiians and for those already working with Native Hawaiians and Native Hawaiian Organizations. The training includes Hawaiian history, Introduction to Hawaiian concepts and cultures, resources of special importance to Hawaiians, federal laws, regulations, and policies that impact DoD consultation relationships with Native Hawaiian Organizations; explanation of responsibilities in DoDI 4710.03: Consultation with Native Hawaiian Organizations (NHOs); intercultural communications and relationship building; and strategies and practical steps for consulting with Native Hawaiians.

### **[Air Force Civil Engineer Center \(AFCEC\)](#)**

#### ***Effective American Indian Communication and Consultation Course***

This course, offered by AFCEC, covers compliance with DoD Instruction 4710.02, *DoD Interactions with Federally Recognized Tribes*, and *Department of Air Force Instruction 90-2002, Interactions with Federally Recognized Tribes*. The course trains personnel on the creation of an installation Tribal Relations Plan and how to organize Government-to-Government meetings. This course is available to DAF personnel through direct registration and is recommended for Wing Commanders, Installation Tribal Relations Officers, Cultural Resource Managers (CRMs), and other DAF staff who consult with American Indian Tribes.

### **[US Army Corps of Engineers Tribal Nations Technical Center of Expertise \(TNTCX\)](#)**

#### ***Cross-Cultural Communication with Indigenous Communities***

The TNTCX has training capabilities and resources to cover any topic related to Tribal interaction including initiating consultation, Federal Trust Responsibility, cross-cultural communication, TCP and Sacred Sites, Indigenous archaeology, and incorporation of TEK into decision making. Training is available to any DoD agency on a cost-reimbursable basis. In addition, the TNTCX has its own training center located in Tuscaloosa, Alabama, or can provide on-site training at installations, upon request.

## [National Preservation Institute \(NPI\)](#)

### ***Section 106: Agreement Documents***

This advanced seminar focuses on memoranda of agreement and programmatic agreements under Section 106 of the NHPA. Learn how to survive and thrive during the agreement process through careful analysis, clear writing, and good negotiation. Review the available tools, guidelines, alternatives-and non-alternatives-to reach a favorable conclusion to the process. NPI offers multiple trainings on Native and Tribal engagements.

### ***Native America 101***

This is a 90 minute on-demand, online course that provides attendees with a basic history of Native America and an overview of Indian law, the legacy of treaties, and Tribal Sovereignty. The course also details common stereotypes, cultural appropriation, and Native Sacred Sites.

### ***Native American Cultural Property Law***

This course is a two-day, in-person course dedicated to the review of federal law on preserving Native American heritage. The course examines Government-to-Government relationships, court decisions, and the use of statutes pertaining to tangible and intangible Native American cultural property.

## [Udall Foundation, John S. McCain III National Center for Environmental Conflict Resolution](#)

### ***Collaboration with Native Nations and Tribal Consultation***

The course is a participatory and interactive course for Federal agencies and partners engaged in Government-to-Government engagement with Native Nations who want to improve intergovernmental relations. Participants will develop – through exposure to a broad range of concepts and skills – awareness of the many facets of Government-to-Government consulting, including history, law, policy, sovereignty, protocol, collaboration, communication skills, and resources available. Offered both virtually (4 sessions) and in person (2 days). For an in-person syllabus, email [training@udall.gov](mailto:training@udall.gov).

## [Advisory Council on Historic Preservation \(ACHP\)](#)

The ACHP, an independent federal agency, promotes the preservation of historic resources and acts as an advisory group to the President and Congress on national historic preservation policy. The agency offers other federal agencies a variety of courses related to historic preservation including Section 106, Coordinating with NEPA, Protecting Historic Properties during Disaster Response, and Early Coordination with Indian Tribes for Infrastructure Projects. The ACHP also offers free e-learning courses and other online courses tailored to the student's needs, by request.

### **KEY RESOURCE**

#### **The following list of resources provided by the ACHP:**

- [Consultation with Indian Tribes in the Section 106 Process](#): focused on Tribal consultation in the Section 106 review process.
- [Limitations on the Delegation of Authority by Federal Agencies to Initiate Tribal Consultation under Section 106 of the National Historic Preservation Act](#): clarifies the restrictions on the use of Section 800.2(c)(4) provision regarding Section 106 consultation with Indian Tribes.
- [Recommendations for Improving Tribal-Federal Consultation](#): addresses the most common challenges federal agencies and Indian Tribes often face and offers recommendations for developing more effective partnerships and outcomes in the Section 106 process.
- [Role of the Tribal Historic Preservation Officer in the Section 106 Process](#): answers questions about THPOs and their role within the Section 106 process.
- [Section 106 Consultation Between Federal Agencies and Indian Tribes Regarding Federal Permits, Licenses, and Assistance](#): consists of questions and answers responses to frequently asked questions.
- [Guidance on Assistance to Consulting Parties in the Section 106 Review Process](#): Identifies principal parties in the Section 106 process (State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs)).

## [The U.S. Department of Justice: Online Sacred Sites Training](#)

This training video for federal employees and contractors was developed in coordination with subject matter experts from across the Federal Government, Indian Country,



Academia, and Tribal Advocacy Groups. This training was finalized in Fall 2016 with assistance from the Department of Justice’s National Indian Country Training Initiative.

### [NAGPRA Training](#)

The NAGPRA Video Project began in October 2008 with the mission to create a training series that would include grant-writing tips, first-person narratives, program statistics, anecdotal evidence, and in-depth, engaging coverage of the entirety of the law and its consequences. The National NAGPRA Program has conducted fifty interviews in ten cities across the country. These interviews with Tribal members, museum officials and Federal agency representatives have created a historic archive of resources on consultation, grants, notices, law making, dispositions, documentation, and repatriation. Production on the NAGPRA Video series is complete. Some of the videos have been shown to the NAGPRA Review Committee. The segment “History of NAGPRA” premiered during the NAGPRA at 20 Symposium. The entire eight-segment series, in addition to various other NAGPRA related content, is now available to the public on-demand, through the [National NAGPRA Program’s Official YouTube Channel](#).

### ***Professional Development***

One aspect of a well-rounded Tribal program manager is the ability to take advantage of developmental assignments both within Federal service and with Tribal groups in the AOR. The DoD has many tools available to take advantage of these opportunities such as the Intergovernmental Personnel Act (IPA) Mobility Program which allows temporary assignment between the Federal Government and Tribal governments. The value of this type of hands-on assignment cannot be overstated and it also allows for working relationships to continue long past the assignment. It builds both capacity for the Tribal government and the federal government in ways that can promote mission outcomes.

## **KEY RESOURCE**

For more information on IPAs see the OPM Website:

<https://www.opm.gov/policy-data-oversight/hiring-information/intergovernment-personnel-act/>

For a list of various technical reports and training aids see the DoD Native American Affairs Website:

<https://denix.osd.mil/na/home/>



# CHAPTER 3: Collaboration, Consultation, and Coordination: Three Different Forms of Communication

**Figure 3:** USACE Command speaks with Navajo Nation Chinle Chapter President Dr. Jumbo-Fitch in Chinle, AZ, *Photo Credit: Ms. Reagan Lauritzen*





*“Today, the Choctaw Nation of Oklahoma is working to strengthen and revitalize the cultural practices and arts developed by our ancestors in the Choctaw Homeland. If we were able to gain access to the raw material used by our ancestors, which are on federal lands, it would greatly aid the Tribe in these endeavors.”*

**Figure 3.1:** Dr. Ian Thompson, Choctaw Nation of Oklahoma THPO, *Photo Credit: Mr. Michael Fedoroff*

## Engaging Tribal Communities

Although the bulk of DoD Tribal interactions fall under codified compliance related activities, there are many communication methods for Tribal engagement available to installation managers. To develop an approach that best fits your program’s needs, the differences between **Collaboration**, **Consultation**, and **Coordination**, including the goals of each form, should first be understood. Despite all starting with the letter C, these activities are very different in nature and degree of Tribal engagement.

### **KEY RESOURCE**

**For a list of federally recognized Tribes and Alaska Native organizations see:**

**<https://www.federalregister.gov/documents/2022/01/28/2022-01789/indian-entities-recognized-by-and-eligible-to-receive-services-from-the-united-states-bureau-of>**

As part of their own Tribal protocol, it is common practice for Tribal representatives to consult within their own hierarchy or community before providing feedback on projects. As such, it is important to engage Tribes early in the project process, even as early as the proposal stage. Tribal engagement can be explained through a ladder of engagement (see Table 4). At the bottom of the ladder is “inform,” wherein Tribes are simply told what the federal agency is going to do. This is NOT a sustainable way to build Tribal relationships nor work collaboratively. The next rung is “Consultation,” which is a legal requirement, and is the bare minimum level at which Tribes should be engaged. Next is “Partnership,” wherein Tribes are viewed as partners on the project activities. Tribes are given a voice, but ultimately, decisions are still made by the federal agency. The “Joint Decision Making” step is the level at which Tribes are viewed as fully vested in the decision-making process. Their views and opinions are weighed as much as the federal agency’s. At the top of the ladder is “Indigenous Control,” which involves the Tribe leading the project. An example of this would be a federal agency funding the Tribe to do all planning and execution of a project without, or with minimal, input from the federal agency.

**Table 4:** Ladder of Engagement, *Table Credit: Ms. Arianna Kitchens*

<b>Ladder of Participation</b>
<i>Indigenous Control</i> (highest rung)
<i>Joint Decision Making</i>
<i>Partner</i>
<i>Consult</i>
<i>Inform</i> (lowest rung)

*(Adapted from the original by S. Arnstein, 1969)*

## Collaboration

The hallmark of most successful Tribal engagement programs center around the concept of Collaboration. **Collaboration** can be defined as **working equally with a group toward a shared goal or decision of value to all parties** (Oxford University Press 2022). Although it does not replace the duty of formal Government-to-Government consultation when planning a federal undertaking, collaboration is a successful relationship-building tool that can take the form of a range of strategies and information flows dependent on the different needs of involved Tribes and installations, from joint land management activities to scoping resource challenges as a team. From this perspective, collaboration becomes both a practice and an ideal to which Tribal engagement programs should strive. Successful programs ground this ideal in their Federal Trust Responsibility to Tribes.



Collaboration is then an ideal in practice that can adapt based on a continuum of Tribal interaction. Further, collaboration can be conducted at different scales, both in level of effort and duration. Successful collaboration requires a long-term commitment to developing relationships with Indigenous and descendant communities in the installation AOR, and this takes time – a concept in which Indigenous and Western perspectives often ontologically diverge (Smith 1999; Joyce 2002; Kovach 2009). Differences in language, custom, traditions, and beliefs must be respected and considered as this relationship develops.



**Figure 3.2:** Navajo Nation/DoD Regional Leadership Meeting organized by TNTCX in 2018 in Window Rock, NM, *Photo Credit: USACE PAO*

## TAKEAWAY

### Collaboration Tips

- Understand that Tribes may have different priorities for land management.
- When possible, identify shared values.
- Prioritize creating long-term relationships through collaboration rather than short-term, project-based relationships developed through compliance.
- Be creative in the development of collaborative opportunities with Tribal partners.
- Recognize and incorporate Tribal knowledge into installation management practices on an equitable basis.

# Consultation

**Consultation** is generally defined as a **two-way conversation between the Tribe and the federal agency official in which Tribal input is sought concerning a federal undertaking or activity prior to decisions related to that activity** (Oxford University Press 2022). An example would be a face-to-face meeting with a Tribal government to discuss the planning activities for construction of a potential airport runway near Tribal lands. Consultations are usually project or activity specific and can be of long or short durations with multiple meetings before, during, and after the project or activity life cycle. Consultation can be triggered through a host of specific compliance-related laws or be done as part of maintaining regular communication with Tribes about installation activities and planning efforts. Finally, it is important to note that consultation can be initiated by the Tribe and/or the DoD at any time, and **not all Tribes define consultation methods and goals the same**.

## TAKEAWAY

### Consultation Tips

- Build background knowledge prior to the first meeting (culture, customs, how to properly pronounce the Tribe's name, identify formal titles, etc.).
- Co-Develop agenda items in consultation with Tribes PRIOR to the meeting.
- Tribes may have their own consultation protocols for agency engagements.
- Remember that Tribes are not under your command structure.
- Be empathetic and humble when listening to Tribal concerns; however, do not make promises that cannot be fulfilled nor overextend authority.
- Understand that Tribes may have different priorities for the land impacted by a project than the installation.
- Strive to outline the Tribal perspective on consultation goals and milestones early in the process and build consensus where possible.
- Listen and learn. Allow plenty of time for Tribes to speak.
- Try to present real-world examples to Tribal communities to explain the DoD mission during the meeting.
- Become familiar with taboo subjects such as natural disasters. This can bridge gaps in disaster planning and emergency operation discussions.

## Coordination

The most basic definition of **Coordination** can be described as, **an interaction for the purpose of aligning people and resources toward a common action, activity, or effort (Oxford University Press 2022)**. An example would be sending notification letters to a Tribe to coordinate access to Tribal lands. This is not, by definition, consultation. One of the most common pitfalls new Tribal liaisons encounter are how and when to employ the practice of coordination with Tribes. It is always best to coordinate with a Tribe after collaboration and consultation with a Tribe has occurred to ensure both parties are working toward a common action, activity, or effort. Additionally, some Tribes have limited

resources, thus timely and effective coordination is beneficial to mission schedules. Furthermore, methods of coordination may vary greatly from methods of consultation. For example, a Tribe may request that all coordination be conducted via email whereas they prefer consultation to be face-to-face or via video call. Regularly conducting outreach and coordination with Tribes historically or culturally affiliated with installation-managed lands is an important part of developing successful relationships with Indigenous communities. Waiting for a project specific undertaking to develop a coordination strategy with a Tribe often leads to mission delays. Coordination is generally viewed as the lowest form of Tribal engagement and should be used as support rather than the main effort in a Tribal engagement program.



**Figure 3.3:** Tribes from across the Southeast, East, and Southwest tour ancestral sites in Alabama 2017, *Photo Credit: Mr. Michael Fedoroff*

## TAKEAWAY

### **Coordination Tips**

- Avoid using military jargon that is hard to understand.
- Understand that a lack of resources may cause unresponsiveness from Tribes rather than lack of interest or concern.
- Become familiar with your Tribal AOR including treaties and ancestral lands of importance to Tribal peoples prior to coordination activities.
- Become familiar with economic issues of import to Tribes, as this can affect studies and construction projects that impact Tribes in an AOR.
- Invest time to understand how Tribes are organized politically.
- Allow for plenty of time for the Tribe(s) to speak.





# CHAPTER 4: Conducting Tribal Engagement

Figure 4: Bighorn Sheep, *Photo Credit: Public Domain*





*“This is my relationship with rivercane”*

**Figure 4.1:** Mary Thompson, a basket weaver from the Eastern Band of Cherokee Indians, as she manually splits cane during a DoD sponsored ecosystem workshop, *Photo Credit: Ms. Emily McKenzie*

## Tribal Consultation

The importance of conducting a Tribal engagement in a proper and respectful way cannot be overstated. With the right amount of planning and a clear purpose, meeting and engaging with Tribal partners can create long lasting partnerships of benefit to all parties. This chapter will provide some basic guidance and tips for how to plan, conduct, and follow up a Tribal engagement. Also included are sample agreement documents for how to establish regular lines of communication with Tribes. Additionally, a summary and key Tribal consultation guidance from other resource agencies is included as a reference. The key points of Tribal engagement are respect, communication, and honoring commitments.

### **KEY RESOURCE**

**For Sample Planning Ground Rules for a DoD Consultation see:**

**Procedural Satisfaction for Successful Consultation—  
Sample Ground Rules**

<https://denix.osd.mil/na/consultation/consultation-resources/ground-rules/>

This resource, developed for use in the DoD American Indian Cultural Communications and Consultation Course, provides procedural guidance to consider when planning and organizing a consultation.

## Scheduling and Organizing a Consultation

Prior to contacting the Tribe or Tribes you wish to engage, take a moment to familiarize yourself and staff with the existing conditions of the relationship. Here are a few questions you might want to consider:

- 1) Does the Tribe hold treaty rights or trust resources within the installation footprint?
- 2) When was the last engagement with this Tribe by an installation commander?
- 3) Are there documents of existing commitments to the Tribe (e.g., MOU/MOA, meeting minutes, reports, etc.)?
- 4) Is there an existing relationship between the installation and the Tribal community or government?
- 5) Are any other Federal agencies consulting or regularly engaging with this Tribe that can offer insight in existing conditions of the Tribe?
- 6) Has anyone from the installation approached the Tribe about preferred engagement methods?
- 7) Are there any “Hot Topic” issues that have been in the news or circulating in the community to be aware of prior to reaching out to the Tribe?
- 8) How does the Tribe define consultation?

After gaining background knowledge on existing conditions of the relationship, it is typical for the installation commander to send a letter to the head of the Tribal government inviting the Tribe to engage. The letter should be written in clear language and articulate that the installation wishes to **co-plan and co-develop agenda items** for the engagement. Utilize this first meeting as an opportunity to get to know the Tribe and make introductions. It is also helpful to have a presentation ready to explain the installation mission. It is not recommended that this first engagement require decisions from the Tribe, as building trust is foundational to decision making in Indigenous communities.

If a Tribe is interested in scheduling a meeting, ensure that you know important Tribal Feast Days or holidays to avoid consultation scheduling conflicts (it is ok to ask!). Find a meeting place that appears neutral to make the balance of power equitable, or if possible, travel to meet with the Tribe. Most Tribes do not have funding or staff for expensive travel costs. Being considerate of the Tribe in when and where you first meet sets a positive

tone for the relationship as it illustrates the installation's willingness to be flexible and adapt to Tribal needs. It is not uncommon for a Tribal Government to immediately shut down upon the death of a Tribal Member. Although, this can lead to last minute cancellation of meetings and frustration for installations, these changes can be overcome by regular and constant communication with the Tribal community.

Here are a few helpful tips for the planning and organizing stages of the engagement:

- 1) It is helpful to understand how the Tribal Government you are working with is organized to ensure you have the appropriate DoD staff attending consultation meetings.
- 2) Recognize that during a pandemic, Tribal elders may not be available for quick decisions. Patience and understanding are key during this challenge. Elders are a treasure to Tribal Nations and must be protected.
- 3) Get to know which agencies hold regional Tribal consultations near your location and partner when possible.
- 4) Understand the importance of the social aspects of the meeting, such as having lunch or food present. Also, there may be food taboos/restrictions that should be observed so check prior to the meeting with the Tribe as to what is appropriate.
- 5) Consider small gifts, however this can get complicated so consult with the Tribe and installation counsel prior to giving or accepting gifts.
- 6) Ensure lodging is planned for (particularly if you are travelling to the Tribe as lodging can become difficult on reservations), and a full understanding of who is paying travel expenses prior to the meeting. Do not assume that the Tribe has funds and/or they will not need assistance submitting travel vouchers if required.

## Example of a DoD consultation invitation letter:



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT  
4101 JEFFERSON PLAZA NE  
ALBUQUERQUE, NM 87109-3435

Honorable Jonathan Nez  
President  
Navajo Nation  
100 Parkway  
PO Box 7440  
Window Rock, AZ 86515

Dear President Nez,

I would first like to thank you for hosting Colonel (P) Antoinette Gant, myself, and our staff on the Navajo Nation on 19 September. We felt the meeting was a successful step toward continuing to build the partnership between the Navajo Nation and the U.S. Army Corps of Engineers (USACE). In follow up to that meeting, I am writing to request that the Navajo Nation engage in a process of government-to-government consultation with the USACE, Albuquerque District for the development of South Pacific Division's Navajo Nation Program. It is our intention that this proposed program will facilitate the uniform application on the Navajo Nation of USACE authorities, programs, regulations, policies, and permits. The program envisions a single office improving communication and coordination for all USACE-Navajo initiatives, which we believe will ultimately lead to more efficient and effective execution of USACE projects for the benefit of the people of the Navajo Nation.

To that end, we would like to meet on 16 November at the Navajo Nation Department of Transportation facilities for a meeting with appropriate Navajo Nation administration staff to begin developing program execution processes and understanding between USACE and the Navajo Nation. Please find enclosed a suggested program development meeting outline including proposed agenda topics and their intent. If you have any questions please feel free to contact me by return letter or by phone at 505-414-1069, Navajo Nation Program Manager, Dr. Ron Kneebone, at 505-238-4676 ([ronald.r.kneebone@usace.army.mil](mailto:ronald.r.kneebone@usace.army.mil)), or Albuquerque District Tribal Liaison, Mr. Jeremy Decker, at 505-595-4347 ([jeremy.t.decker@usace.army.mil](mailto:jeremy.t.decker@usace.army.mil)). We look forward to the opportunity to continue building our partnership and finding ways to work together to deliver an effective program.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Hansbrough".

Jerre Hansbrough  
Lieutenant Colonel, U.S. Army  
District Engineer

Enclosure



**Figure 4.2:** Navajo Nation Former Vice President Nez discusses issues with BG Hemmlinger 2017 Window Rock, Arizona, *Photo Credit: USACE PAO*

There are many ways and differences in Tribal consultation meeting planning depending on the Tribe, region, and priorities of those involved. There is no single way that is best, however there are a few key things **the installation should NOT DO**.

1. Do **NOT** show up to the meeting with an agreement document or Standard Operating Procedure (SOP) for a Tribe to sign. These items should be shared and co-developed **PRIOR** to the meeting to discuss.
2. Do **NOT** plan the meeting **without equal** Tribal involvement in the **ENTIRE** planning process from venue to agenda.
3. If this is a first meeting or meeting with Tribal leadership present, do **NOT** show up without the Installation Commander present as this is disrespectful to the Tribal leader in attendance.



## CASE STUDY

### A Case Study of the Value of Virtual/Hybrid Meeting Formats

#### **The Army National Guard Approach During a Pandemic**

While many large consultation meetings were placed on hold until the pandemic subsides, maintaining regular “face-to-face” communication continued thanks to the proliferation of videoconferencing platforms during the pandemic. Before shifting a consultation to a virtual format, Army National Guard (ARNG) installations in multiple states coordinated with Tribal offices to verify their comfort with video discussions and if their locations can support the technical requirements for the selected conference program.

Many Tribal offices have been supportive of maintaining consultation discussions virtually given the continuing issues related to the pandemic. Several of the examples presented above switched to virtual setting to continue the consultations or events in a safer environment for all. For example, the Utah Army National Guard (UTARNG) continued their military installations meetings virtually, and the annual Memorial event shifted to virtual format. Some events continued given the outdoor settings and ability to social distance and mitigate risk with masking and reduced attendance. The Texas Army National Guard (TXARNG) continued with their Traditional Cultural Property survey fieldwork with Tribes since it could be completed outdoors, with a small crew utilizing masking and social distancing when indoors or vehicles. In virtual formats hosted by installations, development of consultation agendas should always be coordinated closely with the Tribal partners, and in a virtual setting, this planning is even more important to maximize the effectiveness of the meeting and minimize the time everyone spends in front of their computers. This is particularly important when Tribal offices are scheduling multiple virtual consultations with agencies and may be working on modified office schedules.

Some Tribal offices did not wish to engage in virtual consultations, particularly on critical issues. Recently, other federal agencies have had Tribes request suspension of proposed activities until face to face can resume. However, many Tribal offices have found the virtual format allows them greater productivity and ability to attend consultations from their offices. TXARNG hosted a hybrid consultation in 2021, which incorporated an option for in-person and virtual attendance for Tribal representatives. What is important in planning virtual events is to establish with Tribal partners the purpose and intention. If a Tribe prefers to not conduct consultation virtually, State ARNGs have worked to move forward to identify future timeframes for face-to-face opportunities as the pandemic risk has lowered.

## CASE STUDY CONTINUED

With the Covid-19 pandemic, consultation events ground to a halt for the safety of all. Unfortunately, the many projects and issues requiring these meetings did not stop. Fortunately, because State ARNGs have established many different practices and protocols with their partners at federally recognized Tribes, meaningful engagement continued despite the challenges posed by Covid-19.

Covid-19 did not negate the requirement to make good faith efforts to complete reviews with stakeholders like federally recognized Tribes. However, the pandemic impacted many Tribes to a greater extent than it did other populations in the U.S. Therefore, it was important for State ARNGs to understand Tribal government precautions and restrictions and work to find alternatives to continue consultations. In some cases, Tribal offices were closed completely with employees on furlough with no telework options. Even with some Tribal offices teleworking or open, their hours may have been limited, making it challenging for their staff to respond to the ongoing influx of regulatory communications from agencies. These standard set of approaches have served State ARNGs well during the pandemic to maintain good faith in consultation and communication.

In a situation like the pandemic, the benefit of established communication protocols via Memorandum of Understanding (MOUs) and/or Standard Operating Procedures in Integrated Cultural Resource Management Plans (ICRMPs) is clear. CRMs in many states began reaching out to their colleagues at Tribal offices, to not only verify their operational status, but also check on their personal and community wellbeing. Sometimes, if there were no answers to the normal communication lines established, CRMs used a Tribal Nation's website or social media pages for updates on office closures and alternate communication contacts. In these situations, it is important to maintain a record of all communications, either through a database of contacts or Memorandum for Record (MFR). In sensitive cases, such as discovery of a burial, it is imperative for CRMs to follow their established procedures and notify their Chain of Command of the importance of confirming a contact with a Tribal office (i.e. in person, phone discussion).

*Contributed by: Kristen Mt. Joy, CRM Army National Guard G -9*

## Meeting etiquette

Now that the day has arrived, it is important to follow proper etiquette when meeting with Tribal governments and communities. If the planning stages were done with Tribal input, some of the meeting format might seem different for installation staff. For example, the Tribe may wish to open and close the meeting with a prayer. The Tribe may wish to give plenty of time for each elder to speak and/or ask questions. The Tribe may wish to also speak to each other in their native language. Additionally, the Tribe may wish to have time alone to confer and ask installation personnel to leave the room for a period. All these customs should be respected and observed. The Tribe may not wish to be recorded (via notes, audio, or video), and you should get permission prior to doing so. Take your cues from other Tribal members on appropriate actions.

Below are a few tips to consider during the meeting, whether virtual or face to face:

1. Actively listen and do not interrupt. Always act with respect.
2. Incorporate feedback thoughtfully and constructively.
3. Take the time to learn about the Tribes you will be working with during the meeting.
4. Understand that relationships take time to build. Do not be discouraged by disagreement, but rather allow yourself flexibility to understand another point-of-view.
5. Avoid using patronizing language when working with Tribes.
6. Do not mistake kindness, silence, or politeness for consent or agreement.
7. Pay attention to not only what is said, but what is left unspoken as well.
8. Follow-up after meetings in a timely manner and be willing to answer any new questions that have come up.
9. Be mindful of your language and phrases which may be offensive to Tribal people.
10. Relax but do not be overly comfortable or casual with the Tribe. The Tribe holds a formal legal status as a sovereign Nation and should be treated as such.

## **After Initial Engagement**

After the initial engagement with the Tribe is made, the real work begins. Hopefully at this point, installation leadership and staff have become more familiar with their Tribal counterparts and all parties have a better understanding of each other's priorities. This is typically the point in which the information from the first meeting is utilized to plan a follow up meeting to outline a clear understanding and process for how to regularly communicate and engage with the Tribe. Ultimately, the outline and process developed with the Tribe is best captured in an agreement document such as a Memorandum of Understanding or a Standard Operating Procedure between the Tribe and the installation. Example templates for this type of document are included in this chapter.

### **KEY RESOURCE**

**For a Power Point Describing the Consultation Process see:**

“The Consultation Process”

<https://denix.osd.mil/na/consultation/consultation-resources/consult-process-2018/sd.mil>

# DoD American Indian and Alaska Native Consultation Protocol Draft Annotated Outline

## CONSULTATION PROTOCOL BETWEEN [Name of Tribe] TRIBE AND THE [Department of Defense or Military Component or Installation]

### Section I Purpose

*Section I shall include the names of the parties involved, the purpose of the document, and the goals of the consultation. The section should also describe the activity the protocol addresses.*

### Section II Authorities

*Section II shall describe the legal authorities by which this protocol is governed. The description should include the legal reference and, if possible, passages or citations and its relevance.*

### Section III Guiding Principles

*Section III shall describe the guiding principles by which a stable and enduring relationship with the tribe and the Component can be achieved. This includes recognition of tribal sovereignty; commitment to trust responsibilities, government-to-government interaction, and consultation; respect for the significance tribes ascribe to cultural and natural resources; and provision of timely notice to potential activities or actions.*

### Section IV Procedure

*Section IV shall describe the working relationship and procedure for interaction between the tribe and the Component. This section should include a description of:*

- *Notification procedure when an action or activity is proposed*
- *When an interaction is considered a consultation*
- *How consultation will take place*
- *How information will be created and managed between the tribe and the Component*
- *Tribal and Component decision-making process*
- *Confidentiality responsibilities*
- *Points of contact for interaction*



## Section V Dispute Resolution

*Section V shall articulate the procedure for when a dispute or objection arises as part of the relationship between the tribe and the Component. This section should include:*

- *The level of authority and procedure in which to resolve the issue*
- *The time frame for resolving issue*
- *If alternative dispute resolution is an option*
- *Procedure if the issue remains unresolved*

## Section VI Termination

*Section VI should describe how and when the agreement between the tribe and the Component terminates.*

## SIGNATORIES



**Figure 4.3:** Margan Grover, CRM at Joint Base Elmendorf-Richardson (DAF) and Traditional Chief and President Aaron Leggett (Native Village of Eklutna [NVE]) unveiling the base's Land Acknowledgement sign during the 2019 Alaska Native Heritage Month Celebration and sign unveiling ceremony, Nov 2019, *Photo Credit: DAF*

## CASE STUDY

### **A Case Study of Strategic Engagement**

#### **The Army National Guard Approach to Strategic Planning for Collaboration**

If State ARNGs faced challenges in contacting a Tribal office on a critical issue via email, regular mail or phone, many have found it useful to visit Tribal offices or participate in larger agency meetings or conferences to ensure information is provided and an opportunity to engage is offered. Drive-by visits can be useful even in non-pandemic settings. In 2006, the TXARNG consulted with 8 Tribes. Representatives from these Tribes suggested TXARNG reach out to other federally recognized Tribes with potential interests in joining the consultations. As a result, the Assistant Adjutant General (Army) and CRM conducted a series of drive by visits to Tribal offices to share TXARNG information packets and details. Even if a formal appointment could not be set, the TXARNG team drove by headquarters offices to introduce themselves and drop off packets.

In most of these visits, an informal meeting took place building a base for future participation in consultations. TXARNG also took the time to visit with their existing consulting partners and build their relationships. Visiting their offices allowed the Tribal partners to share an aspect of their lives that can't be captured in a meeting room. This included sitting down for a lunch with a Tribal NAGPRA committee, visiting the monuments found at most every Tribal headquarters honoring their own military Veterans (Native Americans serve in our Armed Forces at a higher rate than almost any other minority group), or even taking an unexpected trip to check on a Tribal Historic Preservation Officer (THPO) in the hospital after a meeting had to be canceled. The TXARNG visits to Tribes moved consultation outside of a formal meeting room, allowing for more relaxed engagements and extending meaningful invitations to additional Nations with cultural connections to TXARNG managed lands.

Several other state ARNGs such as Utah, Oklahoma, Idaho, Arizona, Wyoming and Minnesota also routinely visit Tribal offices and participate in events not directly considered consultations to work on relationship building. For instance, the Utah Army National Guard (UTARNG) attends the annual Northwestern Band of Shoshone Bear River Massacre Memorial in Preston, Idaho. The Oklahoma Army National Guard (OKARNG), Arkansas Army National Guard (ARARNG) and TXARNG have attended the U.S. Forest Service To Bridge a Gap meeting to have informal conversations with Tribal representatives and listen to Tribal and Agency panels.

## CASE STUDY CONTINUED

The Idaho Army National Guard (IDARNG) hosts the Annual Return of the Boise Valley Peoples Conference where the five tribes (Shoshone-Bannock Tribes, Shoshone-Paiute Tribes, Fort McDermitt Paiute and Shoshone Tribe, Burns Paiute Tribe, and the Confederated Tribe of the Warm Springs) return to the Boise Valley to educate the general public about the history of the area. The Arizona Army National Guard (AZ ARNG) attends the monthly Four Southern Tribes Cultural Resource Working Group meetings, either as a presenter or as a listener. The Wyoming Army National Guard (WYARNG) participates in the Return to Foretops Father (Heart Mountain) with the Crow Tribe. The MNARNG hosts a Planting for the Future event, which brings together the recruiting and Diversity and Inclusion Council for the MNARNG with Tribal youth from Leech Lake and Mille Lacs bands of Ojibwe Indians. The THPO from Mille Lacs speaks to the group of soldiers and Tribal youth regarding the Anishinaabe culture. This event also has included harvesting sage for use in Tribal schools, cultural curriculum, planting of native flowering vegetation on the installation, and an archery demonstration from the Mille Lacs Trading Post and Indian Museum. MNARNG has also hosted Tribes to harvest sage from Camp Ripley.

*Contributed by: Kristen Mt. Joy, CRM Army National Guard G -9*

## CASE STUDY

### **The Army National Guard Approach to Strategic Planning for Collaboration**

For the State ARNGs, the approach to successful consultation comes from not only listening carefully to the recommendations of their Tribal partners on enhancing relationships, but also learning what is working and not working in other states. The headquarters ARNG G-9 (installations and environment) CRM established a MS Teams channel and SharePoint to provide a wide range of materials related to consultation and Tribal relationships. State ARNGs share their scopes of work for consultation meetings, example protocols and agreement documents, and training PowerPoints or briefings to educate installation staff participating in consultations on appropriate communication and cultural sensitivity when meeting with Tribal Nations. The ARNG G-9 newsletter provides Tribal success stories, guidance and links to trainings and the DoD Native American Affairs updates. Focusing on collaboration provides an opportunity for all the State ARNGs to enhance their engagement with Tribal Nations.

*Contributed by: Kristen Mt. Joy, CRM Army National Guard G-9*



## Consultations with Multiple Tribes

Consultations with tribes takes many forms, but must be initiated at a government-to-government level with tribes individually. Once this relationship has been established, federal agencies may consider utilizing various tribal consortia as a means to facilitate the exchange of information.

However, it must be clearly understood by federal agencies that:

- Only the tribes may authorize the use of tribal consortia as official government-to-government consultation; and
- Tribal consortia cannot be used to initiate consultation.

Tribal consortia take many forms. Here are some examples:

- National Congress of American Indians
- National Tribal Environmental Council
- National Association of Tribal Historic Preservation Officers
- Montana Wyoming Tribal Leaders Council
- Inter-Tribal Council of Arizona, Inc.
- Affiliated Tribes of Northwest Indians
- United South & Eastern Tribes
- Inter-Tribal Council of the Five Civilized Tribes
- Inter-tribal Bison Council
- Columbia River Inter-Tribal Fish Commission
- Northwest Indian Fisheries Commission
- Great Lakes Indian Fish and Wildlife Commission
- Tanana Chiefs Conference
- Central Council of Tlingit & Haida Indian Tribes of Alaska
- Alaska Federation of Natives
- Alaska Inter-Tribal Council
- Council for Native Hawaiian Advancement

The key is to understand who is represented in these tribal consortia and the extent to which tribal governments allow themselves to be represented. Also, while a particular consortium may be concerned with regional issues, it may not represent all tribes in that region. Some tribes may choose to exclude themselves from all consortia. Some consortia may have clearly defined protocol and structure; others may not. We strongly recommend that before any steps are taken to utilize consortia that you first seek the advice from the affected tribes early in the consultation planning process. If used effectively, consultation can be streamlined and made more effective with tribal consortia. However, it should never be viewed as a shortcut.

*Prepared for use in the Department of Defense  
American Indian Cultural Communications and Consultation Course*

# References Cited

Arnstein, Sherry

1969 "A Ladder of Citizen Participation," Journal of the American Institute of Planners.

Cohen Felix

1940 Handbook of Federal Indian Law, United States Department of the Interior.

Federal Emergency Management Agency (FEMA)

2022 Federal Trust Responsibility. Web page, [https://emilms.fema.gov/is\\_0650b/groups/15.html](https://emilms.fema.gov/is_0650b/groups/15.html), accessed April 19, 2022.

MNSure

2022 Background Information Regarding the Legal Basis for Special CMS Provisions for American Indians and Alaska Natives. Electronic document, accessed April 19, 2022.

National Association of Tribal Historic Preservation Officers (NATHPO)

2005 Tribal Consultation: Best Practices in Historic Preservation. Electronic document, [https://www.nathpo.org/assets/pdf/NATHPO\\_Best\\_Practices/](https://www.nathpo.org/assets/pdf/NATHPO_Best_Practices/), accessed April 19, 2022.

National Congress of American Indians (NCAI)

2001-2022 Tribal Governance. Electronic document, <https://www.ncai.org/policy-issues/tribal-governance>, accessed December 1, 2022.

Oxford University Press

2002 Oxford Advanced American Dictionary. Electronic document, [https://www.oxfordlearnersdictionaries.com/us/definition/american\\_english/](https://www.oxfordlearnersdictionaries.com/us/definition/american_english/), accessed December 2, 2022.

Pleasant Point Tribal Council

2022 Trust Responsibility. Web page, [https://www.wabanaki.com/wabanaki\\_new/Trust\\_Responsibility.html](https://www.wabanaki.com/wabanaki_new/Trust_Responsibility.html), accessed April 19, 2022.

Quilt, Rose M.

2022 The Federal Trust Responsibility and MMIW. Electronic document, <https://www.niwrc.org/restoration-magazine/february-2021/Federal-trust-responsibility-and-mmiw>, accessed April 19, 2022.

Tanana Chiefs Conference

2006 Tribal Nations: The Story of Federal Indian Law. Electronic document, <https://www.youtube.com/watch?v=UZXWGkN1dhc>, accessed April 19, 2022.





# APPENDICES

Figure 5: Untitled Mat, weaved by Mary Smith, *Photo Credit: Ms. Emily McKenzie*

# **Appendix A: Tribal Protocols Guidebook Cross Reference List**

10 U.S.C. § 113 note, *Sunken Military Craft Act of 2004*.

10 U.S.C. § 2684, *Cooperative Agreements for Management of Cultural Resources* of 1996.

16 U.S.C. § 470a-2, Section 402, *International Federal Activities Affecting Historic Properties*.

16 U.S.C. §§ 431 – 433, *Antiquities Act* of 1906.

16 U.S.C. §§ 470aa-470mm, *Archaeological Resources Protection Act* of 1979 (ARPA).

25 U.S.C. §§ 3001-3013, *Native American Graves Protection and Repatriation Act* of 1990 (NAGPRA).

31 U.S.C. § 1535, *The Economy Act*.

32 C.F.R. § 229, *Protection of Archaeological Resources, Uniform Regulation*.

32 C.F.R. § 767, *Guidelines for Permitting Archaeological Investigations and Other Activities Directed at Sunken Military Craft and Terrestrial Military Craft Under the Jurisdiction of the Department of the Navy*.

32 C.F.R. § 187, *Environmental Effects Abroad of Major Department of Defense Actions*.

36 C.F.R. § 60.15, *Removing Properties from the National Register*.

36 C.F.R. § 63, *Determinations of Eligibility for Inclusion in the National Register of Historic Places*.

36 C.F.R. § 68, *The Secretary of the Interior's Standards for Historic Preservation Projects*.

36 C.F.R. § 78, *Waiver of Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act*.

36 C.F.R. § 79, *Curation of Federally-Owned and Administered Archaeological Collections*.

36 C.F.R. § 800, *Protection of Historic Properties*.



36 C.F.R. Part 60, *National Register of Historic Places*.

36 C.F.R. Part 63, *Determinations of Eligibility for Inclusion in the National Register of Historic Places*.

40 C.F.R. §§ 1500-1508, *Protection of the Environment*.

42 U.S.C. §§ 4321 et seq., *National Environmental Policy Act of 1970 (NEPA)*.

42 U.S.C. §1996, *American Indian Religious Freedom Act of 1978 (AIRFA)*.

43 C.F.R. § 10, *Native American Graves Protection and Repatriation Regulations*.

43 U.S.C. §§ 2101-2106, *Abandoned Shipwreck Act of 1988 (ASA)*.

54 U.S.C. §§ 300101 - 307101, *National Historic Preservation Act of 1966 (NHPA)*.

54 U.S.C. §§ 320301 - 320303, *Antiquities Act of 1906*.

Advisory Council for Historic Preservation, *Consultation with Native Hawaiian Organizations in the Section 106 Process: A Handbook*, January 2020;

<https://www.achp.gov/digital-library-section-106-landing/consultation-native-hawaiian-organizations-section-106-review>

Advisory Council for Historic Preservation, *Programmatic Agreement with DoD, Demolition of World War II Temporary Buildings*, July 7, 1986, amended May 1, 1991

Advisory Council on Historic Preservation, *Program Comment, Air Force and Navy Unaccompanied Personnel Housing During the Cold War Era (1946-1989)*, May 2011.

Advisory Council on Historic Preservation, *Program Comment, Wherry and Capehart Era Family Housing at Air Force and Navy Bases*, November 18, 2004.

Advisory Council on Historic Preservation, *Traditional Knowledge and the Section 106 Process: Information for Federal Agencies and Other Participants*, April 2021.

AFH 10-222, Volume 4: *Environmental Considerations for Overseas Contingency Operations*, September 2012.

AFI 32-7006, *Environmental Programs in Foreign Countries*, 29 April 1994.

AFI 32-7061, *Environmental Impact Analysis Process (EIAP)*, as promulgated at 32 C.F.R Part 989, 12 March 2003.

AFI 32-7066, *Environmental Baseline Surveys in Real Estate Transactions*, 25 April 1994.

AFI 32-9005, *Real Property Accountability and Reporting*, 14 August 2008.

AFI 33-360, *Publications and Forms Management*, 18 May 2006.

AFI 34-242, *Mortuary Affairs Program*, 2 April 2008.

AFI 84-103, *U.S. Air Force Heritage Program*, 27 October 2004.

AFI 91-204, *Safety Investigations Reports*, 12 February 2004.

AFI 32-9005, *Real Property Accountability and Reporting*.

AFMAN 32-7003, *Environmental Conservation*, 20 April 2020.

AFI 32-9005, *Real Property Accountability and Reporting*

AFMAN 33-363, *Management of Records*, 1 March 2008.

AFPD 32-70, *Environmental Quality*, 10 December 2003.

AFPD 84-1, *Historical Information, Property, and Art*, 1 May 1997.

AFPD 84-1, *Historical Information, Property, and Art*, and AFI 84-103.

Air Force Cultural Resources Management page on eDASH at

<https://usaf.dps.mil/teams/eDASH/WPP/ProgramPage/ProgramPage.aspx?Program=Cultural%20Resources> (USAF use only).

Bureau of Indian Affairs, *Best Practices for Identifying and Protecting Tribal Treaty Rights, Reserved Rights, and Other Similar Rights in Federal Regulatory Actions and*

*Federal Decision-Making*, 2022, [https://www.bia.gov/sites/default/files/dup/inline-files/best\\_practices\\_guide.pdf](https://www.bia.gov/sites/default/files/dup/inline-files/best_practices_guide.pdf).

Bureau of Indian Affairs, *Tribal and Treaty Rights Regional and Field Guide*, 2022, [https://www.bia.gov/sites/default/files/dup/inline-files/regional\\_and\\_field\\_guide.pdf](https://www.bia.gov/sites/default/files/dup/inline-files/regional_and_field_guide.pdf).

DAFI 90-2002, *Interactions with Federally-recognized Tribes*, 24 August 2020.

DAFI 90-2002, *Interactions with Federally-recognized Tribes*, 24 August 2020.

Designates a Senior Policy Level Official IAW MD1-18, A1.33.3.2.

Designates the Air Force Federal Preservation Officer (FPO) under Title 54 U.S.C. § 306104 or re-delegates such designation to the Senior Policy Level Official IAW MD1-18, A1.33.3.2.

Designates the Air Force Tribal Liaison Officer (AFTLO) per DoDI 4710.02.

Digital geospatial data produced by cultural resource inventories conforms to the most current version of the Spatial Data Standards for Facilities, Environment, and Infrastructure (SDSFIE)

DoD 4715.5-G, *Management of Environmental Compliance at Overseas Installations*, May 1, 2007.

DoDI 4715.16, *Cultural Resources Management*, September 18, 2008.

DoDI 4710.02, *DoD Interactions with Federally-Recognized Tribes*, September 14, 2006 and MD 1-18, 3.2.

DoDI 4710.03, *Consultation With Native Hawaiian Organizations (NHOs)*, October 25, 2011a.

DoDI 4715.16, *Cultural Resources Management*, September 18, 2008.

DoDI 7041.3, *Economic Analysis for Decision-making*, November 7, 1995.

DoD Legacy Management Program Office Project No. 98-1714, *1999 Guidelines for the Field Collection of Archaeological Materials and Standard Operating Procedures for Curating Department of Defense Archaeological Collections*, (available on DENIX).

DoD Policy and Instructions, *Cultural Resources Policy and Legal*,  
<https://denix.osd.mil/cr/policy-legal/>.

DoDI 4715.9, *Environmental Planning and Analysis*

Executive Office of the President, Guidance for Federal Departments and Agencies on Indigenous Knowledge, November 30, 2022, <https://www.whitehouse.gov/wp-content/uploads/2022/12/OSTP-CEQ-IK-Guidance.pdf>.

Executive Order 13007, *Indian Sacred Sites*, May 24, 1996.

Executive Order 13287, *Preserve America*, March 3, 2003.

Executive Order 13514, *Federal Leadership in Environmental, Energy, and Economic Performance*, October 8, 2009.

Executive Order No. 13175, *Consultation and Coordination with Indian Tribal Governments*, November 6, 2000.

HQ DAF/A4C, *Air Force Cultural Resources Management Playbook*.

HQ DAF/A4C, *Demolition Playbook*,  
<https://app.eis.af.mil/a7cportal/CEPlaybooks/Pages/default.aspx>.

HQ DAF/A4C, *Environmental Impact Analysis Process Playbook*.

HQ DAF/A4C, *Real Property Accountability and Inventory Playbook*.

Memorandum for Heads of Executive Departments and Agencies, Guidance for Implementing EO 13175, *Consultation and Coordination with Indian Tribal Governments*, November 5, 2009.

*Memorandum of Understanding for the Coordination and Collaboration for the Protection of Indian Sacred Sites*, 2016, <https://www.achp.gov/node/7865>.

*Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights and Reserved Rights*, 2022, <https://www.doi.gov/sites/doi.gov/files/interagency-mou-protecting-tribal-treaty-and-reserved-rights-11-15-2021.pdf>.

MoM; Enclosure 5 in DoDI 4715.16, *Cultural Resources Management*.

National Congress of American Indians, *Welcome*, <https://www.ncai.org/>.

*Secretary of the Interior's Professional Qualification Standards*.

The White House, *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*, January 26, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>.

The White House, *Memorandum on Uniform Standards for Tribal Consultation*, 2022, <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/30/memorandum-on-uniform-standards-for-tribal-consultation/>.

US Department of Defense, *DoD Environment, Safety and Occupational Health Network and Information Exchange, Cultural Resources, Policy & Legal*, <https://denix.osd.mil/cr/policy-legal/>.

US Department of Interior, National Park Service Brochure, *Secretary of the Interior's Standards for the Treatment of Historic Properties*, 1997.

US Department of Interior, National Park Service National Register Bulletin (unnumbered), *How to Apply the National Register Criteria for Evaluation and Guidelines for Evaluating and Documenting Historic Aviation Properties*, 1998).

US Department of Interior, National Park Service, *Archeology and Historic Preservation: Secretary of Interior's Standards and Guidelines (as Amended and Annotated) -- Note on*



*Documentation and Treatment of Historic Properties, Historical Documentation, Architectural and Engineering Documentation and Archeological Documentation.*

US Department of Interior, National Park Service, National Register Bulletin 15, *How to Apply the National Register Criteria for Evaluation*, 1991.

US Department of Interior, National Park Service, National Register Bulletin 22, *Guidelines for Evaluating and Nominating Properties that have Achieved Significance Within the Last Fifty Years*, 1996.

US Department of Interior, National Park Service, National Register Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, 1990.

Volume 48 Federal Register § 44716-44742, *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines*, July 21, 2003.

Volume 63 Federal Register, §§ 20495-20508, *The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to Section 110 of the National Historic Preservation Act* (16 U.S.C. §470), 24 April 1998.

Volume 68 Federal Register §§ 43159-43162, *Guidelines for Architectural and Engineering Documentation*, July 21, 2003.

Volume 77 Federal Register §§ 47868 -47873, *Bureau of Indian Affairs, Indian Entities Recognized and Eligible To Receive Services From the Bureau of Indian Affairs*, August 10, 2012.

# **Appendix B: Sample Memorandum of Understanding**

# Memorandum of Understanding

**Between**

INSERT INSTALLATION NAME

**and**

INSERT TRIBAL NAME

## **For Engagement to Collaborate, Consult, and Coordinate Pursuant to Appropriate Federal Acts and Orders**

**WHEREAS**, the INSERT INSTALLATION NAME wishes also to establish a Government to Government relationship with INSERT TRIBAL NAME for consultation and cooperation regarding other Federal Acts and Orders including but not limited to the Archaeological Resource Protection Act, 16

U.S.C. § 470aa et seq. (hereinafter "ARPA"), the National Historic Preservation Act, 16 U.S.C. § 470 et seq. (hereinafter "NHPA"), and the National Environmental Policy Act, 42 U.S.C. §§ 4321, 4331, 4332 (hereinafter "NEPA"), and Presidential Executive Order 13007; and the Native American Graves Protection and Repatriation Act, 25 U.S.C. §3001 seq. (hereinafter "NAGPRA"); Executive Order 13175: *Consultation and Coordination with American Indian Tribal Governments*, and other applicable authorities and both parties agree to be signatories to this Memorandum of Understanding (MOU), developed pursuant to 36CFR 800.2(c)(2)(ii)(E); **AND**,

**WHEREAS**, the parties herein intend to provide procedures for consultation and communication, protection of information, and better performance of their duties as stewards of federal land; and,

**WHEREAS**, INSERT INSTALLATION NAME has federal stewardship and management responsibilities for certain lands and resources; and,

**WHEREAS**, installation activities may have an effect on properties included or potentially eligible for the National Register of Historic Places that are of religious or cultural significance to the INSERT TRIBAL NAME; and

**WHEREAS**, INSERT INSTALLATION NAME has consulted with the INSERT TRIBAL NAME, a federally recognized Tribe, on a Government-to-Government basis; and,

**WHEREAS**, the signatories to this Memorandum of Understanding (MOU) recognize that the INSERT TRIBAL NAME possesses the unique experience and oral history to identify and evaluate historic properties of religious and cultural significance; and

**WHEREAS**, through the use of this MOU, the signatories intend to keep the lines of communication open as partners and stewards of the land; and,

**WHEREAS**, no portion of this MOU should be interpreted to limit the rights, duties, or responsibilities as may be implemented under treaties, federal statutes, regulations, policies, Executive Memoranda or Executive Orders and related documents;

**NOW, HEREOFRE**, INSERT INSTALLATION NAME and the INSERT TRIBAL NAME agree that the communication between the parties shall be as follows:

#### ROUTINE COMMUNICATION

The parties intend to continue consultation as ongoing stewards of the land. The parties have periodically scheduled face-to-face meetings. However, it is necessary that consultation continue in the absence of, or in between, such meetings to continue the relationship between the parties or deal with immediate issues. This section does not alter this intent but defines the means of interim communications and less formal consultation for those periods on which more formal consultation is impractical.

The parties agree that the preferred method of communication between periodic meetings shall be electronic mail, facsimile, or telephone. In the event this means fails, the parties shall use the U.S. Mail system.

Without limiting any right to communicate after this period, the parties intend to reply within thirty (30) days to an issue that is raised during routine communication. In the absence of a reply, the parties intend to reasonably move forward as though no objections or expressions of concern were received. Again, this simply states the intent of the parties to reasonably act, but in no way limits rights that may be present in law.

The parties agree to maintain the confidentiality of all information pertaining to cultural properties where possible but limited to the boundaries of applicable law. The parties shall take all reasonable measures to preclude disclosure of confidential Native American cultural properties.

INSERT INSTALLATION NAME and the INSERT TRIBAL NAME shall provide the appropriate information for each representative of their entity. For Nation-to-Nation consultation, Installation Commander and INSERT TRIBAL POC shall be the respective representatives. For interim, ongoing, and non-formal face-to-face meetings, and between more formal consultations, each party shall provide a point of contact. This information is provided in Attachments A and B. The Commander and TRIBAL POC or designated Tribal representative shall advise the other of changes due to elections or other changes in their respective organizations affecting the representative or point of contact.

The INSERT TRIBAL NAME does not waive any rights to review information available by law. However, for economy of assets, not all information must be regularly sent to the INSERT TRIBAL NAME. The parties agree that the following information does not require notification from INSERT INSTALLATION NAME to the INSERT TRIBAL NAME.

While retained in its regular records, and available for review, the INSERT TRIBAL NAME does not require notice or the following information to be provided as a matter of course:

- Any proposed undertakings, which may be "categorically excluded" in accordance with the National Environment Policy Act (NEPA) and Army Regulation (ER) 200-2-2, and would not involve the disturbance of any soil, which has not been previously disturbed, unless the undertaking may affect a known property included or



potentially eligible for the National Register of Historic Places that is of religious or cultural significance to the INSERT TRIBAL NAME;

- Any proposed undertaking in which the area of potential effect has been surveyed for historic properties and no eligible or potentially eligible properties, or human remains or cultural items as defined in the Native American Graves Protection and Repatriation Act (NAGPRA), were identified.
- Any proposed undertaking in which the area of potential effect cannot possibly (due to age or location of the land surface) have significant historic properties on it.

Aside from activities exempted by subsections, the following information shall be forwarded to the INSERT TRIBAL NAME by the communication agreed up on.

- Any proposed undertaking for which the preparation of an environmental assessment (EA) or environmental impact statement (EIS) is required.
- Any proposed undertaking that will disturb any soil, which has not been previously disturbed, and has not been surveyed for historic properties.
- Any proposed undertaking that may affect a known property included or potentially eligible for the National Register of Historic Places that is of religious or cultural significance to the INSERT TRIBAL NAME or may affect human remains or cultural items as defined in NAGPRA.
- Any discovery of a historic property that predates European contact, made as a result of a soil disturbing activity. This will provide the INSERT TRIBAL NAME an opportunity to consult on whether the discovered materials are of cultural significance.

The following information will be provided by U.S. Mail at all times.

- Confirmation of formal face-to-face consultation between the Installation Commander and INSERT TRIBAL NAME.

### SPECIAL COMMUNICATION

Procedures for Inadvertent Discoveries of, or Intentional Excavation of, human remains or cultural items from Federal lands, as defined in NAGPRA, are as follows:

- The INSERT TRIBAL NAME shall be notified first by electronic mail, facsimile, or telephone, and also by U.S. Mail. This provides a documented accounting of the notice.
- The parties understand that by the sensitivity and timeliness of responding to Inadvertent Discoveries' telephone communication is a necessity.
- INSERT INSTALLATION NAME shall take all reasonable means to protect and safeguard the human remains or cultural items.
- Claims for any repatriation as a result of the Inadvertent Discovery shall be resolved in accordance with 36CFR 800.2(c)(2)(ii)(E).

Procedures for the discovery of human remains are as follows:

- The individuals making the discovery shall first contact the appropriate law enforcement agency and immediately notify the Installation Commander. If the remains constitute a crime scene, all applicable laws and procedures apply.
- In the event of an inadvertent discovery and the discovery is not a crime scene, all ground disturbing activities at the cultural site shall cease and the INSERT TRIBAL NAME shall be notified immediately.

## OTHER

Nothing in this MOU shall be interpreted to alter the requirements of the National Historic Preservation Act (NHPA) or NAGPRA, or their implementing regulations. In the event any portion of this MOU is deemed contradictory to law or regulations, only that contradictory portion becomes Void. The sole contradictory issue does not vitiate the entire agreement. The parties should consult to resolve that contradictory issue with the intent to reform that portion to make it compliant with the applicable law or regulation, and the remaining portions of the MOU remain in full force and effect.

Nothing in this MOU shall be construed as limiting or affecting the legal authority of either party, nor does it commit either party to exceed their appropriations. Commitments made from this MOU are subject to the availability of funds.

This MOU is executed as of the last date shown below and expires no later than five years thereafter. The parties may renew or extend this MOU by appropriated signature by all parties. This MOU can be unilaterally terminated by either party upon a 90-day written notice to the Installation Commander or INSERT TRIBAL NAME LEADER, respectively.

Terms used in this MOU are defined according to federal authority. Where federal authority may provide conflicting definitions, the prevailing document's definition is used. By means of example a statutory definition is binding over a regulatory definition.

Contact information for the INSERT TRIBAL NAME is found at Attachment A.

Contact information for the INSERT NAME OF INSTALLATION is found in Attachment B.

# **Appendix C: Federal Laws, EOs, and DoD Policies for Consultation and Cultural Resources Management**



## Federal Laws

Alaska Native Claims Settlement Act of 1971	43 U.S.C. ch. 33
American Indian Religious Freedom Act of 1978	42 U.S.C. § 1996
Archaeological Resources Protection Act of 1979	16 U.S.C. §§ 470aa—470mm
Endangered Species Act of 1973	16 U.S.C. § 1531 <i>et seq.</i> Native
American Graves Protection and Repatriation Act of 1990	25 U.S.C. § 3001 <i>et seq.</i> National
Environmental Policy Act of 1969	42 U.S.C. § 4321 <i>et seq.</i>
National Historic Preservation Act of 1966	54 U.S.C. § 300101 <i>et seq.</i>
Religious Freedom Restoration Act of 1993	42 U.S.C. § 2000bb <i>et seq.</i>

## Implementing Regulations

Archaeological Resources Protection Act	43 CFR Part 7
Endangered Species Act	50 CFR Parts 17 and 402
Procedural Provisions of the National Environmental Policy Act	40 CFR Parts 1500-1508 Native
American Graves Protection and Repatriation Regulations	43 CFR Part 10 Protection of
Historic Properties (NHPA Section 106 regulation)	36 CFR Part 800

## Executive Orders

Executive Order 13007: “Indian Sacred Sites” (1996)
Executive Order 13175: “Consultation and Coordination With Indian Tribal Governments” (2000)
Executive Order 13287: “Preserve America” (2003)

## **DoD Policies and Instructions**

DoDI 4710.02: “DoD Interactions With Federally Recognized Tribes” (updated in 2018)

DoDI 4710.03: “Consultation Policy With Native Hawaiian Organizations” (2011)

DoDI 4715.16: “Cultural Resources Management” (2008)

### ***DoD Guidance***

“Guidelines on Maintaining the Confidentiality of Information About Indian Sacred Sites” (2018)

“Alaska Implementation Guidance for DoD Alaska Native Related Policies and Instructions” (2020)

“Army Native American Policy Implementing Guidance” (2014)

### ***DoD Components’ Policies***

Army AR 200-1, “Environmental Protection and Enhancement” (2007)

Army Memo, “American Indian and Alaska Native Policy” (October 24, 2012)

Department of the Navy:

- SECNAVINST 11011.14B, “Department of the Navy Policy for Consultation with Federally Recognized Indian Tribes, Alaska Native Tribal Entities, and Native Hawaiian Organizations” (2019)
- SECNAVIST 4000.35A, “Department of the Navy Cultural Resources Program” (2001)

Marine Corps: MCO P5090.2A, “Environmental Compliance and Protection Manual,” Chapter 8, (2013)

Air Force:

- AFI 90-2002, “Air Force Interactions With Federally-Recognized Tribes” (2014)
- Air Force Manual 32-7003, Environmental Conservation,” (2020)



## **Interagency Memoranda of Understanding**

“Memorandum of Understanding Among the U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Department of Energy, and the Advisory Council on Historic Preservation Regarding Interagency Collaboration and Coordination for the Protection of Indian Sacred Sites” (2016)

“Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights Related to Natural Resources” (2016)

All resources listed are available at [www.denix.osd.mil/na](http://www.denix.osd.mil/na)

# **Appendix D: Guidance Documents Published by Other Agencies**

## **US F&W Fish & Wildlife Service (FWS)**

### ***Tribal Consultation Handbook***

The FWS, under the US Department of Interior, is primarily concerned with the conservation of plants and animals across the nation. The organization operates over 560 National Wildlife Refugees, 70 national fish hatcheries, and several regional and field offices throughout the country. Consulting with Tribes while doing this work is imperative for adequate and mutually beneficial conservation efforts. In recognition of interdependence between the agency's conservation efforts and those of interest to Native Tribes, the FWS published a Tribal Consultation Guidebook in 2018.

Explained in the handbook are the agency's Federal Trust Responsibilities, including relevant laws, explanations of Tribal Sovereignty, and Government-to-Government relationships. Included in the handbook is a history of the organization's Tribal consultation program, which was developed with Tribal feedback. Additionally, readers can find a sample letter that can be modified for Tribal outreach and detailed appendices with key definitions, executive orders, policy, and roles and responsibilities. Learn more about the FSW by visiting <https://www.fws.gov/>.

## **National Association of Tribal Historic Preservation Officers (NATHPO)**

### ***Tribal Consultation: Best Practices in Historic Preservation***

NATHPO brings together Tribal Historic Preservation Officers (THPOs) to create a collective for the exchange of advice, best practices, policy and regulation interpretation, and partnership development. In addition, the group provides public educational resources about historic preservation and Tribal Sovereignty. NATHPO worked together with the Advisory Council on Historic Preservation (ACHP) and NPS

in the creation of the “Tribal Consultation: Best Practices in Historic Preservation” resource to support agency consultation with Tribes.

The resource explains the benefits of involving an agency Tribal Liaison and THPO in the consultation process and recognizing that consultation is a continual process, as opposed to a technical exercise with an immediate result. As such, face-to-face meetings are not always the most practical and effective method of holding consultation. If mutual understanding, respect, and trust are present in the process, consultation can be successful. The publication also points out that consensus, although often a by-product, is not necessarily the goal of a successful consultation. Multiple meetings are often necessary for a mutually beneficial resolution, and neither party should view failure to reach an agreement as failure of consultation. The goal, rather, is effective communication that focuses on openness and transparency.

Learn more about NATHPO by visiting <https://www.nathpo.org/>.

### **North Dakota Department of Transportation (NDDOT)**

#### ***[In Their Own Light: A Case Study in Effective Tribal Consultation](#)***

This case study was the result of NNDOT and the Federal Highway Administration (FHWA) working together with multiple Tribes in the Great Plains to develop a successful consultation program. One key aspect discussed in this case study is Tribal perspectives regarding successful consultation. Agencies must put aside preconceived notions about Tribal wishes and requirements, instead entering the consultation process with an open mind and a willingness to listen to Tribes voice their needs. The case study highlights the time it takes to achieve effective consultation.

Tribes must work through the painful legacies of the past to establish working relationships built on trust and understanding with agencies.

### **Advisory Council on Historic Preservation (ACHP)**

#### **[Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions](#)**

The ACHP, an independent federal agency, promotes the preservation of historic resources. As such, members of the council act as advisors to the President and Congress on national historic preservation policy. To bolster their consultation process, the ACHP reached out to various Tribal groups and subsequently wrote a report, in 2018, in response to the feedback they received. This report is titled “Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions.”

Represented in the report are the result of responses from 59 Tribes and eight Tribal organizations on the topic of federal Tribal consultation. The report outlines important laws and policies concerning Tribal communities, Federal Trust Responsibilities, and matters related to infrastructure, such as permitting, oil and gas, clean water, mining, and transportation.

Tribes reported feeling powerless in influencing the direction of infrastructure projects or in preventing damage and destruction of their cultural and natural resources, Sacred Sites, and/or landscapes as a result of devastating community effects from past failures to consult. As such, the report explains, federal agencies should provide as much information as possible about the action being considered and the decision-making process to Tribes prior to projects, while also recognizing the importance of customizing consultation: all Tribes are different, and they do not

operate in the same way. Federal agencies must be flexible and make changes, when necessary, to respect Tribal laws and protocols, thus ensuring successful consultation. Learn more about ACHP by visiting <https://www.achp.gov/>.

## **US Department of Agriculture (USDA) Forest Service**

### ***Tribal Relations Strategic Plan***

The USDA Forest Service manages approximately 193 million acres across the nation. With the Forest Service sharing approximately 4000 miles of boundaries with Tribal communities, it is often necessary to coordinate across jurisdiction to ensure the best preservation and management of the land. The “USDA Forest Service Tribal Relations Strategic Plan” outlines the agency’s goals and objectives for effectively engaging and building relationships with Tribes.

Within the strategic plan is a focus on increased Tribal engagement, and meaningful, open, and continuous communication to foster information exchange and mutual decision making. The plan highlights the need for the agency to approach Tribal communication with an open mind and heart while considering the time required to establish these Government-to-Government relationships and respecting Tribal Sovereignty. Initiating consultation at the earliest point possible and providing sufficient information at the invitation is also underscored. Learn more about the USDA Forest Service by visiting <https://www.fs.usda.gov/>.



# Appendix E: Regional Tribal Coalitions

(Organized by [BIA Regions](#))

## **Alaska Region**

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The **Alaska Region** includes 228 federally recognized Tribes, represented by an approximate total of 180,000 Tribal members. The region is made up of the entire state of Alaska, except a small island known as Annette Island Reserve, which falls under the Northwest Region. Alaska is well known for its cold climate resulting in long winters and short summers. With 663,268 square miles of land, Alaska's wildlife population is very diverse, hosting animals well suited to the cold climate such as bear, moose, and marine life. The Alaska region is unique from the Lower 48 states in how Indigenous communities are organized and managed.

### ***Alaska Federation of Natives***

The Alaska Federation of Natives (AFN) was established in 1966 and is the largest Native organization in the state of Alaska. With a large membership including 158 federally recognized Tribes, 141 village corporations, 10 regional corporations, and 12 regional non-profit and Tribal consortia, AFN seeks to empower Tribal voices in cultural, economic, and political affairs.

### ***American Indian Alaska Native Employee Association***

The American Indian Alaska Native Employee Association was created by the American Indian/Alaska Native Employees Association for Natural Resources Conservation Service to form a collective tool for communication and cooperation with the USDA-Natural Resources Conservation Service (NRCS). The group's goal is to ensure that Federal Trust Responsibilities are being met, and it works to promote a culturally diverse workforce. Membership is open to all interested parties.

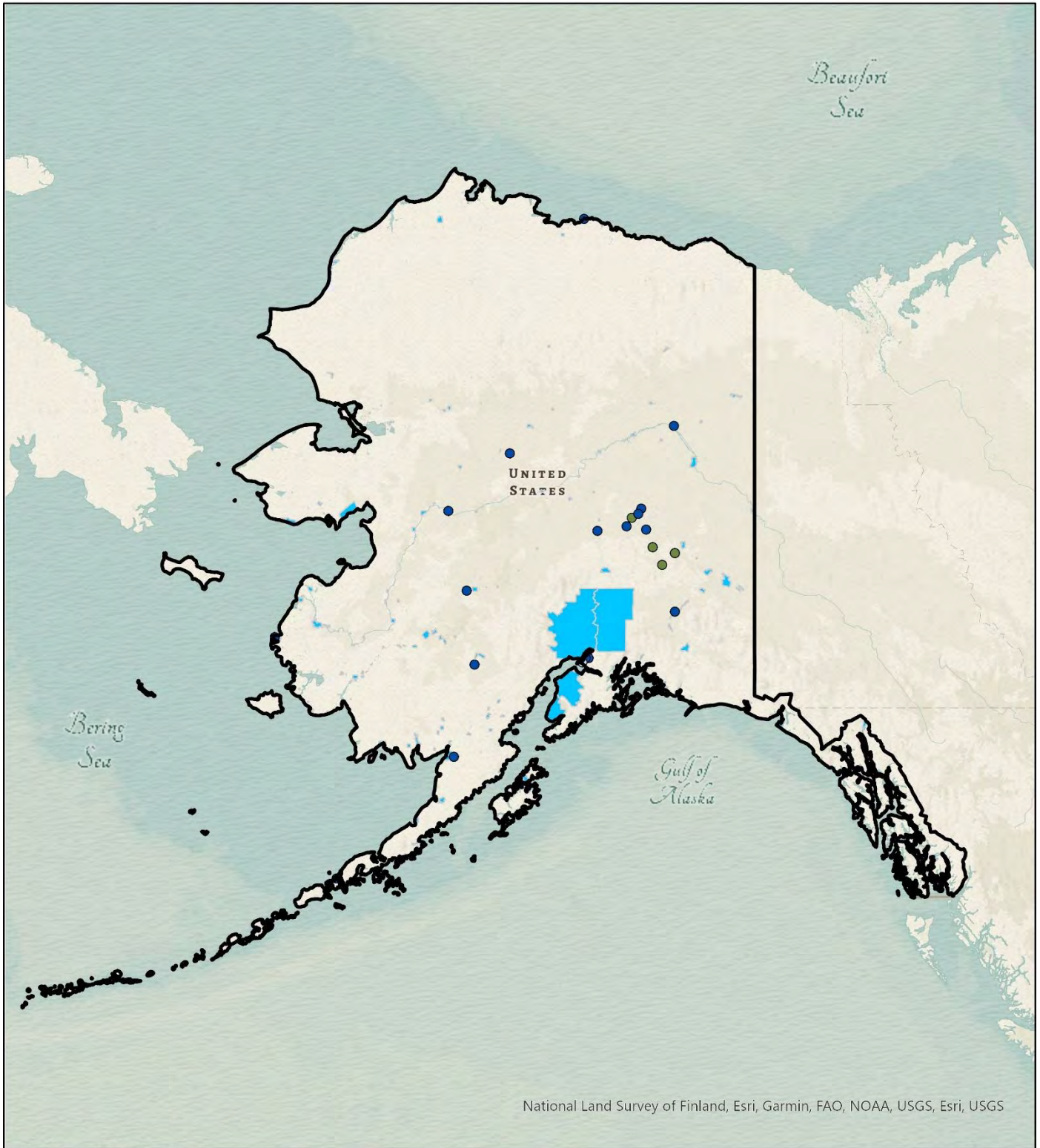
### ***Tanana Chiefs Conference***

The Tanana Chiefs Conference (TCC), a non-profit Alaska Native Corporation founded in 1962, is made up of 42 Tribe members from the interior Alaska region. The TCC provides services related to physical and mental wellness, education, socioeconomic development, and culture for Tribespeople in the region.

***Central Council of Tlingit and Haida Indian Tribes of Alaska***

The Central Council of Tlingit and Haida Indian Tribes of Alaska (Tlingit & Haida), created in 1935, is a consortium based in southeastern Alaska that provides support for Tlingit and Haida Tribal members on matters of sovereignty, self-governance, and self-sufficiency. Through this, Tlingit & Haida promotes a way of life tied to cultural and historical subsistence practices.

# Alaska BIA Region



## Military Installations

- AF Active
- AF Guard
- AF Reserve
- Army Active
- Army Guard
- Army Reserve
- MC Active
- Navy Active
- Navy Reserve
- WHS
- Federally Recognized Tribes
- Alaska BIA Region

Map Date: 5/25/22



## **Eastern Region**

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The **Eastern Region** includes the 27 states from Maine to Florida and over to Louisiana up to Illinois. In these states are 34 federally recognized Tribes with over 62,000 Tribal members. The almost 461,000 acres of trust land and almost 103,000 acres of restricted lands are made up of numerous climates and tons of natural and cultural resources. From the swamps of Louisiana to the Windy City of Chicago and the East Coast beaches, the Eastern Region has the most climate variety in the continent.

### ***United South & Eastern Tribes***

The United South and Eastern Tribes (USET) is a non-profit established in 1969. USET serves 33 federally recognized Tribes from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico. The group emphasizes Tribal capabilities, public policy issues, and technical services to improve the quality of life for Indian people.

### ***Inter-Tribal Council of the Five Civilized Tribes***

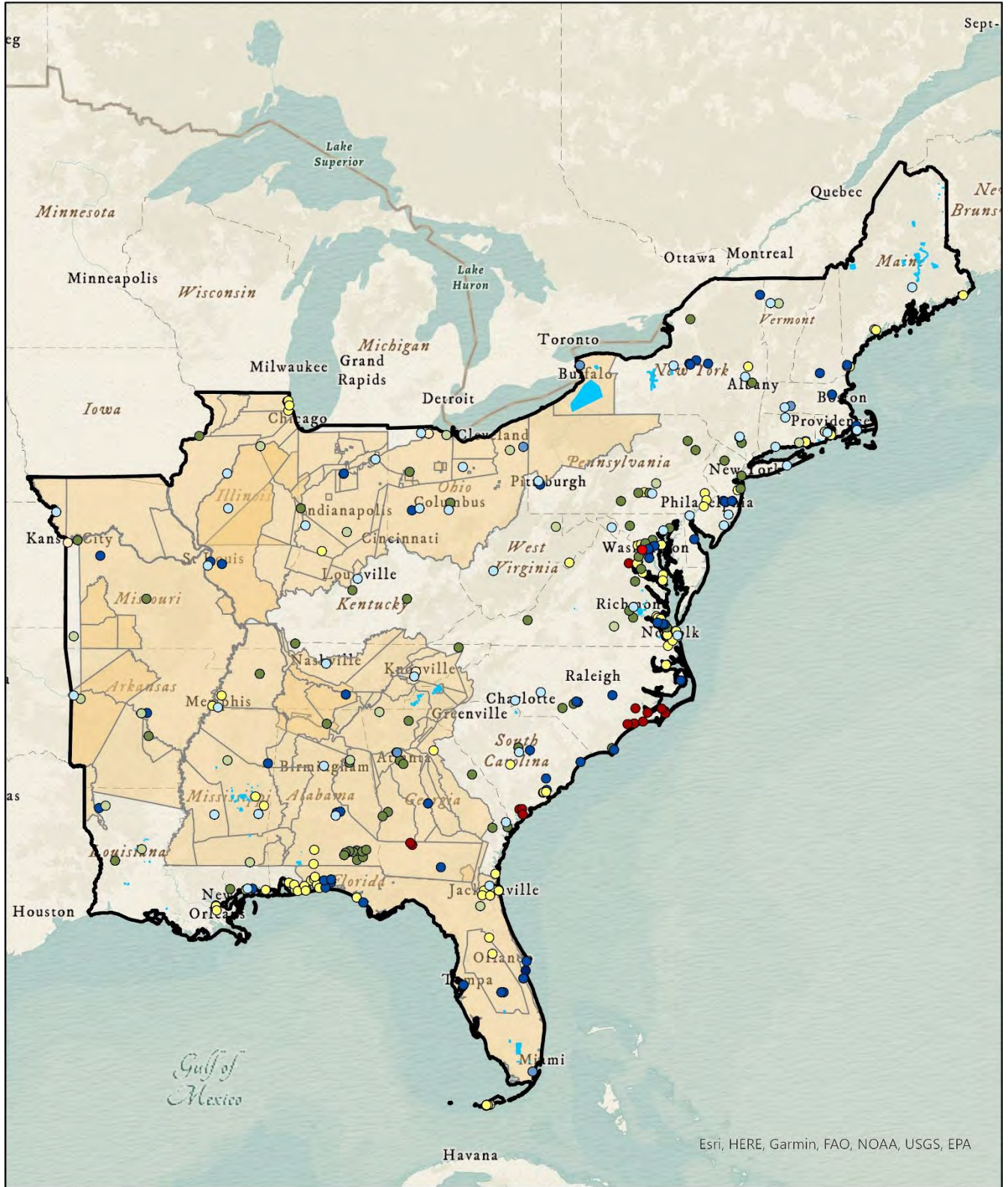
The Inter-Tribal Council of the Five Civilized Tribes (ITC) was formed in 1842 and includes members from Cherokee, Chickasaw, Choctaw, Creek, and Seminole Tribes. The organization provides support on Tribal Sovereignty, land and water rights, education, economics, and Indian Health Service (IHS).

### ***Rivercane Restoration Alliance***

In 2021, the TNTCX formed the Rivercane Restoration Alliance (RRA), which is dedicated to combining Traditional Indigenous Ecological Knowledge and Traditional Western Ecological Knowledge to achieve successful rivercane recovery. The alliance is a collaboration between the USACE, with support from the USACE Sustainable Rivers Program (SRP), and The Nature Conservancy (TNC). The goals of this alliance are to identify partners, create a shared vision, facilitate technical workshops, develop a Conceptual Ecological Model (CEM), identify existing data and knowledge gaps, and prepare recommendations for site specific (USACE) rivercane restoration studies and projects.



# Eastern BIA Region



## Military Installations

- AF Active
- AF Guard
- AF Reserve
- Space Force
- Army Active
- Army Guard
- Army Reserve
- MC Active
- Navy Active
- Navy Reserve
- WHS
- Federally Recognized Tribes
- Eastern BIA Region
- Ceded Lands

Map Date: 5/25/22





## Great Plains and Rocky Mountain Regions

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The **Great Plains Region** encompasses 16 federally recognized Indian tribes located in the states of North Dakota, South Dakota, and Nebraska. Tribes in this region encompass over 6 million acres. Also located within the Region are 6 BIE Education Line Offices, 7 Tribally Controlled Community Colleges, and 6 Tribal Organizations.

The **Rocky Mountain Region** comprises 8 Tribes in Montana and Wyoming encompassing a trust surface land base of about 6,456,000 acres. There are about 74,677 enrolled Tribal members within the Region. The Regional Office is located in southeastern Montana in the city of Billings.

### ***United Tribes of North Dakota***

The United Tribes of North Dakota was founded in 1968 as a non-profit due to the increasing need for a singular organization to coordinate a statewide planning grant. With its formation, the organization became the point of contact for federally funded intertribal programs in the state of North Dakota. After member Tribes acquired land, they opened a facility now known as the United Tribes Technical College (UTTC).

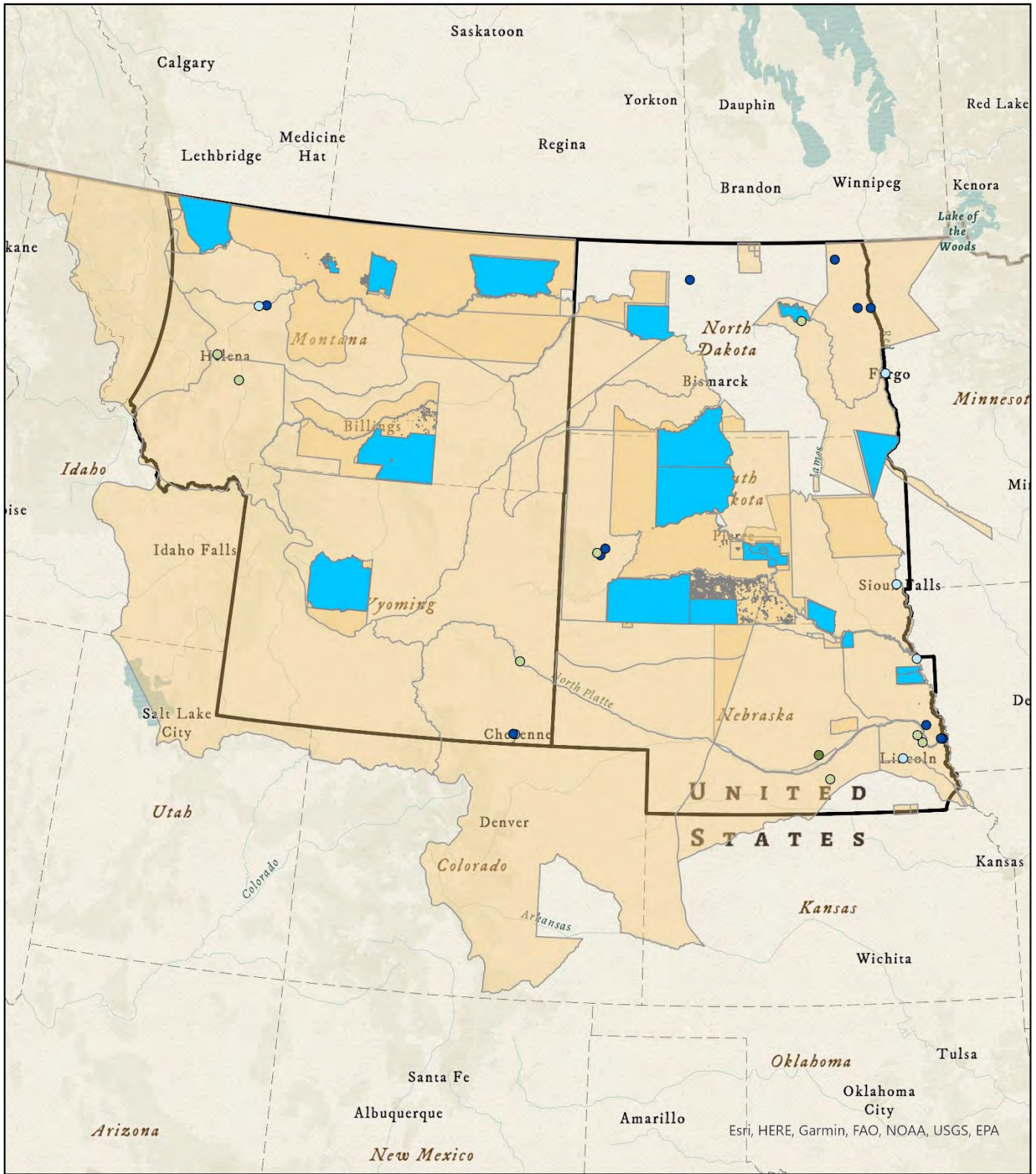
### ***Intertribal Bison Council***

The Intertribal Bison Council, also known as the Intertribal Buffalo Council (ITBC), is a non-profit corporation that was formed in 1992 by Tribes in conjunction with the Native American Fish and Wildlife Society. The organization's goal is to restore the buffalo population on Tribal lands, reviving the cultural and spiritual connection between the cultural keystone species and the Tribespeople. Since its foundation, ITBC has expanded to include members of 63 Tribes from 20 States.

### ***Rocky Mountain Tribal Leaders Council***

The Rocky Mountain Tribal Leaders Council (RMTLC) aims to preserve the homelands and support the Native people of Montana, Wyoming, and Idaho. The group highlights consultation and collaboration among its member Tribes while focusing on areas of Tribal Sovereignty, families and children, and leadership training.

# Great Plains and Rocky Mountain BIA Regions



Map Date: 5/25/22

## Military Installations

- AF Active
- AF Guard
- AF Reserve
- Army Active
- Army Guard
- Army Reserve
- MC Active
- Navy Active
- Navy Reserve
- WHS
- Federally Recognized Tribes
- ▭ Great Plains and Rocky Mountain BIA Regions
- Ceded Lands



## Midwest Region

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The **Midwest Region** contains 36 federally recognized Indian Tribes located in the states of Minnesota, Wisconsin, Michigan and Iowa. Tribes in the Midwest Region encompass approximately 62 million acres, including treaty-ceded territories, representing millions of acres of forests, lakes, streams and wetlands. As a result of the Tribes' collective efforts with the states, other federal agencies, various universities and private landowners, these programs have served as national models for collaborative, landscape-scale work.

### ***Great Lakes Indian Fish and Wildlife Commission***

The Great Lakes Indian Fish and Wildlife Commission (GLIFWC) was founded in 1984 and is made up of Tribal members from 11 Ojibwe Tribes in Minnesota, Wisconsin, and Michigan. The group provides support on natural resource management, conservation enforcement, legal and policy analysis, and public information to uphold treaty rights related to hunting, fishing, and gathering in ceded territories.

### ***Inter-Tribal Council of Michigan, Inc.***

The Inter-Tribal Council of Michigan, Inc. (I.T.C.) was founded in 1968 as a non-profit organization. I.T.C. grew its membership from four original Tribes to now represent 12 Tribes in Michigan. The consortium's formation was necessitated by Michigan Tribes' small size and dwindling resources. Together, the Michigan Tribes act as one unified organization to support quality of life for all Native people under its umbrella.

### ***Great Lakes Intertribal Council***

The Great Lakes Intertribal Council (GLITC) is a non-profit Tribal consortium that was chartered in 1965. Membership includes Federally recognized Tribes in Wisconsin and the Upper Peninsula of Michigan who provide services and assistance in a broad range of efforts focused on self-determination and improvement of member Tribes' quality of life.

***Midwest Alliance of Sovereign Tribes***

The Midwest Alliance of Sovereign Tribes (MAST) was founded in 1996 and includes members of 35 Tribal Nations in Minnesota, Wisconsin, Iowa, and Michigan. MAST advocates for member Tribes on treaty rights, public policy, economic development, education, and protection of cultural and religious resources.



# Midwest BIA Region



Map Date: 5/25/22

## Military Installations

- AF Active
- AF Guard
- AF Reserve
- Army Active
- Army Guard
- Army Reserve
- MC Active
- Navy Active
- Navy Reserve
- WHS
- Federally Recognized Tribes
- ▭ Midwest BIA Region
- Ceded Lands



## Northwest And Pacific Regions

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The **Northwest Region**, with 46 federally recognized Tribes, includes Washington, Oregon, and Idaho in addition to a small island, Annette Island Reserve, off the coast of Alaska. The region has three main environments: temperate rain forests, coastal areas, and arid desert. With approximately 28 million acres of public lands, this region hosts many federally managed scenic and recreational areas to showcase the vast array of landscapes, plant, and animal life found there.

The **Pacific Region** encompasses the entire state of California. With a rather complex history involving a large influx of non-Native people in search of gold, treaties with the Native people there were not signed or were otherwise not observed. As such, California has a large number of native populations who are not currently recognized by the U.S., some of which, are seeking and continue to seek federal recognition through the Office of Federal Acknowledgement.

### ***Affiliated Tribes of Northwest Indians***

The Affiliated Tribes of Northwest Indians (ATNI) is a non-profit that was formed in 1953 to promote Tribal Sovereignty and self-determination in the Northwest. Member Tribes support transparent information exchange, technical assistance, and organizational partnerships concerning matters related to cultural affairs, economic development, human and social services, natural resources and environment, and Tribal governance.

### ***Northwest Indian Fisheries Commission***

The Northwest Indian Fisheries Commission (NWIFC), with membership comprised of 20 Tribal Nations, was founded in 1974 to provide assistance in Tribal management of salmon, a cultural keystone species, in western Washington. The NWIFC assists in all aspects of managing this natural resource, including habitat management, hatchery, and harvest.

### ***Columbia River Inter-Tribal Fish Commission***

The Columbia River Inter-Tribal Fish Commission (CRITFC), formed in 1977, is made up of Tribes along the Columbia River: The Confederated Tribes and Bands of the



Yakama Nation, The Confederated Tribes of the Umatilla Indian Reservation, The Confederated Tribes of the Warm Springs Reservation of Oregon, and The Nez Perce Tribe. The CRITFC works to ensure Tribal involvement in the population restoration, hatchery, and harvesting of salmon, a cultural keystone species.

***California Tribal Business Alliance***

The California Tribal Business Alliance was formed in 2004 and includes five federally recognized Tribes. The group’s main goal is building mutually beneficial relationships that uphold the Tribes’ sovereign rights and supporting members in public policy matters.

***Intertribal Council of California***

The Intertribal Council of California (ITCC) is a nonprofit Native corporation that aims to serve the Native people of California. ITCC operates in support of social services and education in addition to economic development, cultural and environmental protection. With four offices, the ITCC is available to aid domestic and sexual violence victims in California Native communities.

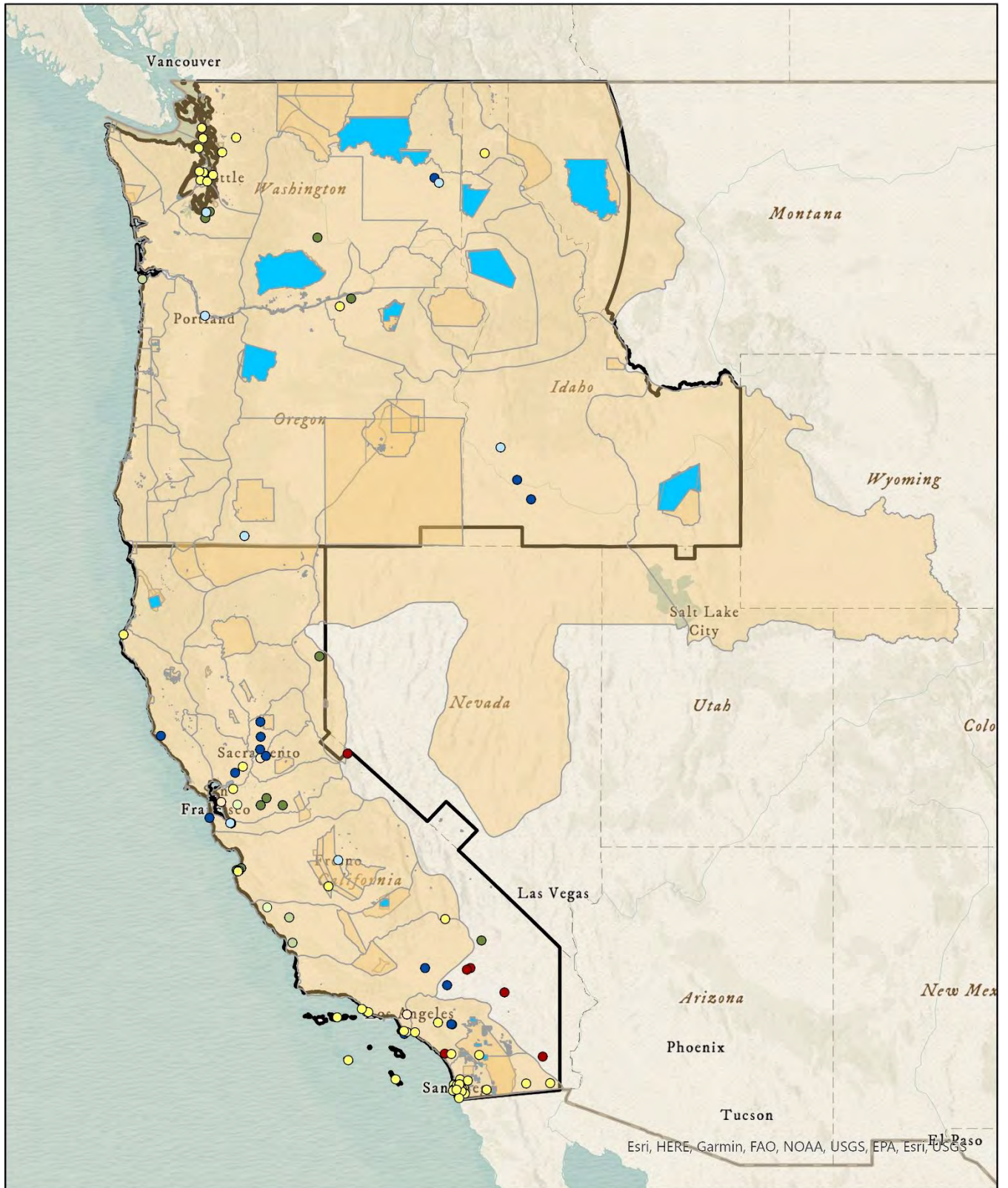
***Southern California Tribal Chairmen’s Association***

The Southern California Tribal Chairmen’s Association (SCTCA) is a consortium established in 1972 to provide support to 25 federally recognized Tribes located in Southern California. SCTCA works to support each other on cultural, economic, health, and education of member Tribes and their descendants. In addition, SCTA operates a robust grand program to financially support these efforts.

***Tribal Alliance of Sovereign Indian Nations***

The Tribal Alliance of Sovereign Indian Nations (TASIN), an intergovernmental association of federally recognized Tribes in Southern California, was founded in 1995. TASIN provides support for Tribes within the Federal Central Judicial District in the State of California on infrastructure, Tribal Sovereignty, and preservation of cultural identity.

# Northwest and Pacific BIA Regions



Map Date: 5/25/22

## Military Installations

- AF Active
- AF Guard
- AF Reserve
- Space Force
- Army Active
- Army Guard
- Army Reserve
- Navy Active
- Navy Reserve
- MC Active
- WHS
- Federally Recognized Tribes
- ▭ Northwest and Pacific BIA Regions
- Ceded Lands



## **Eastern Oklahoma and Southern Plains Regions**

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The **Eastern Oklahoma Region** encompasses less than half of the state of Oklahoma. Within the region are 20 federally recognized Tribes with unique cultural histories. The majority of these Tribes were relocated here as a result of forced removal from the Southeastern states including Mississippi, Alabama, Georgia, and Tennessee.

The **Southern Plains** region includes the western area of Oklahoma in addition to the entire state of Texas and Kansas. A total of 24 federally recognized Tribes are represented in this region, which is characterized by both dry, arid desert and lush, rolling grasslands. One of the main resources in this region is cattle, as the large pasture and rangelands allow for adequate space for large herds of the animals.

### ***Inter-Tribal Emergency Management Coalition***

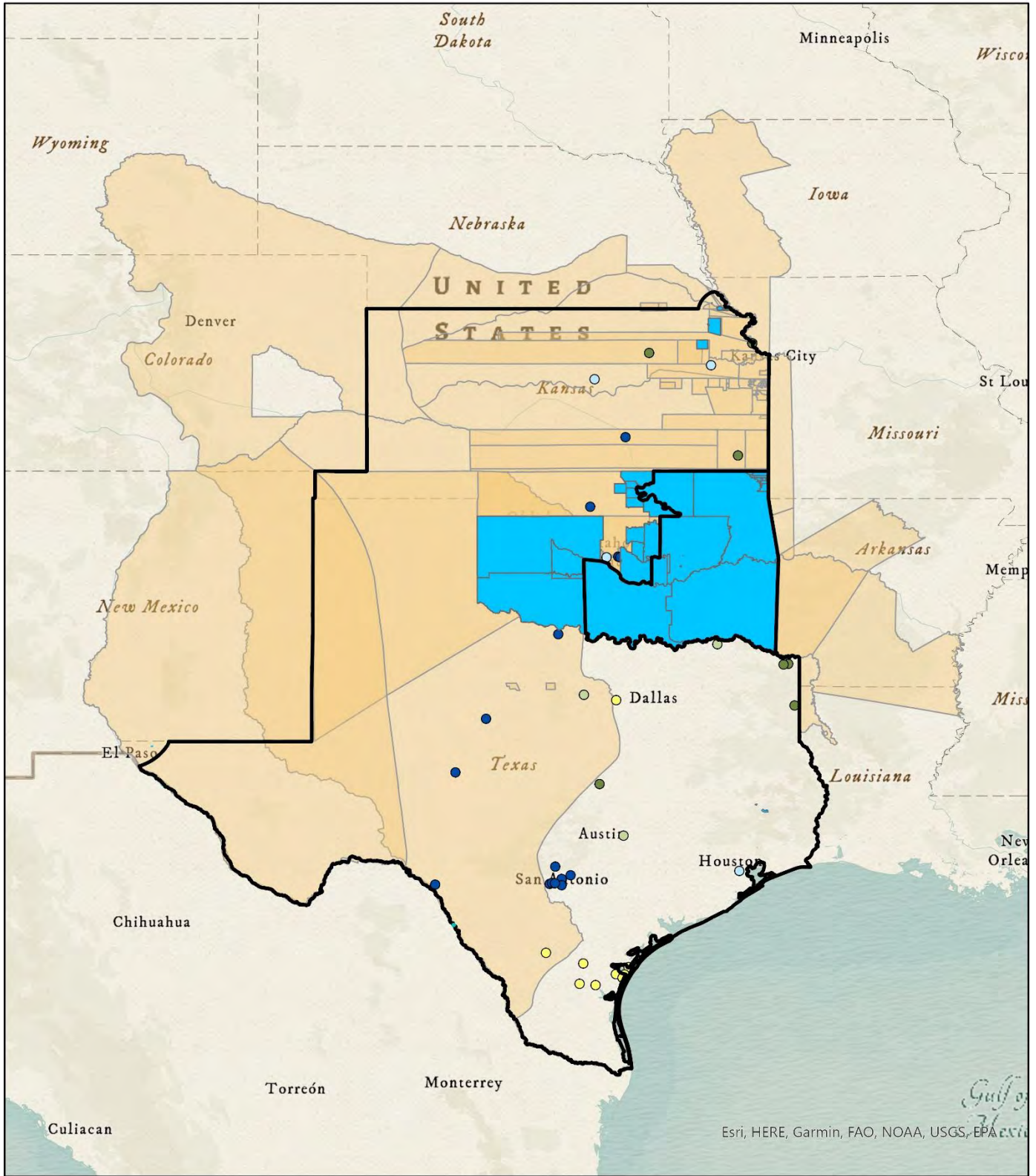
The Inter-Tribal Emergency Management Coalition (ITEMC) was established in 2004. ITEMC brings together Tribal, State and Federal emergency response agencies to address hazardous conditions that could affect the 39 federally recognized Tribes in Oklahoma. The coalition also focuses on minimizing the effects of natural and man-made disasters on its member Tribes.

### ***Inter-Tribal Council of the Five Civilized Tribes***

The Inter-Tribal Council of the Five Civilized Tribes (ITC) was formed in 1842 and includes members from Cherokee, Chickasaw, Choctaw, Creek, and Seminole Tribes. The organization provides support on Tribal Sovereignty, land and water rights, education, economics, and Indian Health Service (IHS).



# Eastern Oklahoma and Southern Plains BIA Region



Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, etc.

Map Date: 5/25/22

## Military Installations

- AF Active
- AF Guard
- AF Reserve
- Army Active
- Army Guard
- Army Reserve
- MC Active
- Navy Active
- Navy Reserve
- WHS
- Federally Recognized Tribes
- ▭ Eastern Oklahoma and Southern Plains BIA Region
- Ceded Lands



## Southwest, Navajo, and Western Regions

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The **Southwest Region** encompasses a dynamic and diverse mix of Tribes, Tribal members and natural resources. 67,456 Tribal members make up the 24 Tribes and the Ramah Navajo Chapter of the Navajo Nation under the Southwest Region. Tribes are located in New Mexico, Colorado and Texas and encompass 4,869,744 acres of land.

The **Navajo Region** is unique in that it is fully devoted to the Navajo Nation, which includes 27,000 acres of land in parts of Arizona, Utah, and New Mexico. With such a massive area of land and a large population, the Navajo region has a variety of landscapes. The majority of the land is either dry, arid desert or cool, humid mountains.

The **Western Region** encompasses a vast array of landscapes including deserts, valleys of the Great Basin, mountains, Colorado river is the main water feature. Economic products from reservations include farmed crops, timber and shrubs, and mineral resources

### ***Inter-Tribal Council of Arizona, Inc.***

The Inter-Tribal Council of Arizona, Inc. (ITCA) is a non-profit that was founded in 1975 to provide technical assistance and training resources to Tribal governments. Members of ITCA are elected Tribal leaders, including chairpersons, presidents, and governors. ITCA's staff and board of Directors work to disseminate information related to support Native communities in the state of Arizona in a variety of areas such as planning and development, research, and resource management.

### ***All Indian Pueblo Council***

The All Indian Pueblo Council (AIPC) was organized in 1970 for the express purpose of securing federal funding on educational and economic development programs. After an internal restructuring, the group changed its name and mission in 2013. Now known as the All Pueblo Council of Governors (APCG), prioritizes youth programs, the protection of land and water rights, educational programs, economic development, and health in their communities.

***Inter-Tribal Council of Nevada, Inc.***

The Inter-Tribal Council of Nevada, Inc. (ITCN) is a non-profit consortium founded in 1966. ITCN's membership is made up of 27 federally recognized Nevada Tribes. The ITCN works as a large political resource in support of the small Nevada Tribes. ITCN promotes collaborative efforts aimed at supporting member Tribes' health, education, economy, and social programs.

***National Tribal Environmental Council***

The National Tribal Environmental Council (NTEC) is a non-profit that aims to assist Tribal Nations in ensuring protection and preservation of the environment on reservations. Membership is made up of Federally Recognized Tribes who focus on technical support for water resources, air quality, and other environmental issues.

***American Indian Business Leaders***

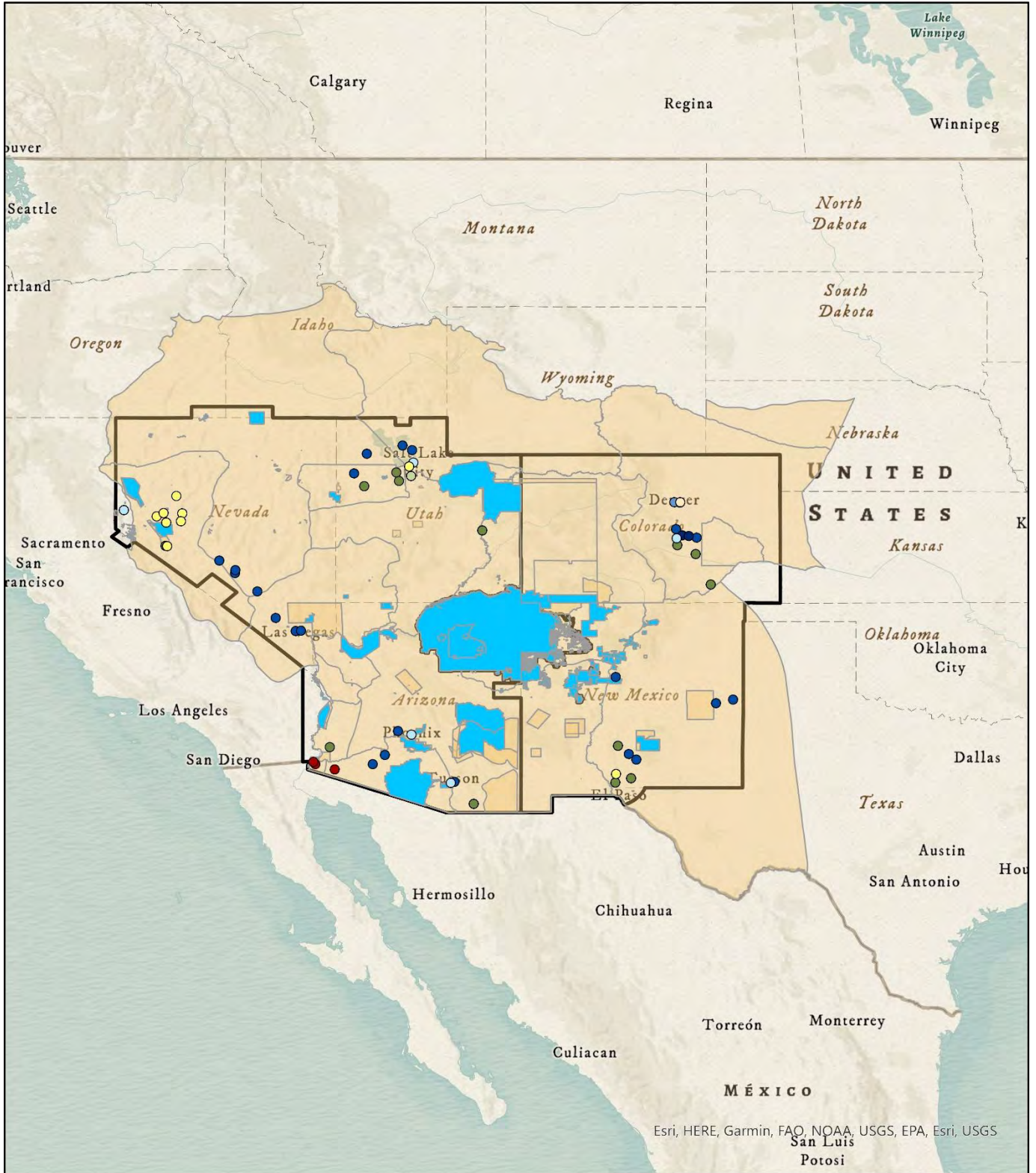
The American Indian Business Leaders (AIBL), now known as the American Indigenous Business Leaders (AIBL), is the only American Indigenous nonprofit that is fully devoted to developing business leaders from all racial and educational backgrounds. The group offers education and leadership development to meet this goal.

***American Indian College Fund***

The American Indian College Fund was founded in 1989 to offer financial assistance to Native students and Tribal Colleges and Universities (TCUs). The organization is the largest of its kind, aiming to provide Native students with better access to education and a variety of educational resources including scholarships and programming activities.



# Southwest, Navajo, and Western BIA Regions



## Military Installations

- AF Active
- AF Guard
- AF Reserve
- Space Force
- Army Active
- Army Guard
- Army Reserve
- MC Active
- Navy Active
- Navy Reserve
- WHS
- Federally Recognized Tribes
- ▭ Southwest, Navajo, and Western BIA Regions
- Ceded Lands

Map Date: 5/25/22





# Department of Defense Tribal Engagement Guidebook

Project # CR-21-001

## Background:

The Department of Defense (DoD) Legacy Resource Management Program funded this project to develop a Tribal Engagement Guidebook as a resource to aid DoD personnel who engage with or work on matters of concern to Tribes. Such personnel may include commanders, cultural resource professionals, natural resource professionals, Tribal liaisons, legal counsel, public affairs and protocol staff, and more, as duties require.

## Objective:

The project's objective was to create a user-friendly guidebook for DoD tribal engagement. The guidebook's authors intended to provide DoD personnel with tools to successfully engage with federally recognized Tribes by promoting:

- Consistent language in communications with federally recognized Tribes,
- Effective management strategies of Tribal resources on DoD-managed lands, and
- Compassionate and respectful approaches to establishing and maintaining Government-to-Government relationships.

The guidebook's authors sought to aid installation managers as they navigate Tribal engagements and create relationships with Tribes specific to their region and/or installation. The authors also worked to collect best practices and protocols for engaging with federally recognized Tribes.

## Summary of Approach:

The authors coordinated with a large and diverse group of Cultural Resources Management experts across all branches of DoD and organizations to develop the guidebook. The authors also compiled relevant laws, regulations, DoD and military policies, and Tribal protocols in their research. The authors developed comprehensive tools for DoD agencies' use in meeting their Federal Trust Responsibilities to federally recognized Tribes. For the guidebook, the authors obtained information on:

- Tribal sovereignty and Federal Trust Responsibility,
- Tribal liaison training and professional development,
- the difference between collaboration,

consultation, and coordination in Government-to-Government communication,

- effective methods of conducting Tribal engagement, and
- how Government-to-Government relationships can be put into practice.

## Benefit:

The guidebook offers DoD personnel a detailed reference guide to assist them in the meeting Federal Trust Responsibilities and developing Government-to-Government relationships with Tribes in their respective Area of Responsibility. The guidebook also provides a standardized and replicable process for engagement, collaboration, and consultation with federally recognized Tribes in the United States. This may result in a consistent, successful, and technical approach across the DoD.

## Accomplishments:

The final guidebook contains useful historical background and legal references; a step-by-step guide on how to successfully engage, outreach, and conduct consultation with federally recognized Tribes; as well as a few "success" stories highlighting DoD and Tribal positive relationship building.

## Contact Information:

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