

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL
23rd NAVAJO NATION COUNCIL -- THIRD YEAR, 2017

AN ACTION

RELATING TO NAABIK'ÍYÁTI'; RESPECTFULLY REQUESTING THE UNITED STATES GOVERNMENT INCORPORATE THE INTERNATIONAL STANDARD OF FREE, PRIOR AND INFORMED CONSENT

WHEREAS:

- A. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'íyáti' Committee to coordinate with all committees the appearance and testimony before non-Navajo government federal, state or other entities. 2 N.N.C. § 700 (A) (2012); see also CO-45-12.
- B. The Navajo Nation has a government-to-government relationship with the United States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.
- C. The Navajo Nation Human Rights Commission (NNHRC) passed Resolution NNHRCNOV-02-16 titled, "Recommending "Federal Consultation with Tribes Regarding Infrastructure Decision-Making" Incorporate the International Standard of Free, Prior and Informed Consent; Resolution NNHRCNOV-02-16 is attached hereto as **Exhibit A**.
- D. The United Nations Declaration states, "all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the bases of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust." (United Nations Declaration preambular paragraph).
- E. Article 19 of the United Nations Declaration affirms that "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measure that may affect them."
- F. The American Declaration recognizes "the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories, and resources. The Organization of American States members further stated they are "[C]onvinced that recognition of the rights of indigenous peoples in this Declaration will foster among states and indigenous peoples harmonious and cooperative relations based on the principles of justice, democracy, respect for human rights, nondiscrimination, and good faith." See American Declaration preamble.

- G. Article XXIII of the American Declaration states, "(1) Indigenous peoples have the right to full and effective participation in decision-making, through representatives chosen by themselves in accordance with their own institutions, in matters which affect their rights, and which are related to the development and execution of laws, public policies, programs, plans, and actions related to indigenous matters; and (2) States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them."
- H. The international indigenous human rights advocacy involves the need for nation-states have the doctrines of right of discovery and terra nullius as the foundation of their domestic laws, policies and regulations must change such domestic establishments to reflect indigenous human rights as pronounced in the United Nations Declaration and American Declaration.
- I. The Navajo Nation finds it in the best interest to respectfully request the United States government incorporate the international standard of free, prior and informed consent.

NOW THEREFORE, BE IT RESOLVED:

- A. The Navajo Nation hereby respectfully requests the United States government incorporate the international standards of free, prior and informed consent.
- B. The Navajo Nation hereby reauthorizes the Navajo Nation President, the Navajo Nation Speaker, the Navajo Nation Chief Justice, the Navajo Nation Council Delegates and their designees, to respectfully request the United States government incorporate the international standard of free, prior and informed consent

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 15 in favor and 01 oppose, this 22ND day of June, 2017 .



Honorable LoRenzo C. Bates, Chairperson
Naabik'iyáti Committee

Motion: Honorable Jonathan Perry
Second: Honorable Tom T. Chee

**23rd Navajo Nation Council
Naabik'iyati' Committee**

Date: June 22, 2017

Legislation No. 0167-17

Motion: Jonathan Perry

Second: Tom T. Chee

ALL DELEGATES:

	Yea	Nay
BATES, LoRenzo		
BEGAY, Kee Allen Jr.		
BEGAY, Norman M.	✓	
BEGAY, Steven	✓	
BEGAYE, Nelson		
BENNETT, Benjamin L.	✓	
BROWN, Nathaniel	✓	
CHEE, Tom T.	✓	
CROTTY, Amber K.	✓	
DAMON, Seth	✓	
DANIELS, Herman	✓	
FILFRED, Davis		
HALE, Jonathan L.	✓	
JACK, Lee Sr.		
PERRY, Jonathan	✓	
PETE, Leonard H.	✓	
PHELPS, Walter		
SHEPHERD, Alton Joe		
SLIM, Tuchoney Jr.	✓	
SMITH, Raymond Jr.	✓	
TSO, Otto	✓	
TSOSIE, Leonard		✓
WITHERSPOON, Dwight	✓	
YAZZIE, Edmund		

BY COMMITTEE:

	Yea	Nay	TOTAL
BEC:			
CHEE, Tom T.			
DAMON, Seth			
JACK, Lee Sr.			
SLIM, Tuchoney Jr.			
WITHERSPOON, Dwight			
TSOSIE, Leonard			
HEHSC:			
BEGAY, Norman M.			
BEGAY, Steven			
BEGAYE, Nelson			
BROWN, Nathaniel			
CROTTY, Amber K.			
HALE, Jonathan L.			
LOC:			
BEGAY, Kee Allen Jr.			
DANIELS, Herman			
SMITH, Raymond Jr.			
TSO, Otto			
YAZZIE, Edmund			
RDC:			
BENNETT, Benjamin L.			
FILFRED, Davis			
PERRY, Jonathan			
PETE, Leonard H.			
PHELPS, Walter			
SHEPHERD, Alton Joe			
SPEAKER:			
BATES, LoRenzo			
(Votes only in a tie)			

GRAND TOTAL

15 | 1

CERTIFICATION:


Honorable LoRenzo Bates
Speaker



NNHRCNOV-02-16

**RESOLUTION OF THE
NAVAJO NATION HUMAN RIGHTS COMMISSION**

Recommending "Federal Consultation with Tribes Regarding Infrastructure Decision-Making"
Incorporate the International Standard of Free, Prior and Informed Consent

WHEREAS:

1. Pursuant to 2 N.N.C. §920 and §921, the Navajo Nation Human Rights Commission ("Commission") is established within the Legislative Branch as an entity of the Navajo Nation government to operate as a clearinghouse to address discriminatory actions against citizens of the Navajo Nation; and to interface with local, state, federal governments and with national and international human rights organizations in accordance with the Commission's plan of operation and applicable laws and regulations of the Navajo Nation; and
2. On September 23, 2016, the United States Department of the Interior, Department of Justice, Department of the Army, and other Federal agencies invited tribal leaders and their designee to consult on how the Federal Government can better account for, and integrate tribal views, on future infrastructure decision throughout the country; and
3. The Federal Government have identified the following questions they seek input on: (1) How can Federal agencies better ensure meaningful tribal input into infrastructure-related reviews and decisions, to protect tribal lands, resources, and treaty rights within the existing statutory framework? and (2) Should the Federal agencies propose new legislation altering the statutory framework to promote these goals? (See Exhibit "A"); and
4. With the recent events that are occurring near Standing Rock Sioux Indian Reservation in North and South Dakota with the Dakota Access Pipeline, the Navajo Nation Sacred Sites Task Force as a Sub-Committee of the Naabik'iyáti' Committee, established by Resolution NABIMY-31-15, believes the Navajo Nation should weigh in on the matter due to the importance of protecting aboriginal homelands from proposed and implemented infrastructure-related projects that desecrate sacred places for indigenous peoples; and
5. Recalling Resolution NABIS-58-11, the Náabik'iyáti' Committee of the Navajo Nation Council, authorized the Navajo Nation President and Vice-President, the Speaker of the Navajo Nation Council, their designee, and the Commission to do all things necessary to protect and advocate for the human rights of the Navajo people as they pertain to the San Francisco Peaks, sacred site for the Navajo people; and
6. Recalling Resolution CN-69-02 (amending Title 1 of the Navajo Nation Code to recognize the Fundamental Laws of the Diné) of the Navajo Nation Council, it states and teaches that all life, including Mother Earth, is sacred and recognizes the obligation Navajo people have "to respect, preserve and protect" all that was provided by the Holy People and that "it is the duty and responsibility of the Diné to protect and preserve the beauty of the natural world for future generations;" and

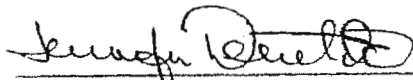
7. The Commission offers the following on answering the questions posed by the Federal Government in conjunction with Resolutions NABIS-58-11 and CN-69-02. The Commission encourages the Federal Government to start implementing new policies and regulations that promote a meaningful government-to-government and nation-to-nation engagement that addresses the concerns of indigenous peoples in these United States, namely, absolute protection of indigenous sacred places; and
8. The Commission strongly encourage the Federal Government and its subsidiaries to change the current policies, laws, and regulations of consultation and have it reflect the United Nations Declaration on the Rights of Indigenous Peoples (passed September 2007) and Organization of American States Declaration on the Rights of Indigenous Peoples (passed June 2016) standard of free, prior and informed consent; and
9. The terminology consultation limits indigenous peoples of these United States because the current consultation policy mandated by Federal Government statutes, executive orders, regulations, rules, policies, manuals, protocols and guidance (See Exhibit "B") does not provide for consent. Simply providing indigenous peoples with information about a proposed decision and gathering information and taking into account their point of views is not sufficient in the context of sacred sites; and
10. The standard of free, prior and informed consent is the global standard that gives indigenous peoples the right to give or withhold its consent on proposed infrastructure-related projects which affect homelands that are customarily and aboriginally owned, occupied or otherwise used regardless of whether those homelands are located on federal public land, state land, or privately held land; and
11. In addition, the Commissioner offers the following on answering the questions posed by the Federal Government in conjunction with Resolutions NABIS-58-11 and CN-69-02. The Commission encourages the Federal Government to replace the words "sacred sites" throughout Federal Government statutes, executive orders, regulations, rules, policies, manuals, protocols and guidance with "sacred places." By doing so, the Federal Government acknowledge that "sacred places" encompass both sacred sites and areas, which are not limited to specific landmarks or sites; and
12. The Federal Government acknowledge that by using a more comprehensive language of "sacred places," it also encompass places including, but not limited to, federal public lands, state lands, privately held lands, landmarks, mountain ranges, water areas, canyons, and other places located on customary or aboriginal homelands; and
13. The Commission finds it is in the best interest of the Navajo Nation to approve and support the recommendations on "Federal Consultation with Tribes Regarding Infrastructure Decision-Making" to start incorporating the international standard of free, prior and informed consent when proposed infrastructure-related projects come about, especially when indigenous peoples' sacred places will be impacted, to advance the protection and preservation of Navajo human rights.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Human Rights Commission hereby approves and supports the recommendations on "Federal Consultation with Tribes Regarding Infrastructure Decision-Making" to start incorporating the international standard of free, prior and informed consent when proposed infrastructure-related projects come about, especially when indigenous peoples' sacred places will be impacted, to advance the protection and preservation of Navajo human rights.
2. The Navajo Nation Human Rights Commission hereby further directs the Office of Navajo Nation Human Rights Commission to continue the advancement and respect the protection and preservation of Navajo human rights and transmit this resolution to the Navajo Nation Sacred Sites Task Force as a Sub-Committee of the Naabik'iyáti' Committee, the Navajo Nation Naabik'iyáti' Committee, Navajo Nation Office of the Speaker, and Navajo Nation Office of the President and Vice-President.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Human Rights Commission at a duly called meeting at St. Michaels, Navajo Nation (Arizona) at which a quorum was present at that same was passed by a vote of 3 in favor and 0 opposed, this 4th day of November, 2016.



Dr. Jennifer Denetdale, PhD, *Chairperson Pro Tem*
Navajo Nation Human Rights Commission

EXHIBIT**"A"**

SEP 23 2016

Dear Tribal Leader:

Recent events have highlighted the need for a broader review and consultation as to how, prospectively, Federal decisionmaking on infrastructure projects can better allow for timely and meaningful tribal input. On behalf of the Department of the Interior, Department of Justice, Department of the Army, and other Federal agencies, we invite you to consultations on how the Federal Government can better account for, and integrate tribal views, on future infrastructure decisions throughout the country. Consistent with our nation-to-nation relationship, our consultations are with tribal leaders and your designated staff. In particular, we have identified the following questions we seek your input on:

- (1) How can Federal agencies better ensure meaningful tribal input into infrastructure-related reviews and decisions, to protect tribal lands, resources, and treaty rights within the existing statutory framework?
- (2) Should the Federal agencies propose new legislation altering the statutory framework to promote these goals?

We will provide a framing paper with additional detail on these questions, including a description of the statutory framework currently in place. While these questions are of particular interest to the Federal agencies, we welcome any input relevant to the broader topic.

We respectfully request your participation in one of the following consultation sessions:

Date	Meeting Time (local time)	Meeting Type	Location
Tuesday 10/11/2016	6:00 p.m. – 8:00 p.m.	Listening Session	Phoenix, Arizona (at the site of the National Congress of American Indians 73 rd Annual Convention)
Tuesday 10/25/2016	8:30 a.m. – 12:30 p.m.	Tribal Consultation	Seattle, Washington
Thursday 10/27/2016	8:30 a.m. – 12:30 p.m.	Tribal Consultation	Albuquerque, New Mexico
Wednesday 11/02/2016	8:30 a.m. – 12:30 p.m.	Tribal Consultation	Billings, Montana

Tuesday 11/15/2016	8:30 a.m. – 12:30 p.m.	Tribal Consultation	Minneapolis, Minnesota
Thursday 11/17/2016	8:30 a.m. – 12:30 p.m.	Tribal Consultation	Rapid City, South Dakota
Monday 11/21/2016	12:30 p.m. – 4:30 p.m.	Tribal Consultation by Teleconference	Teleconference

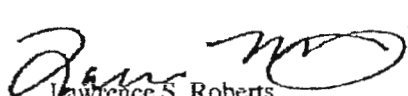
The framing paper, details on the consultation locations, and any additional information will be available at this website: <http://www.bia.gov/WhoWeAre/AS-IA/ORM/TribalInput/index.htm>.

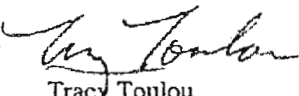
If you would like to provide written input, please send it by email to consultation@bia.gov or by mail to: Office of the Assistant Secretary – Indian Affairs, attn.: Office of Regulatory Affairs & Collaborative Action, 1849 C Street, NW, MS 3071, Washington, DC 20240. We will consider all written input we receive by Friday, November 30, 2016.

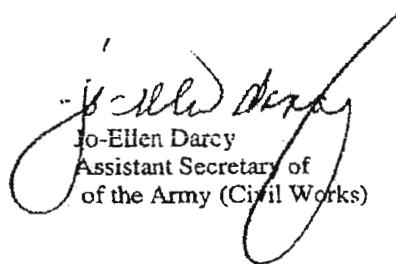
We recognize this is an aggressive consultation schedule, but we believe it is appropriate given the importance and urgency of the issues. If you have any questions regarding these sessions or would like additional information, please do not hesitate to contact Ms. Elizabeth K. Appel, Director, Office of Regulatory Affairs & Collaborative Action, at (202)208-7163 or elizabeth.appel@bia.gov.

We understand that Tribal Nations' voices must be heard, in a timely and meaningful way, with regard to Federal decisions that could affect their treaties, homelands, environment, cultural properties, and sacred sites. We look forward to your input as to how our agencies, and the Federal Government as a whole, can improve Federal decision-making processes that affect Tribal lands, resources, and treaty rights to ensure that those decisions are fully consistent with our obligations to Tribal Nations.

Sincerely,


Lawrence S. Roberts
Principal Deputy Assistant
Secretary – Indian Affairs


Tracy Toulou
Director
Office of Tribal Justice


Jo-Ellen Darcy
Assistant Secretary of
the Army (Civil Works)

**FEDERAL CONSULTATION WITH TRIBES REGARDING
INFRASTRUCTURE DECISION-MAKING**

FRAMING PAPER

FALL 2016

As discussed in the September 23, 2016, consultation invitation you received, Federal agencies have committed to broad review and consultation on how, prospectively, Federal decision-making on infrastructure projects can better allow for timely and meaningful Tribal input from federally-recognized Tribes. The invitation letter identified two broad questions of particular interest to Federal agencies. Building on those two questions, Federal agencies are interested to learn best practices for Tribal consultation and to ask questions in two broad categories:

- 1) *Promoting Meaningful Government-to-Government Engagement within the Existing Framework.* How can Federal agencies better ensure meaningful Tribal input into infrastructure-related reviews and decisions, to protect Tribal lands, resources, and treaty rights within the existing framework? This category of questions includes topics related to how a Federal agency implements existing policies and procedures, staff training and expertise, how an agency approaches Tribal consultation, and what can be done to promote Tribal capacity to participate in timely and meaningful consultation.
- 2) *Identifying Any Necessary Change to the Existing Framework.* Where and when does the current framework present barriers to meaningful consultation? What changes to the current framework would promote these goals? This category of questions includes potential change to regulations, policies, and procedures, as well as statutory changes that would increase timely and meaningful consultation.

These questions are meant to serve as a reference point for participants and are not intended to limit the conversation. We have also included additional questions for your input below, following the background information on the existing framework.

This consultation will focus on how to ensure timely and meaningful Tribal input on future Federal decisions on infrastructure and infrastructure-related projects that have Tribal implications. While infrastructure is difficult to define, for purposes of this consultation, infrastructure projects include, but are not limited to, the examples listed in the text box in the background section.

Background

Infrastructure projects have grown in scope and complexity over time, as reflected in the increase in number and variety of existing laws and regulations that address infrastructure-related processes. Infrastructure is difficult to define because it encompasses a wide array of physical assets. For example, infrastructure projects include, but are not limited to, the examples listed in the text box on the right.

The Federal Government often plays a role in reviewing these infrastructure projects. There are Federal statutes, regulations and Executive Orders that govern Federal review of infrastructure-related projects or potential impacts of infrastructure;¹ together, these create a framework that provides designated Federal agencies with the authority and responsibility to review particular aspects of the infrastructure or its impacts.

Examples of Infrastructure:

- Surface transportation, including highway, rail, and transit projects
- Airport capital improvement projects
- Ports and waterways
- Water resource projects
- Renewable energy generation
- Electricity transmission
- Storm-water infrastructure
- Broadband internet
- Oil or gas pipelines

For example, statutes such as the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, and the Archeological Resources Protection Act of 1979 contain provisions addressing Tribal input into Federal decision-making under certain circumstances, such as when there will be excavation of cultural items. In addition to the statutes, Federal agencies may also have implementing regulations or guidance that assist with interpreting the relevant statute. In addition to those more specific requirements, there are also Presidential Executive Orders that direct Federal agencies to develop policies and best practices for working with Tribal governments. For example, the Executive Order on Consultation and Coordination with Indian Tribal Governments requires Federal agencies to have consultation policies in place to ensure meaningful and timely input by Tribal officials in the development of Federal policies that have Tribal implications.² And under the Executive Order for Improving Performance of Federal Permitting and Review of Infrastructure Projects, Federal agencies are responsible for including best practices for enhancing Federal, Tribal, and State government

¹ The Federal Environmental Review & Authorization Inventory chart, which describes many applicable rules and regulations as well as review requirements, is available at: <https://www.permits.performance.gov/tools/federal-environmental-review-and-authorization-inventory>. This website also provides background on the Federal "Permitting Dashboard" for certain Federal infrastructure projects.

² See the following webpage for a list of consultation policy examples: https://www.whitehouse.gov/sites/default/files/federal_agency_tribal_consultation_resources_updated.pdf

coordination on permitting and review processes and engaging early in the infrastructure permitting or review process.³

These laws and policies are part of the existing framework for Tribal input. Additional tools that are part of the legal framework are described more fully in Attachment A. We are interested in Tribes' thoughts both on ways to work within this existing framework and ways the framework might be improved.

Promoting Meaningful Government-to-Government Engagement within the Existing Framework

One of the purposes of this consultation is to obtain Tribal input on how the Federal government can more consistently, effectively, and meaningfully engage with Tribal governments on infrastructure-related projects. The existing framework imposes certain requirements and limitations on the Federal role in infrastructure decisions. For example, for certain projects, a Federal agency may only have authority to address a specific aspect of a larger infrastructure project (e.g., approving a right-of-way or a dredge-and-fill permit). In some cases, Federal agencies may not learn of the project until late in the infrastructure development process.

Within the existing framework both Federal agencies and Tribes have considerable discretionary authority as a result of variation in agency regulations and policies. Different agency structures, mission priorities, staffing, resources, cultures, and relationships with Tribes result in Federal agencies taking different approaches when implementing consultation. Despite this variation, both Federal agencies and Tribes have demonstrated the capacity to successfully engage in consultation. For example, the development of the landscape-level Desert Renewable Energy Conservation Plan (DRECP) was a deliberate attempt by numerous Federal agencies to meaningfully engage with Tribes. The DRECP is designed to conserve and manage plant and wildlife communities in the desert regions of California while facilitating the timely permitting of compatible renewable energy projects.

Federal agencies heavily engaged Tribes affected by the DRECP. For instance, prior to formal consultation, the agencies held two summits to address longstanding concerns Tribes had on impacts to traditional use areas and increasing development of energy resources. The agencies then held formal consultation over a three-year period and included extensive outreach and coordination, numerous technical meetings, meetings where Tribes were engaged in creating maps to incorporate into the DRECP, and individual meetings with 40 federally-recognized Tribes. Federal agencies also held conferences and workshops and ensured Tribes were provided with information, maps, presentations, access to executive-level Federal management, funding sources, and other specialized services. Not only did these meetings solicit Tribal input and incorporate Tribal issues into future development planning in the DRECP, the targeted outreach

³ Executive Order 13604 on Improving Performance of Federal Permitting and Review of Infrastructure Projects, March 22, 2012.

led to the exchange of information and discussion of concerns that shaped the actual development of the DRECP.

It is our hope that this consultation on infrastructure decision-making will include discussion of other examples of effective Tribal engagement, and that together we might identify underlying principles common to all meaningful consultations that are achievable within the current statutory framework. Some of these principles may include: 1) accountability for Federal agencies to identify potential impacts on Tribes, 2) providing timely and complete notice to Tribes, and 3) working collaboratively with Tribes to address their concerns or mitigate effects. Among other questions presented, this consultation seeks additional examples of projects that Tribes view as models for successful, meaningful consultations.

To help identify common principles for meaningful Tribal input into Federal infrastructure-related decision making and opportunities for building both Tribal and Federal capacity, we are interested in Tribes' views on the following questions:

- What are examples of consultations on infrastructure projects that you consider to be meaningful? Why did you consider these consultations to be meaningful?
- What factors do you consider when determining whether a consultation on an infrastructure project is meaningful? What should agencies take into account when determining whether or not a consultation is meaningful? What are examples of collaboration (other than formal consultation) that you have found to be useful? Why did you consider these collaborations to be meaningful?
- Are there specific agencies that you find to be particularly good at consultation and what is it about how these agencies go about consultation that makes it stand out?
- What can Federal agencies do to better support Tribes' ability to provide input into infrastructure decisions? What are examples of good practices that enable Tribes to provide their views and input early in the development process or prior to Federal review of an infrastructure project?
- What steps can Federal agencies take to ensure that Federal and non-Federal parties engage meaningfully with Tribes without overwhelming Tribes' resources?

Identifying Any Necessary Change to the Existing Framework

We are also interested in Tribes' views on whether changes to the existing framework – whether to regulations, agency policies, statutes, or other legal requirements – are necessary to ensure meaningful Tribal input into infrastructure-related reviews and decisions.

In considering whether and how changes to the existing framework could result in more successful Tribal consultation, we are particularly interested in Tribes' thoughts on the following questions:

- What are good examples of existing agency policies and regulations that other Federal agencies should consider replicating?
- Does the existing framework afford ample opportunity for Tribal input? If not, what additional opportunities should there be and what would this look like?
- When and where do you currently encounter obstacles to meaningful Tribal engagement that could be addressed through changes to regulation, agency policies, or statute? What are these obstacles and what changes would best address them?

Federal agencies understand that Tribes receive many notices for consultation and requests for input from numerous Federal agencies on various projects. We recognize the cost of participating in this consultation and appreciate your willingness to participate in these discussions and offer candid feedback. As stated earlier, the discussions are not limited to the questions presented here. We welcome any input relevant to the broader topic, and this framing paper and the questions may evolve over the course of the consultation based on Tribal input.

Attachment A

Legal Framework For Tribal Input

- Executive Order 13175, Consultation and Coordination With Indian Tribal Governments (November 6, 2000) – E.O. 13175 requires Federal agencies to have an accountable process to ensure meaningful and timely input by Tribal officials in the development of Federal policies that have tribal implications. President Obama reinforced this Executive Order in a November 5, 2009 Memorandum entitled “Tribal Consultation.” President Obama’s memorandum stated his Administration’s commitment to “regular and meaningful consultation and collaboration with [T]ribal officials on policy decisions that have [T]ribal implications...”
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations (February 11, 1994) – E.O. 12098 requires Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental impacts of their actions in minority and low-income populations. Each Federal agency responsibility set forth under the order applies equally to Native American programs. In addition, the Department of the Interior, in coordination with the Interagency Working Group established under the E.O, and after consultation with Tribal leaders, coordinates steps taken under the order that address Federally-recognized Tribes.
- Executive Order 13604, Improving Performance of Federal Permitting and Review of Infrastructure Projects (March 22, 2012) – E.O. 13604 directs that Federal permitting and review processes must provide a transparent, consistent, and predictable path for both project sponsors and affected communities [Federal permitting and review processes] must rely upon early and active consultation with State, local, and Tribal governments to avoid conflicts or duplication of effort, resolve concerns, and allow for concurrent rather than sequential reviews.
- Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. §§ 3001 *et seq.* – If there will be excavation of cultural items, including human remains and objects of cultural patrimony from Federal lands, the Federal agency must consult with the appropriate Tribes prior to excavation or removal after inadvertent discovery. If the excavation will occur on “Native American or Native Hawaiian Lands” then NAGPRA requires the consent of the Tribe or Native Hawaiian organization.
- National Historic Preservation Act (NHPA), 16 U.S.C. §§ 470 *et seq.* – If an activity could affect historic properties (e.g., properties that are eligible for or included in the National Register of Historic Places), then the Federal agency must engage in “Section 106 review” (as distinguished from a government-to-government consultation) with Tribes that may attach religious and cultural significance to historic properties.
- Archeological Resources Protection Act of 1979 (ARPA), 16 U.S.C. §§ 470aa–470mm – ARPA requires Federal agencies to consult with Tribes before permitting archeological excavations on Tribal lands.
- National Environmental Policy Act (NEPA) 42 U.S.C. §§ 4321–4347 – NEPA procedures require public involvement including coordination with Tribes. This coordination should not be confused with a Federal agency’s responsibility to engage in government-to-government consultation with Tribes. CEQ guidance encourages more active solicitation of Tribal governments for participation as cooperating agencies in NEPA documents.

EXHIBIT "B"

List of Federal Tribal Consultation Statutes, Orders, Regulations, Rules, Policies, Manuals, Protocols and Guidance

January 2009

Note: This list was prepared by the White House – Indian Affairs Executive Working Group (WH-IAEWG), Consultation and Coordination Advisory Group (CACAG). It contains those federal Tribal consultation statutes, orders, regulations, policies, manuals, and protocols that specify procedures as to how Departments, agencies and bureaus are to carry out consultation. It also includes many of the laws, orders, regulations and policies requiring that government-to-government relationships with tribes be carried out however, it does not purport to be comprehensive or all encompassing.

Part I: Legal Authorities Requiring Consultation - Government-wide

A. Statutes Requiring Consultation – Government-wide:

1. American Indian Religious Freedom Act (AIRFA) (16 U.S.C. 1996)

AIRFA establishes the policy of the federal government "to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including, but not limited to, access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites."

2. Archeological Resources Protection Act of 1979. (ARPA) (16 U.S.C. 470aa-mm)

ARPA requires federal agencies to consult with tribal authorities before permitting archeological excavations on tribal lands (16 U.S.C. 470cc(c)). It also mandates the confidentiality of information concerning the nature and location of archeological resources, including tribal archeological resources. (Also refer to the ARPA implementing regulations concerning consultation.)

3. National Historic Preservation Act (NHPA) (16 U.S.C. 470 et seq.)

In carrying out its responsibilities under section 106 of this Act, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A). (Section 101(d) (6) (B))

4. Native American Graves Protection and Repatriation Act (25 U.S.C. 3001, et. seq.)

NAGPRA requires consultations with Indian tribes, traditional religious leaders and lineal descendants of Native Americans regarding the treatment and disposition of specific kinds of human remains, funerary objects, sacred objects and other items. Under the Act, consultation is required under certain circumstances, including those identified in Sections 3002(c), 3002(d), 3003, 3004, and 3005. (Also refer to the NAGPRA implementing regulations concerning consultation.

Detailed information about NAGPRA and its implementing regulations is available at the National Park Service (NPS) National NAGPRA website, which can be found at: <http://www.nps.gov/history/nagpra/>

B. Regulations Requiring Consultation - *Government-wide*

1. Native American Graves Protection and Repatriation Act (NAGPRA) Implementing Regulations (43 CFR 10)

The NAGPRA implementing regulations refer to consultation or consultation-related concerns in several sections, including (but not limited to): 43 CFR 10.5 (consultation requirements for intentional excavation or inadvertent discovery), 43 CFR 10.8 (consultation requirements for summaries), 43 CFR 10.9 (consultation requirements for inventories). The regulations also specify other requirements for communicating with tribes, though without requiring consultation.)

2. National Environmental Policy Act (NEPA) Implementing Regulations 40 CFR Part 1500

NEPA requires the preparation of an environmental assessment (EA) or environmental impact statement (EIS) for any proposed major federal action that may significantly affect the quality of the human environment. While the statutory language of NEPA does not mention Indian tribes, the Council on Environmental Quality (CEQ) regulations and guidance do require agencies to contact Indian tribes and provide them with opportunities to participate at various stages in the preparation of an EA or EIS. CEQ has issued a Memorandum for Tribal Leaders encouraging tribes to participate as cooperating agencies with federal agencies in NEPA reviews. Section 40 CFR 1501.2(d)(2) requires that Federal agencies consult with Indian tribes early in the NEPA process. Other sections also refer to interacting with Indian tribes while implementing the NEPA process.

3. National Historic Preservation Act (NHPA) Regulations Implementing Section 106 (36 CFR Part 800)

The regulations implementing Section 106 of the NHPA require consultation with Indian tribes throughout the historic preservation review process. Federal agencies are required

to consult with Indian tribes on a government-to-government basis, in a manner that is respectful of tribal sovereignty. The regulations require federal agencies to acknowledge the special expertise of Indian tribes in determining which historic properties are of religious and cultural significance to them.

C. Executive Orders and Memoranda Requiring Consultation – *Government-wide*

1. EO 13175: Consultation and Coordination with Indian Tribal Governments (Nov. 6, 2000)
2. EO 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (February 11, 1994) - Published in Federal Register, 59 FR 7629, Wednesday, February 16, 1994
<http://www.hud.gov/offices/sheo/FHLaws/EXO12898.cfm>

Section 6-606, entitled “Native American Programs,” requires that each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition, the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally-recognized Indian Tribes.

Part II: Legal Authorities Requiring Consultation - *Two or More Agencies*

1. Statutes Requiring Consultation

- a. DOI and HHS: Indian Self-Determination and Education Assistance Act (25 U.S.C. 450)
The Indian Self-Determination and Education Assistance Act (Public Law 93-638, as amended) applies to certain activities of the Department of the Interior and the Indian Health Service, located in the Department of Health and Human Services). The Act establishes a Self-Determination Policy and permits federally recognized Indian tribes to plan, conduct, and administer programs and services that traditionally have been managed by the federal government, subject to the conditions specified by the Act and its implementing regulations. Both the Act and regulations require that consultation be carried out under specified circumstances.
- b. DOJ, and HHS: Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA II) Pub.L. No. 109-162- (2005)
Title IX (Safety for Indian Women), Sec. 90 – Consultation, 42 U.S. C. & 14045d Section 903 of Title IX, “Consultation”, directs the Attorney General and Secretary of Health and Human Services to each conduct annual consultation with Indian tribal government concerning the federal administration of tribal funds and programs established under the Violence Against Women Act of 1994 and 2000. This requires the Attorney General,

during such consultations, to solicit recommendations from Indian tribes concerning: (1) administering tribal funds and programs ; (2) ENHANCING THE SAFETY OF Indian women from domestic violence, dating violence, sexual assault and stalking; and (3) strengthening the federal response to such violent crimes.

- c. (DOI, DOJ, and HHS) Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008.

Title VI—Emergency Plan for Indian Safety and Health. In general, there is an authorization for a 2 billion dollar emergency fund to be appropriated for a year period, beginning October 1, 2008, to remain available until expended on request by the Attorney General, the Secretary of the Interior, or the Secretary of Health and Human Services to carry out the emergency plan. Not later than one year after the date of enactment (July 30, 2008), the Attorney General, the Secretary of the Interior and the Secretary of Health and Human Services, in consultation with Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(b)), shall jointly establish an emergency plan that addresses law enforcement, water, and health care needs of Indian tribes, in specified categories and amounts.

2. Regulations Requiring Consultation

- a. DOI and HHS: Indian Self-Determination and Education Assistance Act Implementing Regulations (25 CFR Parts 900 and 1000)

Please refer to item under “Statutes” for a discussion of this Act and its regulations.

3. Secretarial Orders and Memoranda Requiring Consultation

- a. DOC and DOI: Dept. of the Interior

- 1. SO 3206: Tribal Rights, Trust Responsibilities and the Endangered Species Act (June 5, 1997)

This order was issued jointly by the Secretaries of the Interior and Commerce, and applies to both Departments. It provides guidance about the federal-tribal relationship and how this relationship should affect the implementation of the Endangered Species Act. The order requires consultations with tribal governments in several situations described in the order, including Principal 1’s requirement that whenever “agencies, bureaus, and offices of the Departments are aware that their actions planned under the Act may impact tribal trust resources, the exercise of tribal rights, or Indian lands, they shall consult with, and seek the participation of, the affected Indian tribes to the maximum extent practicable and Principal 3(B)’s requirement that the “Departments shall conduct government-to-government consultations to discuss the extent to which tribal resource management plans for tribal trust resources outside Indian lands can be incorporated into actions to address the conservation needs of listed species.”

**Part III: Legal Authorities and Other Policies, Procedures or Guidelines
Requiring Consultation - *Department, Agency, or Bureau Specific***

GOVERNMENT-WIDE EXECUTIVE DEPARTMENTS

DEPARTMENT OF AGRICULTURE (USDA)

USDA Web Page:

<http://www.usda.gov/na>

USDA Departmental Regulation, 1350-001, September 11, 2008, Tribal Consultation

<http://www.ocio.usda.gov/directives/doc/DR1350-001.pdf>

USDA Departmental Regulation, 1340-007, March 14, 2008, Policies on American
Indians and Alaska Natives

<http://www.ocio.usda.gov/directives/doc/DR1340-007.pdf>

USDA Departmental Regulation 1020-005, October 3, 2008 Native American Working
Group

<http://www.ocio.usda.gov/directives/doc/DR1020-005.htm>

Forest Service

FSM (Forest Service Manual) – 1500 -External Relations
Chapter 1560 – State, Tribal, County, and Local Agencies, Public and Private
Organizations

Forest Service Tribal Policies, Including Consultation, are contained in Section 1563,
available at:

http://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsm?1500

(Available in word document or text document, select 1562 – 1566.11 from list)

Natural Resources Conservation Service (NRCS)

General Manual: Title 410-Rural Development, Part 450-American Indians and Alaska
Natives

<http://directives.sc.egov.usda.gov/17072.wba>

General Manual: Title 420-Social Sciences, Part 401 Cultural Resources (Archeology and
historical Properties)

<http://directives.sc.egov.usda.gov/17073.wba>

Handbook: Title 190-Ecological Sciences, Part 601-National Cultural Resources
Procedures Handbook. (see 601.62)

<http://directives.sc.egov.usda.gov/17090.wba>

Rural Development

www.rurdev.usda.gov/rd/aian

Animal Plant Health Inspection Service

Directive 1040 concerning employees' relationship with the federally recognized tribes:
http://www.aphis.usda.gov/about_aphis/programs_offices/anawg/downloads/1040-06.pdf

Office of the Assistant Secretary of Civil Rights

<http://www.ascr.usda.gov/partnerships.html>
<http://www.ascr.usda.gov/doc/MOAUSDAAIHECSIGNED2508.pdf>

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF DEFENSE (DOD)

Department of Defense American Indian and Alaska Native Policy

<https://www.denix.osd.mil/portal/page/portal/content/environment/NA/1-American%20Indian%20and%20Alaska%20Native%20Policy.pdf>

Department of Defense American Indian and Alaska Native Policy (Annotated)

[https://www.denix.osd.mil/portal/page/portal/content/environment/NA/3-composite%20annotated%20policy%20for%20posting%20TA%206-08%20\(2\).pdf](https://www.denix.osd.mil/portal/page/portal/content/environment/NA/3-composite%20annotated%20policy%20for%20posting%20TA%206-08%20(2).pdf)

Department of Defense American Indian and Alaska Native Policy - Instruction

<https://www.denix.osd.mil/portal/page/portal/content/environment/NA/2-Policy%20Instruction%20for%20Posting%20RB%206-08.pdf>

Department of Defense Instruction No. 4710.02: DoD Interactions with Federally-Recognized Tribes (2006). See especially Enclosure 8, "Principles for Consultations with Native Americans. <http://www.dtic.mil/whs/directives/corres/pdf/471503.pdf>

Department of the Navy

Department of the Navy Policy for Consultation with Federally Recognized Indian Tribes. (2005)

<http://doni.daps.dla.mil/Directives/11000%20Facilities%20and%20Land%20Management%20Ashore/11-00%20Facilities%20and%20Activities%20Ashore%20Support/11010.14A.pdf>

Instruction No. 11010.14A, Department of Navy Policy for Consultation with Federally Recognized Indian Tribes. (2005)

<http://doni.daps.dla.mil/Directives/11000%20Facilities%20and%20Land%20Management%20Ashore/1100%20Facilities%20and%20Activities%20Ashore%20Support/11010.14A.pdf>

Marine Corps

Marine Corps Order (MCO) 5090.2A, Chapter 8, provides cultural resources policy (including consultation) for the Marine Corps. In preparation.

Department of the Army

Army Regulations 200-4: Cultural Resources Management Program (2004)

See especially Section 1-9(c) on government-to-government relations and consultation.

<http://www.gordon.army.mil/dpw/enrmo/ar200-4.html>

U.S. Army Corp of Engineers, Civil Works, Policy Guidance Letter 57: Tribal Policy Principles. 1998. "Consulting with Tribal Nations: A Guide for the US Army Corps of Engineers". (2008)

www.usace.army.mil/cw/tribal/index.html

Department of the Air Force

Air Force Instruction 32-7065; Cultural Resources Management Program (2004)

See especially Chapter 3.2 "Consultation with Native Americans."

http://www.afpmb.org/military_entomology/usafento/files/afi32-7065.pdf

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF ENERGY (DOE)

US Department of Energy American Indian Policy

www.ci.doe.gov/tapolicy.htm

A Guide for DOE Employees Working with Indian Tribal Nations (2000)

http://homer.ornl.gov/oepa/guidance/cultural/em_guide.pdf

DOE American Indian and Alaska Native Tribal Government Policy: The Department's Tribal Policy

www.ci.doe.gov/tapolicy.htm

Framework for the Implementation of the DOE American Indian Alaskan Native Tribal Government Policy for the Offices of Environmental Management, Nuclear Energy, Science, and National Nuclear Security Administration: The implementation of the Policy as applied to specific offices with landlord responsibilities near specific Indian lands.

DOE Employee Guide: *Working With Indian Tribal Nations* (DOE/EM-0771, December 2000): An introduction for federal government employees who work with American Indian staff or governments

DOE Order 1230.2: Internal DOE Order transmitting the Tribal Policy and identifying the responsibilities of individual programs to identify points of contact for tribal issues

Native American Consultation Information Brief" (DOE/EH-41-0019/1204, December 2004

Environmental Guidelines for the Development of Cultural Resource Management Plans – Update" (DOE Guide 450.1-3)

Radioactive Material Transportation Practices Manual (DOE M 460.2-1)

Working with Indian Tribal Nations; December, 2000 U.S. Department of Energy
Transportation Resources for Tribes; July, 2003 U.S. Department of Energy,

Bonneville Power Administration

BPA Tribal Policy. (1996)

<http://www.bpa.gov/corporate/kt/tribpolx.shtml>

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

HHS Tribal Consultation Policy

<http://www.hhs.gov/intergovernmental/tribal/docs/tribalconsultationpolicyfeb08.pdf>

All HHS Agency Consultation Plans

<http://www.hhs.gov/intergovernmental/tribal/allplans.pdf>

Administration for Children & Families (ACF)

Administration on Aging (AoA)

Agency for Healthcare Research & Quality (AHRQ)

Agency for Toxic Substances & Disease Registry (ATSDR)

Centers for Disease Control & Prevention (CDC)

Centers for Medicare & Medicaid Services (CMS)

Food & Drug Administration (FDA)

Health Resources & Services Administration (HRSA)

Indian Health Service (IHS)

National Institutes of Health (NIH)

Substance Abuse & Mental Health Services Administration (SAMHSA)

All HHS Staff Divisions Consultation Plan

<http://www.hhs.gov/intergovernmental/tribal/osplan.html>

DEPARTMENT OF HOMELAND SECURITY (DHS)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Government-to-Government Tribal Consultation Policy

http://www.hud.gov/offices/pih/ih/regs/govtogov_tcp.cfm

DEPARTMENT OF INTERIOR (DOI)

1. Department-wide:

- (1) *Departmental Responsibilities for Indian Trust Resources* (1995) [Series: Intergovernmental Relations; Part 512: American Indian and Alaska Native Programs; Chapter 2: Departmental Responsibilities for Indian Trust Resources; 512 DM 2] - <http://elips.doi.gov/elips/release/3049.htm>

This DM requires consultation with potentially affected recognized Indian tribal governments in the event an evaluation reveals any impacts on Indian trust resources, trust assets, or tribal health and safety.

- (2) *Departmental Manual Departmental Responsibilities for Protecting/Accommodating Access to Indian Sacred Sites* (1998) [Series: Intergovernmental Relations; Part 512: American Indian and Alaska Native Programs; Chapter 3: Departmental Responsibilities for Protecting/Accommodating Access to Indian Sacred Sites; 512 DM 3] - http://elips.doi.gov/app_dmv/act_getfiles.cfm?relnum=3214

This DM requires consultation with potentially affected federally recognized tribal government(s) when taking actions pursuant to this DM, which pertains to avoiding adverse impacts to and providing access to Indian sacred sites.

- (3) ECM 97-2 Departmental Responsibilities for Indian Trust Resources and Indian Sacred Sites on Federal Lands
<http://oepl.doi.gov/ECM/ECM97%2D2%2Epdf>

Requires DOI offices and bureaus to consult with tribes in the course of carrying out environmental compliance when potential impacts to Indian Trust Resources or Indian Sacred Sites are identified.

2. Bureau-specific

a. Bureau of Indian Affairs

Government-to-Government Consultation Policy. (2000)
http://www.fpa.nifc.gov/Library/Memos/Docs/Bureau_of_Indian_Affairs_Consultation_Policy.pdf

(Note: "consultation" was misspelled in the creation of this link-Monique)
Government-to-Government Consultation Policy (2000)
http://www.doi.gov/bia/tribal_consultation.html

b. Bureau of Indian Education

Department of the Interior, Bureau of Indian Affairs Programs. Policy for Indian Control of Indian Education (25 U.S.C. 2011).

The statute mandates secretarial consultation with tribes to ensure quality education for all tribal members. It includes a definition of consultation. (Note: The Office of Indian Education Programs was taken out of the Bureau of Indian Affairs in 2007 to become the Bureau of Indian Education (BIE). This statute only applies to BIE, within the Department of Interior.

c. U.S. Geological Survey

(1) U.S. Geological Survey Manual, Section 500.4 Policy on Employee Responsibility Towards American Indians and Alaska Natives. (1995)
<http://www.usgs.gov/usgs-manual/500/500-4.html>

(2) U.S. Geological Survey Manual, Section 500.6 American Indian and Alaska Native Sacred Sites. (1997) <http://www.usgs.gov/usgs-manual/500/500-6.html>

d. National Park Service

(1) A compilation of NPS management policies pertaining to Native Americans. (2001)
<http://www.nps.gov/policy/NativeAmericanPolicies.htm>

(2) Native American Consultation Database.
<http://www.cast.uark.edu/other/nps/nacd/>

A compilation of NPS management policies pertaining to Native Americans.
(2001)
<http://www.nps.gov/policy/NativeAmericanPolicies.htm>

National NAGPRA Online Databases: Native American Consultation Database.
<http://www.cast.uark.edu/other/nps/nacd/>

e. Bureau of Reclamation

(1) Protocol Guidelines: Consulting with Indian Tribal Governments
<http://www.usbr.gov/native/naao/policies/protguide.pdf>

(2) Guidance for Implementing Indian Sacred Sites Executive Order (September 16, 1998)

(3) Indian Policy of the Bureau of Reclamation. (1998)
<http://www.usbr.gov/native/naao/policies/indianpol.pdf>

(4) Note: This list does not include all Bureau of Reclamation policies or guidance indicating that consultation with tribal governments should be carried out, but omits policies which merely augments other, higher level sources, such as statutes, CFR's, EO's, SO's or DM's, which require consultation under specific circumstances.

f. Bureau of Land Management

Manual 8120 Tribal Consultation under Cultural Resource Authorities.
(2004)

http://www.blm.gov/style/medialib/blm/wo/Information_Resources_Management/policy/blm_manual.Par.80216.File.dat/8120.pdf

Handbook H-8120-1 Guidelines for Conducting Tribal Consultation. (2004)

http://www.blm.gov/style/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.86923.File.dat/h8120-1.pdf

DEPARTMENT OF JUSTICE (DOJ)

Department of Justice Policy on Indian Sovereignty and Government-to-Government Relations with Indian Tribes. (1995)

<http://www.usdoj.gov/ag/readingroom/sovereignty.html>

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF STATE (DOS)

DEPARTMENT OF THE TREASURY

Internal Revenue Service (IRS)

- IRS has consultation "procedures" that direct how IRS will implement Department of the Treasury Consultation Policy.
- The procedures are currently under review and not yet final. The IRS has developed the procedures via a working group that included tribal representatives. -In effect, the IRS "consulted on consultation". The procedures have two components: (1) Ad hoc consultation where a tribe can request to meet on an issue of concern and "Listening Meetings" where we invite tribal representatives from the BIA regions (4 per year) to open a dialogue on an issue of concern to them, suggestions they may have on IRS operations, and questions about federal tax and Bank Secrecy Act issues. There have been 11 consultation meetings since December of 2005 and another is tentatively scheduled for this December.
- A link that outlines the guidelines to these meetings is:

Information on IRS tribal consultation listening meetings and schedules:
<http://www.irs.gov/govt/tribes/article/0,,id=150031,00.html>

Information on IRS protocol for contacting Tribes:
<http://www.irs.gov/govt/tribes/article/0,,id=185150,00.html>

DEPARTMENT OF TRANSPORTATION (DOT)

DOT Order 5301.1

Department of Transportation Programs, Policies, and Procedures affecting American Indians, Alaska Natives and Tribes

<http://www.environment.fhwa.dot.gov/guidebook/vol2/5301.1.pdf>

Federal Highway Administration

Section 106 Tribal Consultation Q & A's:

<http://www.fhwa.dot.gov/hep/tribaltrans/tcqa.htm>

Federal Aviation Administration

American Indian and Alaska Native Tribal Consultation Policy and Procedures. (2004)

http://overflights.faa.gov/apps/GetFile.CFM?File_ID=88

Federal Aviation Administration

FAA Order 1210.20,

American Indian and Alaska Native Tribal Consultation Policy and Procedures (2004)

http://www.faa.gov/regulations_policies/orders_notices/media/1210.pdf

DEPARTMENT OF VETERANS AFFAIRS (VA)

Directive 8603 "Consultation and Visitation with American Indians and Alaskan Natives:
www1.va.gov/vapubs/viewPublication.asp?Pub_ID=335&FType=2

Handbook 7545 "Cultural Resource Management Procedures"
www1.va.gov/vapubs/viewPublication.asp?Pub_ID=312&FType=2

Native American Veteran Housing Loan Program: Statutory mandate regarding VA personnel working with Native American veterans and Native Tribal Authorities: 38 U.S.C. Section 3762.

Native American Veteran Housing Loan Program: Regulatory requirement (for the same program) 38 CFR Section 36.4527, Direct housing loans to Native American veterans on trust lands.

VA and HHS have a MOU to encourage cooperation and resource sharing between the Veterans Health Administration (VHA) and Indian Health Service (IRS). The goal of the MOU is to use the strengths and expertise of each organization to deliver quality health

care services and enhance the health of American Indian and Alaska Native veterans. This MOU establishes joint goals and objectives for ongoing collaboration between VHA and IHS in support their respective missions. VHA Handbook 1111.2, Spiritual and Pastoral Care Procedures, includes several references about including American Indian and Alaskan Native traditional practices in VA Health Administration facilities.

INDEPENDENT AGENCIES AND GOVERNMENT CORPORATIONS

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

Policy Statement on the ACHP's Relationships with Indian Tribes (2000)
<http://www.achp.gov/policystatement-tribes.html>

Tribal Consultation in the Section 106 Review Process; A Handbook (2008)
<http://www.achp.gov/nap.html>

AFRICAN DEVELOPMENT FOUNDATION

AMTRAK (National Railroad Passenger Corporation)

CENTRAL INTELLIGENCE AGENCY (CIA)

COMMISSION ON CIVIL RIGHTS

COMMODITY FUTURES TRADING COMMISSION

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE (CNSC)

[Corporation for National and Community Service](#)

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

ELECTION ASSISTANCE COMMISSION

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Public Involvement Policy of the U.S. Environmental Protection Agency.
<http://www.epa.gov/publicinvolvement/policy2003/policy2003.pdf> (2003)

<http://www.epa.gov/tribal/basicinfo/epa-policies.htm>

National Environmental Justice Advisory Council Indigenous Peoples Subcommittee.
(2000) *Guide on Consultation and Collaboration with Indian Tribal Governments and the Public Participation of Indigenous Groups and Tribal Members in Environmental Decision Making.*

http://www.epa.gov/compliance/resources/publications/ej/ips_consultation_guide.pdf

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

EXPORT-IMPORT BANK OF THE UNITED STATES

FARM CREDIT ADMINISTRATION

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL ELECTION COMMISSION (FEC)

FEDERAL HOUSING FINANCE BOARD

FEDERAL LABOR RELATIONS AUTHORITY

FEDERAL MARITIME COMMISSION

FEDERAL MEDIATION AND CONCILIATION SERVICE

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FEDERAL ENERGY REGULATORY COMMISSION

Federal Energy Regulatory Commission. (2003). *Policy Statement on Consultation with Indian Tribes in Commission Proceedings.*

<http://www.ferc.gov/whats-new/comm-meet/072303/M-2.pdf>

FEDERAL RESERVE SYSTEM

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

FEDERAL TRADE COMMISSION (FTC)

GENERAL SERVICES ADMINISTRATION (GSA)

GSA's *Policy Toward Native American and Alaskan Tribes (ADM 1072.1)*, November 17, 1999

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

INTER-AMERICAN FOUNDATION

INTERNATIONAL BROADCASTING BUREAU (IBB)

MERIT SYSTEMS PROTECTION BOARD

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

NATIONAL CAPITAL PLANNING COMMISSION

NATIONAL COUNCIL ON DISABILITY

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

NATIONAL ENDOWMENT FOR THE ARTS

NATIONAL ENDOWMENT FOR THE HUMANITIES

NATIONAL INDIAN GAMING COMMISSION

National Indian Gaming Commission Government-to-Government Tribal Consultation
Policy (2004)

<http://www.nigc.gov/AboutUs/GovttoGovtPolicyOverview/tabid/73/Default.aspx>

NATIONAL LABOR RELATIONS BOARD (NLRB)

NATIONAL MEDIATION BOARD

NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

NATIONAL SCIENCE FOUNDATION (NSF)

NATIONAL TRANSPORTATION SAFETY BOARD

NUCLEAR REGULATORY COMMISSION (NRC)

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF COMPLIANCE

OFFICE OF GOVERNMENT ETHICS

OFFICE OF PERSONNEL MANAGEMENT

OFFICE OF SPECIAL COUNSEL

OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE

OVERSEAS PRIVATE INVESTMENT CORPORATION

PANAMA CANAL COMMISSION

PEACE CORPS

PENSION BENEFIT GUARANTY CORPORATION

POSTAL REGULATORY COMMISSION

RAILROAD RETIREMENT BOARD

SECURITIES AND EXCHANGE COMMISSION (SEC)

SELECTIVE SERVICE SYSTEM

SMALL BUSINESS ADMINISTRATION (SBA)

SOCIAL SECURITY ADMINISTRATION (SSA)

TENNESSEE VALLEY AUTHORITY

U.S. TRADE AND DEVELOPMENT AGENCY

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

UNITED STATES INTERNATIONAL TRADE COMMISSION

UNITED STATES POSTAL SERVICE (USPS)