

Alaska Region Tribal Consultation Policy Statement

The Federal government has a unique, legal relationship with and obligation to American Indians/Alaska Native Tribal governments. In addition, the Region has other legally defined relations with Alaska Native Regional and Village Corporations and Native villages. These relationships and obligations are set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court orders. As sovereign, dependent nations, Tribes are guaranteed the right to self-governance and to exercise inherent sovereign powers over their citizens, property, and territory. Because of their unique sovereign status, federally recognized Tribes have the power to make and enforce laws on their lands, and have limited authority over their citizens. They also have the power to create governmental entities, such as Tribal courts. Many Federal laws have delegated Federal authorities to Tribes in recognition of their sovereign status. Under the Federal government's "trust responsibility" to Tribes, agencies are obligated to protect and conserve tribal resources and protect the rights of indigenous peoples to govern themselves on tribal lands.

This unique legal status creates the need for Federal personnel to consult directly with Tribal governments when contemplating actions that may affect Tribes and their lands, resources, and welfare. Agencies must collaborate directly with peer Tribal officials. Consultation meetings should be supplemented with broader public meetings to keep all Tribal citizens informed. As U.S. citizens, individual Tribal citizens and Tribal non-governmental organizations are afforded the same opportunities to participate in the Federal decision-making processes, as would any United States citizen or organization.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, issued November 6, 2000, directs Federal agencies to consult with Tribes. The Forest Service Manual 1563, Tribal Government, outlines the Forest Service policy on consulting with Tribal governments prior to: 1) taking actions that may affect federally recognized Tribes, trust assets, treaty rights, services, or programs; and 2) formulating policies that significantly or uniquely affect American Indian or Alaska Native Tribal governments. The policy also outlines the responsibility of various levels of management in implementing the policy.

Consultation is the process of seeking, discussing, and considering the views of federally-recognized tribal governments from the pre-planning to the pre-decisional stages of proposed Federal actions, decisions, programs, and/or services that directly, uniquely, or significantly affect federally-recognized Tribal governments communities, citizens, economies, trust resources or assets, treaty rights, sacred sites, public health and safety, and other interests.

The Alaska Region recognizes that it has a responsibility to consult with Alaska Native Tribes within its land-management boundaries. The Region shall be guided by principles of respect for the trust relationship between the Region and Tribes in the ways in which the Region, pursuant to the National Historic Preservation Act, addresses issues and matters regarding Tribes. The Region will ensure that its actions are consistent with the protection of tribal rights arising from treaties, statutes, and Executive Orders.

The Region will consult with Tribal leaders in its consideration of policies, procedures, and programs that could affect the rights, cultural resources, or lands of Tribes. The Region will pursue consultation in good faith and use methods and protocols that are best suited to meet the goal of this policy. In doing so, the Region will recognize and maintain direct government-to-government consultation with Tribes.

The Region recognizes that many tribes have maintained strong legal and cultural ties to aboriginal lands now managed as Forests and have an interest in a variety of its programs. The Region acknowledges that the Tribes share many common values and concerns that provide opportunities for collaboration on areas of mutual interest and benefit.

In fulfilling its mission and responsibilities, the Region will endeavor to develop strong partnerships with Tribes. To achieve this objective, the Region, in its implementation plan, will develop strategies for better understanding and consideration of tribal perspectives and for ensuring that Tribes are provided the opportunity to understand their rights and role in the consultation process and any Regional actions, decisions, programs, and/or services that directly, uniquely, or significantly affect them.

The Region recognizes and respects that certain historic properties retain religious and cultural significance to Tribes and that preservation of such properties may be imperative for the continuing survival of traditional tribal values and culture. Therefore, the Region shall develop and implement its programs in a manner that respects these traditional tribal values and customs and strives to recognize that certain historic properties may be essential elements of actual living cultures and communities.

Furthermore, the Region recognizes and respects that certain information about religious or sacred places can be highly sensitive and that in certain situations, traditional Tribal laws prohibit disclosure about actual function, use, religious affiliation to a specific society or group or even precise location. Accordingly, the Region is, to the maximum extent feasible under existing law, committed to withholding from public disclosure such information that may be revealed in the course of consultation and project development. The Region will carry out its responsibilities in a manner that promotes confidentiality, and to the extent possible, respect those restrictions imposed by cultural beliefs or traditional Tribal laws.

Adopted pursuant to and consistent with existing law, this Regional policy does not preempt or modify the management authorities of Forest Service programs or services or the authorities of other Federal agencies, Tribal governments, or States. Furthermore, the policy recognizes only those Tribal authorities currently in existence. Neither this policy, nor regional guidelines, will be used to arbitrate differences in opinion between government agencies or to interpret any authorities, laws, or judicial findings. Unless specific judicial rulings or Acts of Congress indicate otherwise, the Region's policy and guidelines should not be construed as validating the authority of any tribal government over lands or other natural resources or non-Tribal citizens.

Regional Forester
Issued: May 2002