

POLICY definitions:

Consultation with Tribes

Consultation is the legal responsibility of Federal agencies to seek advice, guidance and counsel from and to confer with authorized parties on program, project, and policy issues. These issues include all matters related to cultural resources compliance. Authorized parties include, but are not limited to, State Historic Preservation Officers, American Indian Tribes, Tribal Historic Preservation Officers, project partners, landowners, the Departmental Consulting Archeologist, the Advisory Council on Historic Preservation and interested members of the public

Special Provisions for Consultation with American Indian Tribes

Tribal consultation should be approached with an understanding that the federally recognized Tribe is a sovereign government, and interaction between the agency and the Tribe is that of one government to another. In the same way that diplomatic relations require patience while a level of trust is achieved, consultation with a Tribe benefits from a pre-existing dialogue and relations between the US and tribal governments. The history of zigzagging federal policies, broken treaties, and one-sided negotiations has contributed to an atmosphere of mistrust by Tribes and reluctance to become involved with federal agencies, even in situations that may appear to be wholly advantageous to a Tribe.

Efforts to initiate consultation where there has been no prior contact between the agency and tribe may begin at a formal level of tribal council, tribal elders, or tribal chief meeting with mid-level or top-level managers from the Agency. In other cases the consultation relationship may come about through interaction between field-level staffs from the agency and tribe. Because cultural resources are remnants of pre-historic American Indian civilizations, consultation may occur regardless of the current federal recognition status of a tribe. Consultation occurs with federally recognized Tribes, nonfederally-recognized tribes, and tribes without a land base (e.g. Reservation land, owned lands, or Ceded Land Rights under a Treaty). Efforts to build a long-term working relationship with Tribes before undertaking consultation demonstrate an understanding of the sacred regard that Indian people hold for the landscape and the lifeways of their ancestors. This sacred regard transcends the greater society's perceived scientific and economic values for Cultural Resources, therefore consultation is always enhanced by a sincere atmosphere of shared goals for protection of sites and items. While the goals of consultation are best expressed in writing in a Memorandum of Understanding or Agreement of Principles approved by tribal council, clan mothers, or tribal legal counsel there may be cases where the preferred method of consulting by the Tribe is verbal and without firm guidelines.

This full definition is found in the glossary at:

http://policy.nrcs.usda.gov/scripts/lpsiis.dll/H/H_190_601_60.htm

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