

**National Aeronautics and Space Administration**

## **Tribal Consultation Plan of Action**

**Implementation of Executive Order 13175**

**August 2021**

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## 1. Introduction

The National Aeronautics and Space Administration (the Agency or NASA) maintains its longstanding commitment to consult with sovereign, tribal nations to learn, collaborate and expand government-to-government relations. As “Trustees” of the United States, all NASA employees are endowed with the responsibility to uphold the Nation’s obligations and commitments to tribal governments. These obligations derive from U.S. policies, treaties, regulations, Executive Orders and court decisions. NASA considers it a solemn duty to honor U.S. commitments to protect tribal rights, respect tribal sovereignty, preserve tribal lands and resources, and ensure the welfare of Native American tribes and their members.

This Implementation Plan addresses the requirements of the executive memorandum issued by President Biden on January 26, 2021 that directs all Federal departments and agencies to develop a “detailed plan of actions” to implement the policies and directives of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, issued by President Clinton on November 6, 2000.

Executive Order 13175 of November 6, 2000 (Consultation and Coordination with Indian Tribal Governments), charges all executive departments and agencies with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of Federal policies that have Tribal implications.

Three essential goals are set out in EO.13175:

1. Establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications.
2. Strengthen the government-to-government relationships with Indian tribes.
3. By learning and engaging with tribal leaders and member, enhance the protection of tribal rights, land, resources, and wellbeing, in accordance to U.S. obligations.

The President’s Executive Order provides NASA the opportunity to embark on a new chapter in consultation with renewed commitment to the collaboration and engagement process. Tribal input and partnership will strengthen the Agency’s posture across a number of key areas considered critical to NASA, including environmental stewardship, responsibility to the communities that surround NASA centers and facilities, and dedication to tribal relations and obligations.

The following detailed plans outlines the steps NASA will take to deepen and expand Agency consultation with tribal nations. NASA considers this plan only the beginning of a journey to improve relationships with Native American tribes and tribal members.



## 2. Progress Report

NASA has maintained ongoing commitment to engage with tribal nations in the execution of its missions. The Agency is steadfastly committed to engaging with tribal nations to address critical issues surrounding the use of land, environmental impacts, community relations, and other key concerns.

The following detail outlines actions and steps taken from NASA's 2010 plan to implement EO. 13175:

### Process

NASA initiates government-to-government relationships with all federally-recognized tribes that have an interest in consulting on NASA actions in accordance with the National Historic Preservation Act of 1966 (NHPA), as amended, 54 U.S.C. 300101 et seq.; its implementing regulations (Protection of Historic Properties, 36 CFR Part 800); the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321 and 4331; its Council on Environmental Quality (CEQ) regulations 40 CFR pt. 1501; and EO 13175. In accordance with the NHPA and NEPA, NASA proactively engages tribes that have historic or cultural ties to the area or are interested in NASA actions, and invites them to participate as consulting parties, to address any potential environmental or cultural impacts.

The NASA Liaison for Native American affairs reviews all proposed NASA rules for potential tribal implications, and if potential implications are identified, develops a process for consultation.

NASA Centers are the leads for tribal consultation under NEPA and NHPA, and develop their processes through Integrated Cultural Resources Management Plans (ICRMPs).

NASA Centers each follow their center-level Integrated Cultural Resources Management Plans (ICRMPs) which include the policies and processes that guide Tribal consultation. A 2021 Agency initiative is underway to modernize and standardize Centers ICRMPs to improve effectiveness and facilitate future training efforts.

### Consultations

NASA Centers routinely consult with Tribes on initiatives that may impact tribal communities or interests. Recent examples include:

- ❖ In 2020, Langley Research Center consulted with local tribes to provide an update on their five year Cultural Resource Management Plan (CRMP). Each of these consultations included discussions on establishing processes for consulting and effective communication and engagement.



- ❖ Throughout 2019 and 2020, Langley Research Center consulted with local tribes on the extension of its Programmatic Agreement (PA) Among NASA, VA SHPO, and ACHP for Management of Facilities, Infrastructure, and Sites at NASA Langley Research Center, Hampton, VA. This involved coordination with seven newly federally recognized tribes and tribes that were not federally recognized but were signatories of the PA at the time of its creation in 2010.
- ❖ In April 2019, NASA's Kennedy Space Center consulted with local tribes to seek advice on how it could best engage with them on projects that have the potential to impact significant cultural resources, including historic or prehistoric archaeological sites, graves or cemeteries, and sites associated with their traditional beliefs and practices.
- ❖ Since 2010, Johnson Space Center led tribal consultations with eleven local tribes on topics ranging from the disposal and relinquishment of a NASA harbor to the U.S. Army to the test stand demolition project.
- ❖ Due to the strong relationships developed between NASA and Native American Tribes before the emergence of COVID-19, consultation safely continued despite the obstacles presented by the pandemic.
- ❖ In December 2019, Kennedy Space Center provided local tribes with an update on the Center's Programmatic Agreement. The Center received feedback which will be included in the updated version of the Programmatic Agreement for the Center's cultural resources.
- ❖ Between 2016 and 2017, Langley Research Center conducted formal outreach to seven new federally recognized tribes in Virginia. This outreach included a request for their interest in resources at NASA Langley and their communication preferences.
- ❖ While no major tribal consultations have been conducted recently at Stennis Space Center, it regularly sends project information to the federally recognized tribes with ties to the Center.
- ❖ NASA consults routinely with the Santa Susana Field Laboratory (SSFL) Sacred Sites Council, an advisory board made up of representatives from three tribes that have historical ties to the area, to ensure transparency and strong communication regarding the protection of Native American cultural resources throughout demolition and cleanup activities at the SSFL.

### **Trainings and Education**

- ❖ In January 2013, Center Directors and Center Cultural Resource Managers attended a training on consultation with Native American Tribes, Native Hawaiian Organizations, and Alaska Natives under the National Historic Preservation Act.

### **Tribal Engagements on Science, Technology, Engineering, and Mathematics (STEM)**

- ❖ Examples of Science, Technology, Engineering, and Mathematics (STEM) Engagement activities, as well as the other Agency activities that involve interaction and ongoing efforts with the country's Native American community include:
  - Providing funding:

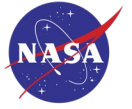


- For university course development which supported eleven (11) revised or new courses reaching approximately 200 students, ~50% of which were female.
- That supported Educator Professional Development at a reservation and three tribal schools.
- To support college faculty/student participation in local restoration and climate change projects.
- To grant one scholarship at each of the five tribal colleges in the state of North Dakota for students pursuing advanced degrees in STEM fields.
- Giving an annual presentation at the University of Wyoming for the Native American Scholars Initiative. The audience includes Native American high school students.
- Partnering with a high school on a high-altitude balloon project at the University of Wyoming to monitor ozone, CO2 levels, and infrared energy.
- Providing a hands-on rocketry program for students in grades 6-12 at schools in New Mexico, North Carolina, North Dakota, Washington, Wyoming, and through nationwide programs.

### 3. Implementation Plan

In response to President Biden's Memorandum of January 26, 2021, NASA plans on taking the following actions to strengthen relations with tribal nations and deepen the external and internal policies and programs that support the government-to-government engagements with tribal leaders and communities:

- ❖ **Engage with tribal nations, inviting Tribal Leaders or their designated representatives to advise NASA to improve consultation efforts.**
  - Establish communications and ongoing dialogue with Tribes, requesting advanced written comment on how NASA could best:
    - Enhance consultation efforts across NASA activities
    - Identify procedures that ensure consultation is regular, meaningful, and robust
    - Build awareness among tribal leaders on NASA's policies related to consultation, so that they can provide valuable input
    - Improve NASA's internal guidance to provide instruction and training around engagements with tribal nations
    - Enhance center capacity to engage with surrounding tribes in a meaningful and coordinated way that fosters nation-to-nation relationships
    - Protect tribal lands, rights, resources, and well-being from Agency impacts and ongoing NASA activities
    - Fulfill the Agency's commitment to environmental stewardship, diversity, equity, inclusion, access, and social justice



- Support these focus areas with available NASA data
  - Measure the progress of NASA efforts to build relationship and improve consultation with tribal nations
  - Address the impacts from NASA's legacy activities, such as pollutants from prior chemical and propulsion testing
  - Recognize the contributions of Native Americans to the U.S. space, science, and aeronautics programs
  - Communicate with Tribes and Tribal-owned business about opportunities to work with NASA
    - Example: follow-up engagements through the Office of Small Business Programs on key opportunities
  - Develop an agenda to convene a forum/conference on Tribal consultation
- Convene a standing forum and invite Tribal Leaders to participate, for enduring engagement and consultation
  - Develop agendas based on themes, concerns, and critical issues identified in the advanced comments provided by the Tribes
  - Craft goals of meetings to reflect themes, concerns, and critical issues identified in the advanced comments provided by the Tribes
  - Consult with Tribal Leaders on elements of the meeting to respect tribal customs and procedures (ex: opening prayer, recognition, remarks, etc.)
  - Demonstrate the Agency's commitment to nation-to-nation relations through meaningful attendance and engagement from NASA leadership
  - Provide a virtual forum that can accommodate all participants and allow participants to provide comment, feedback, and questions.
  - Capture detailed notes for future analysis and use
  - Engage in panel discussions, polls, dialogue, and other facilitated methods with participants to optimize relationship-building and robust feedback
  - Use multiple sessions, as needed, to optimize reach and feedback
- Design external-facing website location where resources and results can be publicly hosted for further engagement and download
  - Post resources, recordings, plans, and other non-sensitive information for access by tribal leaders and the public
- ❖ **Review current NASA policies based upon Tribal input to determine opportunities to strengthen consultation and implementation**
  - Develop an analytical report that summarizes findings and input from public comments and forum/conference participants
  - Focus on keys areas of improvement:
    - Environmental/cultural stewardship
    - Social justice
    - Diversity, equity, inclusion, and access
  - Identify NASA policies and guidance associated with the concerns, themes, and topics



- Confirm findings and themes with Tribal Leaders through communication and use of the website
- ❖ **Convene internal cohort to draft an adjusted action plan based on findings and guidance from the tribal leaders and their representatives**
  - Engage specialists across all centers to form a cohort to develop an action plan to strengthen tribal consultation
  - Draft an action plan that would:
    - Adjust current NASA policies or guidance in accordance with Tribal feedback, where appropriate
    - Engage in negotiations with Tribes, where appropriate, to collaborate on shared solutions
    - Outline a new process for consulting with tribes on specified activities, as needed
  - Post draft plan to the website, inviting tribal review and comment
  - Based on comments received, make determination whether additional consultation meetings are appropriate or finalize plan
- ❖ **Develop internal change management to support new process or policies that result from the finalized plan.**
  - Communicate changes to the appropriate staff
  - Create and conduct training for appropriate personnel
  - Draft materials to support new process or policies
- ❖ **Develop and maintain routine cadence of engagement and consultation with Tribal Leaders based on the plan.**
  - At a regularly scheduled time (ex: annually, every 2 years, etc.), reengage tribes with a similar process to further revise and strength NASA consultation with tribal nations

#### 4. NASA Consultation Policies & Responsibilities

NASA's responsibilities to tribal consultation and nation-to-nation relations is delegated to the Office of Strategic Infrastructure (OSI) in the Mission Support Directorate (MSD). Outlined in NASA's Procedural Requirements (NPR 8510.1A), OSI is responsible for Native American Consultation (NAC) in accordance with:

- ❖ The National Historic Preservation Act of 1966 (NHPA), as amended, 54 U.S.C. 300101 et seq. and its implementing regulations (Protection of Historic Properties, 36 CFR Part 800)
- ❖ The Archaeological Resources Protection Act (ARPA) of 1979, 16 U.S.C. 470
- ❖ The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321 and 4331, and its Council on Environmental Quality (CEQ) regulations 40 CFR pt. 1501
- ❖ The Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et seq. and its Final Rule (43 CFR pt. 10)



- ❖ The American Indian Religious Freedom Act, as amended, 42 U.S.C. §§ 1996 and 1996a
- ❖ The Religious Freedom Restoration Act, 42 U.S.C. §2000bb-4
- ❖ E.O. 13007, Indian Sacred Sites
- ❖ E.O. 13175, Consultation and Coordination with Indian tribal governments
- ❖ Presidential Memorandum, Government-to-Government Relations with Native American Tribal Governments, 59 Federal Register (Fed. Reg.) 10877 (May 4, 1994)
- ❖ Presidential Memorandum, Tribal Consultation, 74 Fed. Reg. 57879 (Nov. 9, 2009)
- ❖ Presidential Memorandum, Tribal Consultation and Strengthening Nation-to-Nation Relationships (Jan. 26, 2021)
- ❖ Other laws, regulations, and E.O.s related to cultural resources

These policies apply to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers. This language applies to JPL (a Federally Funded Research and Development Center (FFRDC)), other contractors, recipients of grants, cooperative agreements, or other agreements only to the extent specified or referenced in the applicable contracts, grants, or agreements.

## 5. Contact Information

NASA's Tribal Consultation Official is Rebecca A. Klein, Federal Preservation Officer and Agency Liaison for Native American affairs in the Office of Strategic Infrastructure. Dr. Klein coordinates tribal consultation activities with the cohort of specialists who maintain tribal consultation programs at NASA centers and component facilities.

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