

Online Resources:

Legacy Resource Management Program:

<https://denix.osd.mil/legacy/>

History of DoD Tribal Relationships:

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

Treaties by Region

The Indigenous Digital Archive's Treaties Explorer

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

OSU Tribal Treaty Rights Database

<http://treaties.okstate.edu>

Tribal Historic Preservation Officers in your Area

National Park Service Tribal Preservation Program

[https://grantsdev.cr.nps.gov/THPO_Review/ListT](https://grantsdev.cr.nps.gov/THPO_Review/ListTHPO.cfm)

[HPO.cfm](https://grantsdev.cr.nps.gov/THPO_Review/ListTHPO.cfm)

National Association of Tribal Historic

Preservation Officers (NATHPO)

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

Understanding Indian Law

[https://www.youtube.com/watch?](https://www.youtube.com/watch?v=UZXWGkN1dhc)

[v=UZXWGkN1dhc](https://www.youtube.com/watch?v=UZXWGkN1dhc)

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

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

Consultation Process:

[https://denix.osd.mil/na/consultation/consultatio](https://denix.osd.mil/na/consultation/consultation-resources/consult-process-2018/)

[n-resources/consult-process-2018/](https://denix.osd.mil/na/consultation/consultation-resources/consult-process-2018/)



DoD Legacy Resource
Management Program

Tribal Engagement Guidebook

Contact Information:

United States Army Corps of Engineers

Tribal Nations Technical Center of

Expertise

4101 Jefferson Plaza NE

Albuquerque, NM 87109-3435

Center for Environmental

Management of Military Lands

Colorado State University

1490 Campus Delivery

Fort Collins, CO 80523-1490



Guidebook Goals

The primary goal of this project was to improve DoD consistency in the successful engagement of federally recognized Tribes. The guidebook accomplished this by

- Initiating the consistency of language used to communicate with Tribes
- Setting up the effective management of Tribal resources under DoD's AOR
- Employing a compassionate and respectful approach to establishing and maintaining government-to-government relationships



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

Consultation Tips:

- 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 work 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) Respect confidentiality and the right of the Tribe to control information.



Legal Context of Consultation

US Constitution:

- Commerce Clause, Article I, Section 8: Gives the right to do business with tribes to the Federal government, not States.
- Supremacy Clause, Article VI: Treaties are the supreme Law of the Land.

Treaties:

- More than 500 were signed (about 380 ratified by Senate).

Federal Trust Doctrine:

- The U.S., and individual Agencies of the federal government owe a fiduciary duty to Indian Tribes. The nature of that duty depends upon the underlying substantive laws creating the duty (i.e., treaties, statutes).
- Consultation is required by Executive Orders, Statutes, and treaties. Only the U.S. Congress can diminish tribal treaty rights.
- Consultation is a means for actualizing the federal trust doctrine.
- Agency policies are developed to establish guidelines as to what is required by, or, involved in fulfilling the Trust Doctrine.

Federal Laws:

- National Historic Preservation Act
- National Environmental Policy Act
- Endangered Species Act
- American Indian Religious Freedom Act
- Archaeological Resources Protection Act.

Executive Orders:

- EO 13287: Preserve America (2003)
- EO 13175: Consultation and Coordination with Indian Tribal Governments (2000)
- EO 13007: Indian Sacred Sites (1996)