



Homeland
Security

April 14, 2021

Dear Tribal Leaders,

The Department of Homeland Security's headquarters are located on the ancestral lands of the Anacostans, also known as the Nacotchtank. Our headquarters neighbor the ancestral lands of the Piscataway and Pamunkey peoples. We acknowledge that many of our operations across the nation are on hundreds of Indian tribes' lands. We recognize the sovereignty of Tribal Nations and support the nation-to-nation relationship between the sovereign Indian tribes and the United States.

The Presidential Memorandum to executive departments and agencies, entitled *Tribal Consultation and Strengthening Nation-to-Nation Relationships* (Jan. 26, 2021), states:

"It is a priority of my Administration to make respect for Tribal sovereignty and self-governance, commitment to fulfilling Federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy."¹

One of the Department's initial actions toward realizing this priority is to invite you to participate in and consult on four focus areas:

- Implementing Executive Order (E.O.) 13175, *Consultation and Coordination with Indian Tribal Governments*, as directed by the January 26, 2021 memorandum. The memorandum directs executive departments and agencies to conduct meaningful consultation with Tribal Nations, develop a detailed action plan to implement the policies and directives of E.O. 13175 by April 26, 2021, and submit an initial progress report within 270 days of the date of the memorandum and annually thereafter.
- The explanatory statement that accompanies the Consolidated Appropriations Act, 2021, requires DHS to "consult and work with tribes to update the mandatory base level tribal training course for DHS personnel, including full-time employee, part-time employees, and contractors who have regular interactions with tribal members or are likely to encounter tribal members at their duty station."²

¹ Federal Register, 86 FR 7491. <https://www.federalregister.gov/documents/2021/01/29/2021-02075/tribal-consultation-and-strengthening-nation-to-nation-relationships>

² Congressional Record (21 December, 2020) Page H8468. <https://www.govinfo.gov/content/pkg/CREC-2020-12-21/pdf/CREC-2020-12-21-house-bk4.pdf>

- This consultation will inform the Department’s efforts in revising its Tribal Consultation Policy and meeting the recommendations of the Government Accountability Office in GAO-19-22, *TRIBAL CONSULTATION: Additional Federal Actions Needed for Infrastructure Projects*.³
- Finally, the consultation will also address the general topic of repatriation and the Department’s continued efforts to implement the recommendations in GAO-18-537, *NATIVE AMERICAN CULTURAL PROPERTY: Additional Agency Actions Needed to Assist Tribes with Repatriating Items from Overseas Auctions*.⁴

DHS is the third-largest agency in the Executive Branch and its operational activities are on tribal lands and in tribal treaty areas across the nation. To ensure we fully engage with all Tribal Nations, thereby meeting the intent and spirit of E.O. 13175, various DHS components and offices will participate in our consultations. Subsequently, unique and customized engagement plans may be entered into by Tribal Nations and DHS components and offices. All such plans must be as stringent in their requirements as the Department’s overall tribal engagement plan. Some DHS components and offices with which Tribal Governments have ongoing interactions are the Cybersecurity and Infrastructure Security Agency, Federal Emergency Management Agency, Immigration and Customs Enforcement, Transportation Security Administration, United States Coast Guard, and Customs and Border Protection.

The Assistant Secretary for the Office of Partnership and Engagement (OPE) will lead the Department’s tribal consultation efforts and will dedicate appropriate resources to meet this requirement. OPE’s Director of Tribal Government Affairs, David Munro, will serve as the point of contact for this effort.

Additional information can be found at www.dhs.gov/tribal-desk. I encourage you to participate in one of the tribal consultation sessions listed on the enclosed schedule. You may also contact Director Munro at 202-360-8998. Please email your comments to david.munro@hq.dhs.gov with “Tribal Consultation” in the subject line. Comments should be submitted by May 25, 2021 at 6 p.m., Alaska Daylight Time.

I value our nation-to-nation relationships a great deal.

Sincerely,



Alejandro N. Mayorkas
Secretary

Enclosure

³ Government Accountability Office (2019). GAO-19-22, <https://www.gao.gov/products/GAO-19-22>

⁴ Government Accountability Office (2018), GAO-18-537, <https://www.gao.gov/products/GAO-18-537>

SCHEDULE

Scheduled Consultations.

Date	Thursday, April 29 (Zoom and phone via Zoom)				
Time	1:00 p.m. Alaska	2:00 p.m. Pacific	3:00 p.m. Mountain	4:00 p.m. Central	5:00 p.m. Eastern
Registration: [click here] https://tinyurl.com/yd6p323e					

Date	Friday, April 30 (Phone only)				
Time	1:00 p.m. Alaska	2:00 p.m. Pacific	3:00 p.m. Mountain	4:00 p.m. Central	5:00 p.m. Eastern
Registration: [click here] https://tinyurl.com/28e7pxwj					

Date	Saturday, May 1 (Zoom and phone via Zoom)				
Time	1:00 p.m. Alaska	2:00 p.m. Pacific	3:00 p.m. Mountain	4:00 p.m. Central	5:00 p.m. Eastern
Registration: [click here] https://tinyurl.com/vcfur4bu					

Date	Wednesday, May 5 (Phone only)				
Time	9:00 a.m. Alaska	10:00 a.m. Pacific	11:00 a.m. Mountain	12:00 p.m. Central	1:00 p.m. Eastern
Registration: [click here] https://tinyurl.com/8spcfzce					

Date	Friday, May 7 (Zoom and phone via Zoom)				
Time	9:00 a.m. Alaska	10:00 a.m. Pacific	11:00 a.m. Mountain	12:00 p.m. Central	1:00 p.m. Eastern
Registration: [click here] https://tinyurl.com/3ahs5j2s					

Date	Tuesday, May 11 (Zoom and phone via Zoom)				
Time	1:00 p.m. Alaska	2:00 p.m. Pacific	3:00 p.m. Mountain	4:00 p.m. Central,	5:00 p.m. Eastern
Registration: [click here] https://tinyurl.com/uyy2swc7					

FRAMING PAPER

Purpose: This framing paper outlines the broad interests of the Department of Homeland Security (Department) in its 2021 tribal consultation effort. The paper addresses four primary consultation focuses: (a) E.O. 13175 implementation work plan, (b) base-level tribal training for DHS staff, (c) the Department's revision to its Tribal Consultation Policy, and (d) the Department's efforts to ensure support for international repatriation efforts. The Department will craft its action plan from the feedback received during this consultation process. The plan will include measurable action items including all four of these efforts.

Topic: Plan of Action to Implement E.O. 13175

Background: To support the Department's mission of safeguarding the American people and homeland, the Department will develop a plan of action to implement the policies and requirements of E.O. 13175. This plan will be updated from time to time. The accomplishment of the activities identified in the plan will be reported to the Director of the Office of Management and Budget (OMB) annually. The Department has a robust cadre of Tribal Government Affairs practitioners that will contribute to the development of the plan and of the internal working group.

Initial Discussion Considerations: The Department has established an internal task force to frame its plan of action and has identified some priority actions for the action plan:

- Creation of a DHS Tribal Advisory Council
- Tribal Government representation on advisory bodies across the Department where there are Tribal interests
- Regularly scheduled regional and national collaborations and formal consultations
- Strengthening review of regulatory or policy considerations that may have tribal implications
- Evaluation and development of a visiting tribal practitioner program to work within DHS

The Department is interested in obtaining input on the following:

1. What other priorities should the Department consider in its plan of action?
 2. How should the Department share updates on its plan of action?
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Topic: Base-Level Tribal Training for DHS Staff

Background: Congress requires the Department to consult with Indian tribes in the review and revision of base-level tribal training for DHS staff and contractors. The Department views tribal training taking a multi-level approach commencing with a foundation of awareness level, followed by sensitivity level, competency level, and then a level of cultural congruence as the fourth or highest level. Some of the Department's Components provide awareness-level training from a national perspective and more detailed sensitivity level training in their areas of operation.

Initial Discussion Considerations: The Department is interested in obtaining input on the review and development of tribal curriculum for DHS staff.

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1. What are some best practices the Department should consider in the review and development of tribal training curricula?
 2. Who should provide training from the perspective of Indian tribes and Indigenous peoples?
 3. What processes should the Department utilize to validate the quality of its tribal training curricula?
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Topic: Revised Tribal Consultation Policy

Background: On October 23, 2019, the Department entered into a period of formal tribal consultation. The engagement letter included that “DHS seeks to: (a) outline how input from tribal consultations is considered and adjudicated; (b) clarify the statutory requirement to consult with Alaska Native Corporations on the same basis as Indian Tribes; (c) improve consultation and coordination with the tribal governments of Federally Recognized Indian Tribes with respect to oil spill prevention, preparedness, response, and natural resource damage assessment; (d) create an EO 13175 tribal working group through the Deputy Assistant Secretary of Intergovernmental Affairs; and (e) establish a sound training and education program for tribal affairs practitioners and other DHS staff who work with Indian tribes.” Due to COVID-19, the Department extended the consultation period to June 2020. The Department has nearly completed its final draft and desires to use this consultation as an opportunity for additional input from tribes.

Discussion Considerations: The Department is finalizing its final draft directive and implementing instruction for tribal consultation. The Department is seeking input from Indian Tribes on the following:

1. How often should the Department review and revise its tribal consultation directive and instruction?
 2. What are some best practices or standards in balancing the nation-to-nation relationship with Federally Recognized Indian Tribes and requirement to consult with Alaska Native Corporations?
 3. What is the desired balance between a Tribal E.O. 13175 working group at the Deputy Assistant Secretary level and the requested Departmental Tribal Advisory Council? Are these exclusive or both necessary?
 4. Are there some best practices in addressing the waiver request process? How should the policy address appeal from waiver request denial?
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Topic: International Repatriation

Background: Customs and Border Protection’s Office of Field Operations, Immigration and Customs Enforcement’s Homeland Security Investigations, the Transportation Security Administration, and other DHS Components support the federal interagency cooperation and collaboration to assist tribes in their international repatriation efforts. This federal interagency effort is ad-hoc, and the Federal Government creates appropriate support levels based on requests from Indian Tribes. The Department continues to work with its federal partners to develop and adopt best practices for its interagency workgroup efforts. The Department works to ensure that Tribal Nations have appropriate contact information to work with DHS in repatriation efforts.

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Initial Discussion Considerations: The Department is interested in receiving feedback on how it can continue to support tribal repatriation efforts. The Department is seeking input from Indian Tribes on the following:

1. Are there unrealized areas where DHS can provide assistance to tribes in their international repatriation efforts?
 2. Is the Department providing adequate contact information for tribes to support their international repatriation efforts?
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