



U.S. Fish & Wildlife Service

# Native American Policy

*January 20, 2016*





**FISH AND WILDLIFE SERVICE  
INTERGOVERNMENTAL ACTIVITIES**

**Intergovernmental Activities**

**Part 510 Working with Native American Tribes**

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**1. INTRODUCTION AND PURPOSE**

This updated Native American policy (policy) provides a framework for government-to-government relationships, which furthers the United States' and the Department of the Interior's trust responsibility to federally recognized tribes to protect, conserve, and use tribal reserved, treaty guaranteed, or statutorily identified resources. The U.S. Fish and Wildlife Service (Service) and representatives from tribes across the country worked together to update the policy. The policy articulates the principles for interactions between the Service and tribal governments as they relate to shared interests in the conservation of fish, wildlife, and their habitats, which include Service lands and the protection of cultural resources that exist on Service lands. The Service and tribal governments recognize the need for strong, healthy communication and relationships so that we can work together to improve and enhance conservation of fish and wildlife resources and shared natural and cultural resource goals and objectives.

We recognize that Service-tribal relationships will evolve and adapt as needed and as is consistent with Federal policy supporting tribal sovereignty and self-determination.

We will work to enhance both our relationships with tribal governments and our value to them by improving communication and cooperation, providing technical expertise, and sharing training and assistance. We acknowledge and respect the diverse Native American religious, spiritual, and cultural identities, and their understanding of ecosystems and cultural resources. We will listen to and consider the traditional knowledge, experience, and perspectives of Native American people to manage fish, wildlife, and cultural resources.

The Service's engagement with and responsibilities to tribes are guided primarily by doctrines of reserved rights, statutes, treaties, judicial mandates, Executive Orders (E.O.), Presidential proclamations, and Secretary's Orders (S.O.). The policy provides clarification of the application of those authorities to guide the Service's efforts.

The United States' trust responsibility is a well-established legal obligation that originates from the unique, historical relationship between the United States and Indian tribes. The trust responsibility consists of the highest moral obligations that the United States must meet to ensure the protection of tribal and individual Indian lands, assets, resources, and treaty and similarly recognized rights (see S.O. 3335).

The policy establishes a consistent framework nationwide, yet remains flexible to reflect regional and local variations in history, knowledge systems, applicable laws, treaties, and Service-tribal relationships. The policy applies to all Service employees who have official duties that may affect tribal interests.

While this national policy applies to all the federally recognized tribes, including tribes in Alaska, we plan to develop a subsequent chapter in the Fish and Wildlife Service Manual that will address further statutory considerations for Alaska, including consultation for Alaska Native Claims Settlement Act (ANC) corporations.

For definitions of terminology we use in this policy, see Exhibit 1. For overall responsibilities, see Exhibit 2, and for the authorities for the policy, see the list in Exhibit 3.

**2. SOVEREIGNTY AND GOVERNMENT-TO-GOVERNMENT RELATIONS**

The U.S. Government's legal and trust relationship with tribal governments as set forth in the Constitution, treaties, statutes, E.O.s, and court decisions, serves as the foundation for our interactions with tribes. For the Service's purposes, the special Federal Indian trust responsibility involves our obligation to exercise due care where our actions affect the exercise of tribal rights. The United States recognizes the right of tribal governments to self-govern and supports tribal

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sovereignty and self-determination in accordance with E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*. Tribal governments exercise sovereign powers over their members and territory. The United States works on a government-to-government basis with tribes to address issues concerning self-governance, tribal trust resources, and Indian tribal treaty and other rights.

This policy is consistent with the *Department of the Interior's Policy on Consultation with Indian Tribes*, and is adopted in the spirit of the United Nations Declaration on the Rights of Indigenous Peoples with respect to federally recognized tribes. We maintain government-to-government relationships with tribal governments by working directly with those governments, observing legislative mandates and trust responsibilities, and considering Native American cultural values whenever we develop policies, plan projects, and implement programs that affect tribal interests. We will designate formal points of contact and rely on tribal governments to identify formal contacts to represent them in government-to-government interactions. We will consult with inter-tribal organizations to the degree that tribes have authorized such an organization to consult on the tribe's behalf.

**3. COMMUNICATIONS AND RELATIONSHIPS**

Effective communication with tribal governments includes acknowledgment, open and transparent dialogue, and interpersonal interactions that depend on mutual respect and understanding. Communications with tribal governments will be proactive, begin early in the planning process, and occur throughout various levels of our organization.

While we use formal government-to-government communications, we also encourage day-to-day staff-level discourse. In many situations, Service and tribal fish and wildlife and cultural departments will work together. For joint initiatives or frequent interactions, we may enter into agreements with tribal governments that are mutually agreed upon, developed by both parties, and that clearly identify the roles, responsibilities, and obligations of the Service and tribal government(s). Both our employees and those of tribal governments will continue to follow protocols in existing agreements. The Service will hold regular, periodic meetings with tribal representatives.

We will communicate on matters affecting the rights and interests of tribal governments in accordance with the Department's Policy on Consultation with Indian Tribes and Alaska Native Corporations, 512 DM 4. We will work in a timely manner with affected tribe(s) when we are revising or developing policies, programs, or actions that may affect a tribe or its legally recognized rights or resources. The tribal consultation process goes beyond the requirements of a public comment period. For details on tribal consultation procedures, see the *U.S. Fish and Wildlife Service Tribal Consultation Handbook*.

**Information Sharing and Tribal Knowledge**

We will use the best available scientific and commercial data and solicit and consider information, traditional knowledge, and expertise of affected tribal governments in policies, agency actions, and determinations that have tribal implications.

While Service and tribal personnel may share information through working collaboratively, the Service also will give tribal government representatives access to technical information when it is final and releasable. The Service may identify other agencies that could provide technical information.

We will not share or release information we obtain from tribes without the explicit consent of the tribe(s) except as required by law. Because we have a limited ability to protect sensitive tribal knowledge (e.g., in response to Freedom of Information Act (FOIA) requests), we will work to inform tribal governments about disclosure requests and work collaboratively with tribal governments to protect and prevent disclosure of confidential or sensitive information to the extent allowable by law.

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#### **4. RESOURCE MANAGEMENT**

There is a broad range of collaborative management opportunities available to the Service and tribes. These opportunities include holding informative discussions to seek tribal input, entering into formal agreements with tribes, cooperatively setting harvest quantities, and sharing conservation management of resources.

The Service, as an agency of the United States, and tribal governments, as individual sovereigns, should meaningfully participate in managing resources where the Service and tribes have legally established management responsibilities to actively protect, conserve, enhance, or restore fish, wildlife, and cultural resources, to the maximum extent allowed by law. Resource management agreements should be tailored to specific circumstances based on such factors as history, knowledge systems, applicable laws, and affected communities. We encourage the development of agreements to partner with tribes, States, and other co-managers to manage and conserve fish and wildlife and cultural resources.

For the entire range of Endangered Species Act (ESA) activities, including, but not limited to, candidate conservation, the listing process, section 7 consultation, habitat conservation planning, recovery, and law enforcement, the Service will consult and collaborate with tribal governments when developing plans and regulations, in accordance with S.O. 3206. Specific to critical habitat designation, we will always consider exclusions of tribal lands under section 4(b)2 of the ESA before finalizing a designation of critical habitat. We will also give great weight to tribal concerns in analyzing the benefits of exclusion.

#### **Co-Management and Collaborative Management**

We support the rights of tribal governments as they exercise their sovereign authorities to manage, co-manage, or collaboratively manage fish and wildlife resources. We also support co-management where there is a legal basis for such. Examples of legally established resource co-management include salmon harvest in the Pacific Northwest, the Alaska Migratory Bird Co-Management Council cooperatively setting subsistence harvest regulations, and lake trout fisheries in the Great Lakes. In Alaska, this includes cooperative agreements we enter into with Alaska Native Organizations (ANO) to conserve marine mammals and to provide co-management of subsistence use by Alaska Natives.

We support opportunities for the Service and tribes to collaborate to protect, conserve, use, enhance, or restore natural and cultural resources. This may include working together with tribal governments to monitor fish and wildlife resources, particularly when it involves evaluating trends in species and environmental conditions.

#### **Indian Lands**

The Service recognizes that Indian lands are not Federal public lands and that, in general, tribal governments have authority to manage fish and wildlife resources on Indian lands. In some situations, a tribal government may have fish and wildlife authority affecting lands within reservation boundaries not owned by the tribe or its members. In such cases, we will properly recognize the rights of both the tribal government and the affected State(s), according to the specific nature of the case. In addition, we will work with tribal governments when managing eagles and other migratory birds, fish, endangered and threatened species, and other public resources where Federal laws apply.

#### **Non-Indian Lands**

The Service recognizes and supports the rights of tribal members to use fish and wildlife resources on

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non-Indian lands where there is a legal basis for such use. As a result of treaties, statutes, E.O.s, and judicial decrees, certain tribal governments and State governments may have shared responsibilities to co-manage fish and wildlife resources. In such cases, and where Service jurisdiction is involved, we will consult and collaborate with tribal governments and affected State or local resource management agencies to help meet the objectives of all parties while honoring the Federal trust responsibility. In addition, we will work with tribal governments when managing ESA-listed species in accordance with S.O.s 3206 and 3225.

When managing Service lands, we will consult and collaborate with affected tribal governments to solicit meaningful tribal input on resource use and management for those lands.

**5. CULTURE/RELIGION**

The Service will meaningfully involve tribal governments in our actions when we or the tribal government(s) determine the actions may affect their cultural or religious interests, including archaeological resources, cultural resources, and sacred sites, consistent with Federal law. We will work collaboratively with tribal governments to protect confidential or sensitive information, including location, ownership, character, and use of cultural resources and sacred sites where disclosure may cause a significant invasion of privacy; risk harm to the historic resource; or impede the use of a traditional religious site by practitioners, to the extent allowed by law.

**Access for Cultural, Archaeological, and Historic Resources, and Indian Sacred Sites**

The Service should provide Native Americans access to Service lands and waters for exercising cultural, ceremonial, medicinal, and traditional activities recognized by tribal governments to the extent practicable, permitted by law, and not inconsistent with essential Service functions. In doing so, we should: (1) avoid adversely affecting the physical integrity of sacred sites while managing our lands; (2) accommodate and, as needed, collaborate with tribal governments for access to and maintenance of appropriate settings for ceremonial use of Indian sacred sites; and (3) consider tribal government protocols and procedures to give their members access to and use of cultural resources. For easements across private property, the Service will abide by easement restrictions.

Where tribal members access Service lands for cultural purposes on a recurring basis, the Service and tribal governments may enter into written agreements to facilitate such access.

When considering non-member requests for access to areas that have cultural resources, we will notify and, where appropriate, consult with tribal governments in the geographic vicinity or other tribes known to have physical historical connections to those areas.

**Tribal Cultural Uses of Plants and Animals**

The Service recognizes that many Indians use federally protected birds, bird feathers and remains, and other animal and plant material for their tribal cultural and religious expression. We will work in collaboration with tribal governments to protect traditional, customary, ceremonial, medicinal, spiritual, and religious uses of plants and animals for tribal members where it is not contrary to our legal mandates and conservation goals. We are committed to balancing enforcement of wildlife laws with acknowledgement of tribal cultural and religious needs.

Through the National Eagle Repository, we will collect, process, and distribute, as expeditiously as possible, eagle feathers and remains to federally-recognized tribal members for religious, ceremonial, and cultural purposes in accordance with Federal law. Timeliness of processing and distributing eagle feathers and remains depends on availability and on our need to conduct scientific and law enforcement

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investigations. We process such items with dignity in recognition of the sacred nature of their use.

Through the non-eagle repositories, we will continue to permit the collection, processing, and distribution of migratory bird feathers and remains as expeditiously as possible for recognized religious, ceremonial, and cultural purposes in accordance with Federal law.

If a tribe wants to regulate their members' collection and use of resources from Service lands, the Service may enter into an agreement with the tribe to do so to the extent allowed by law.

**6. LAW ENFORCEMENT**

The Service recognizes that tribal governments have responsibilities for managing Indian lands and tribal resources. We encourage cooperative law enforcement as an integral component of tribal, Federal, and State activities to enforce fish and wildlife resource laws. Where appropriate, Service law enforcement officers should cooperate with tribal governments, including tribal law enforcement, to enforce Federal or tribal laws and regulations pertaining to fish, wildlife, or cultural resources by: (1) identifying opportunities for joint enforcement operations or investigations, (2) collaboratively developing techniques and methods for detecting and apprehending violators, and (3) exchanging law enforcement information.

Because working with tribal members may require additional sensitivity to cross-cultural issues, the Service will provide training to promote tribal cultural competency awareness within Service law enforcement and to help officers communicate in ways that improve tribes' understanding regarding the Service's Federal mandates and mission.

We will coordinate with tribal law enforcement officers about our law enforcement operations on or adjacent to Indian lands when it is feasible and appropriate. We will also help tribal governments when it is feasible and appropriate to coordinate fish and wildlife law enforcement investigations that require the use of the Federal court system.

Some tribal governments have their own authority and jurisdiction to process violations under tribal natural resource laws. When a tribe requests assistance with criminal prosecution of a wildlife law violator, whether or not the violator is a tribal member, we should work with the tribe to prepare Lacey Act violations for referral to the Department of Justice.

**7. TRIBAL CAPACITY BUILDING, ASSISTANCE, AND FUNDING**

**Technical Expertise and Assistance**

When a tribal government requests it, and as resources and priorities allow, the Service will make our technical experts available to help the tribal government develop its own technical expertise in fish and wildlife resources conservation and management. The Service and tribal governments will collaborate on the kinds of technical assistance that each can provide and will work together to prioritize technical assistance needs at the local and Regional levels.

When a tribal government requests it, we will review their law enforcement capabilities and, if warranted, recommend ways to improve them.

**Service Assistance for Tribal Development of Fish and Wildlife Plans and Codes**

When a tribal government requests it, and as resources and priorities allow, the Service will cooperatively review and assess tribal conservation measures for fish and wildlife resources that may be included in tribal resource management goals and objectives. Service involvement may be limited where litigation or other

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court actions have established a specific process for the development of species management plans and tribal codes.

**Agreements**

When a tribal government requests it, we may develop agreements with them to work together and to exchange personnel, expertise, and information.

**Indian Self-Determination and Education Assistance Act (ISDEAA)**

The Service supports tribal governments and their missions and objectives to assume program management roles and responsibilities through applicable ISDEAA agreements and other available mechanisms. The Service will promptly address requests from tribes and other eligible entities for ISDEAA contracts and annual funding agreements. Programs eligible for contracts under Title I are those that are available for the benefit of Indians because of their status as Indians. Under Title IV, approved Self-Governance tribes may request that the Service enter into funding agreements for Service programs, services, functions, and activities that are eligible for contracting under Title I, as well as those which are of a special geographic, historical, or cultural significance to the tribe. The Service is committed to negotiating self-determination contracts when applicable, as well as to considering discretionary Self-Governance requests for annual and multi-year funding agreements where resources are available and the agreements meet the mutual needs of tribes and the Service.

In addition to the authorities under the ISDEAA, the Service has additional authorities to enter into grants and cooperative agreements. The Service will consider the full range of operating protocols that are consistent with the Service's obligations under the Department's rules and regulations implementing the ISDEAA. The Service may also assist tribal governments to identify Federal and non-Federal funding sources that may be available for tribal fish and wildlife resource management activities.

**Law Enforcement Training**

When a tribal government requests it and as resources and priorities allow, we will provide expertise, guidance, and assistance in developing, maintaining, or improving tribal fish and wildlife law enforcement programs. The basic and refresher fish and wildlife law enforcement training courses we provide to other governmental agencies are available to tribal law enforcement officers.

**Training and Professional Development**

As resources and priorities allow, we will facilitate and assist in the education and development of Native Americans by providing educational programs and on-the-job training opportunities. We may establish partnerships and cooperative relationships with Native American educational institutions to assist in such areas as developing natural resources curricula or implementing cooperative education programs, and providing opportunities for tribal youth to participate in environmental education and outreach activities. We may also include opportunities for career pathways programs, such as tribal Youth Conservation Corps projects.

The Service will provide tribal governments and their staff access to our fish and wildlife resource training programs in the same manner that we provide access to other government agencies. In addition, we plan to work with tribes to develop, conduct, and attend joint training programs to increase awareness and sensitivity and to cross-train our employees and tribal staff on each other's responsibilities for resource stewardship.



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**8. IMPLEMENTATION AND MONITORING**

The Service is committed to implementing this policy in a way that ensures effective outcomes. The Service and tribes will continually monitor Service programs and projects that affect tribal interests to determine if they support this policy. We will collaboratively devise methods for applying and assessing this policy in the field to ensure it is adaptable to changing Service and tribal priorities, resource requirements, and laws. The Service, in collaboration with tribes, will develop a national implementation plan, and, as necessary, develop Regional plans. We will form national and Regional teams comprised of both Service and tribal representatives to carry out these plans.

Every 3 to 5 years, the Service, with assistance from tribal governments, will evaluate the national implementation and effectiveness of the policy across our Regions and programs. This review should include an analysis of disagreements and resolutions as they pertain to this policy and a report with recommendations for any appropriate improvements to the policy to the Director.

If there are disagreements regarding implementation of this policy, the Service and tribal government(s) will work together to resolve them on a government-to-government basis at the appropriate level. A disagreement between the Service and tribal government(s) will be handled at the appropriate local or Regional level using the specific mechanisms established in any existing agreements. Regional Directors or Regional Native American Liaisons or points of contact will bring cross-Regional disagreements concerning this policy to the attention of the National Native American Programs Coordinator and appropriate Directorate member at Headquarters. The Service and tribal government(s) may agree to employ a mutually acceptable neutral facilitator within statutory timeframes, as long as both governments realize the results are not intended to apply in the context of investigative or prosecutorial law enforcement activities.

**Employee Training and Education**

The Service invites tribal governments to work with us to develop training for employees whose duties may affect tribal interests. This training will improve understanding of this policy; regionally-specific Native American traditional, cultural, and religious values and practices; natural resource values; treaty and other federally reserved rights; consultation protocols; and appropriate law enforcement policy issues. The Service will encourage and support joint training with tribes to promote common understanding about implementing the policy within the context of circumstances specific to a Region.

We encourage our employees to attend training that tribes offer.

**Workforce Diversification**

The Service has active recruitment programs to attract qualified personnel so that its workforce is representative of the cultural diversity of the nation. We encourage qualified Native Americans to apply for jobs with the Service. We will collaborate with tribal governments to recruit Native Americans for Service law enforcement officer positions, especially where Service-managed public lands are within traditional tribal territories.

**9. SCOPE AND LIMITATIONS**

We have adopted this policy for guidance purposes only, consistent with all applicable laws and regulations. It does not preempt or modify the Service's statutory mission and authorities, position in litigation, applicable privilege, or any professional responsibilities of Service employees. Implementation of this policy is subject to the availability of resources and the requirements of the Anti-Deficiency Act. This

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policy must not be used to arbitrate differences in opinion between government agencies or to interpret any authorities, laws, or judicial findings. This policy does not negate or supersede the diverse mandates and priorities of the Service.

This policy is intended only to improve the internal management of the Service. It is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

This policy does not supersede, amend, or otherwise modify or affect the implementation of existing agreements or understandings between the Service and individual tribal governments except through mutual agreement.

Nothing in this policy may be construed as affecting the authority, jurisdiction, or responsibilities of States to manage, control, or regulate fish and resident wildlife under State law or regulations.

DIRECTOR

Date:

## DEFINITIONS

The following definitions help to clarify the Service's Native American policy (510 FW 1):

**Agreement** – a document approved by two or more parties that identifies their roles and responsibilities in achieving mutual objectives (e.g., Memoranda of Agreement, Memoranda of Understanding, Cooperative Agreements, Statements of Relationship, Grants, and Contracts).

**Alaska Native Organizations (ANO)** – any organization established by Alaska tribal governments or by law, whose interests encompass the conservation, protection, restoration, and enhancement of fish, wildlife, and environmental resources. For purposes of the Marine Mammal Protection Act, a group designated by law or formally chartered that represents or consists of Indians, Aleuts, or Eskimos residing in Alaska (see 16 U.S.C.1362(23)).

**Alaska Native Corporation** – any Alaska Native village corporation, urban corporation, or regional corporation as defined in, or established under, the Alaska Native Claims Settlement Act.

**Collaborate** – the Service and tribal governments working together.

**Co-management** – two or more entities, each having legally established management responsibilities, working collaboratively to achieve mutually agreed upon, compatible objectives to protect, conserve, use, enhance, or restore natural and cultural resources.

**Collaborative management** – two or more entities working together to actively protect, conserve, use, enhance, or restore natural and cultural resources.

**Consult** – to conduct mutual, open, and direct two-way communication in good faith to secure meaningful participation in the decisionmaking process, as allowed by law.

**Director** – the Director of the U.S. Fish and Wildlife Service.

**Fish and wildlife resources** – fish and wildlife (including invertebrates), plants, and their habitats that the Service is responsible for managing and conserving, including migratory birds; marine mammals; inter-jurisdictional fish; refuges (including fish, wildlife, and plants found on refuges); and federally listed, threatened, and endangered species.

**Fish and wildlife and cultural resource management** – all activities that are intended to contribute directly or indirectly to the preservation, protection, use, maintenance, mitigation, or enhancement of fish, wildlife, and cultural resources.

**Indian lands** – any lands where title is either held in trust by the United States for the benefit of an Indian tribe or individual Indian, or held by an Indian tribe or individual Indian subject to restrictions by the United States against alienation (i.e., sale or transfer).

**Lands** – includes uplands, wetlands, and open waters such as streams, lakes, estuaries, and bays.

**Native American** – refers to American Indians in the conterminous United States and Alaska Natives (including Aleut, Eskimo, and Indian) who are members of federally recognized tribes.

**Sacred site** – any specific, discrete, narrowly delineated location on Federal land that is identified by (1) a tribal government, or (2) an Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion, provided that the tribal government informs the Service of the existence of such a site.

**Traditional knowledge** – includes Tribal Ecological Knowledge (TEK) and is used to describe the knowledge held by indigenous cultures about their immediate environment and the cultural practices that build on that knowledge. TEK includes an intimate and detailed knowledge of plants, animals, and natural phenomena; the development and use of appropriate technologies for hunting, fishing, trapping, agriculture, and forestry; and a holistic knowledge, or “world view” that parallels the scientific discipline of ecology. See the Service’s [Native American Program Web page](#) for more information.

**Tribal governments or federally recognized tribes** – all Indian tribes identified in the most recent list of “Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs” published in accordance with section 104 of Public Law 103-454 (108 Stat. 4792; 25 U.S.C. 479a-1) and any other Indian tribes acknowledged by the Bureau of Indian Affairs and identified for inclusion on such a list.

**Tribal trust resources** – pertains only to Indian trust assets (i.e., lands, natural resources, money, or other assets) that the Federal Government holds in trust or that are restricted against alienation for the benefit of Indian tribes and individual Indians.

## OVERALL RESPONSIBILITIES

Table 1 below describes the responsibilities of Service officials for implementing the Service's Native American Policy, 510 FW 1. Sections 2.0 to 9.0 in the policy provide details about how we achieve these responsibilities.

<b>Table 1: Responsibilities for the Service's Native American Policy, 510 FW 1</b>	
<b>These officials...</b>	<b>When working with federally recognized tribal governments, are responsible for...</b>
<b>A. The Director</b>	<ul style="list-style-type: none"> <li>(1) Serving as the final authority for those Servicewide decisions that may affect tribal interests;</li> <li>(2) Overseeing the management of all Service programs, including our work with tribal governments;</li> <li>(3) Ensuring Servicewide policies and programs are consistent with our tribal trust responsibility;</li> <li>(4) Working to resolve issues with tribal governments when elevated by Regional Directors; and</li> <li>(5) Delegating authority to consult with tribal officials.</li> </ul>
<b>B. National Native American Programs Coordinator</b>	<ul style="list-style-type: none"> <li>(1) Coordinating with Headquarters and Regional Directorate members on national and cross-Regional programs and issues;</li> <li>(2) Maintaining and continuing to build and promote positive working relationships with federally recognized Indian tribes by listening to tribes and gaining insight to further conservation goals and cultural protection at the national level;</li> <li>(3) Developing and providing national-level training opportunities for Service employees, tribal staff, and tribal members;</li> <li>(4) Developing and administering a national implementation plan to incorporate this policy into Service operations;</li> <li>(5) Reviewing this policy with assistance from Directorate members and tribes (see section 8 of 510 FW 1) to strengthen its implementation and identify recommended revisions and updates;</li> <li>(6) Developing agreements and programs with tribes under ISDEAA as we discuss in section 7 of 510 FW 1;</li> <li>(7) Promoting tribal cultural competency awareness within the Service and improving tribes' understanding regarding our Federal mandates and mission at the national level;</li> <li>(8) Promoting partnership opportunities between the Service and tribes at national and Regional levels; and</li> <li>(9) Leading and facilitating the resolution of conflicts between tribes and the Service that are multi-Regional or national in scope.</li> </ul>

<b>Table 1: Responsibilities for the Service's Native American Policy, 510 FW 1</b>	
<b>These officials...</b>	<b>When working with federally recognized tribal governments, are responsible for...</b>
<b>C. Directorate members at Headquarters</b>	<p>(1) Serving as the delegated agency officials in government-to-government consultation or other coordination on issues relevant to tribes; and</p> <p>(2) Ensuring the goals and intent of this policy are implemented as their staff develop:</p> <ul style="list-style-type: none"> <li>(a) Program policies,</li> <li>(b) Regulations,</li> <li>(c) Strategic plans (national and Regional), and</li> <li>(d) Other planning documents.</li> </ul>
<b>D. Chief – Office of Law Enforcement (OLE), through Special Agents-in-Charge</b>	<p>(1) Ensuring that all OLE employees implement this policy;</p> <p>(2) Serving as or designating an OLE agency official in government-to-government consultation or other coordination on law enforcement issues relevant to tribes; and</p> <p>(3) Ensuring the goals and intent of this policy are implemented as OLE staff develop:</p> <ul style="list-style-type: none"> <li>(a) Program policies,</li> <li>(b) Regulations,</li> <li>(c) Training for Service officers and tribal conservation officers,</li> <li>(d) Strategic plans, and</li> <li>(e) Other planning documents.</li> </ul>
<b>E. Regional Directors</b>	<p>(1) Serving as the delegated agency officials in government-to-government consultation or other coordination on issues relevant to tribes;</p> <p>(2) Fulfilling the Service's Federal Indian trust responsibilities to tribes;</p> <p>(3) Ensuring the Service operates on a government-to-government basis with tribes;</p> <p>(4) Coordinating with tribes on a regular basis to address important issues;</p> <p>(5) Promoting partnership opportunities between the Service and tribes at the Regional level;</p> <p>(6) Resolving issues that may arise within the Region when implementing this policy;</p> <p>(7) Assigning a Regional Native American Liaison or point of contact; and</p> <p>(8) Developing and providing Regional training opportunities for Service employees, tribal staff, and tribal members.</p>

**Table 1: Responsibilities for the Service’s Native American Policy, 510 FW 1**

These officials...	When working with federally recognized tribal governments, are responsible for...
<p><b>F. Regional Native American Liaisons or Point(s) of Contact</b></p>	<p>(1) Serving as the point of contact or intermediary between the Service and tribes,</p> <p>(2) Assisting Service employees in implementing this policy,</p> <p>(3) Maintaining and continuing to build and promote positive working relationships with tribes at the Regional level,</p> <p>(4) Promoting tribal cultural competency awareness within the Service and improving tribes’ understanding regarding the Service’s Federal mandates and mission at the Regional level,</p> <p>(5) Promoting partnership opportunities (e.g., co-management and training) between the Service and tribes at the Regional level,</p> <p>(6) Providing assistance and support to the Regional Director in resolving conflicts between tribes and the Service, and</p> <p>(7) Developing step-down policies (e.g., in Region 7 for Alaska National Claims Settlement Act (ANCSA) corporations and Marine Mammal Protection Act (MMPA) Alaska Native Organizations) and Regional implementation plans, where appropriate.</p>
<p><b>G. Regional Directorate Team Members</b></p>	<p>(1) Serving as the delegated agency official in government-to-government consultation or other coordination on issues relevant to tribes;</p> <p>(2) Ensuring the goals and intent of this policy, including timely communication with tribes in planning and implementation phases, in their programs; and</p> <p>(3) Developing agreements with tribes under ISDEAA as we discuss in <u>section 7 of 510 FW 1.</u></p>

**Table 1: Responsibilities for the Service’s Native American Policy, 510 FW 1**

These officials...	When working with federally recognized tribal governments, are responsible for...
<p><b>H. Project Leaders, Managers, and Supervisors</b></p>	<ul style="list-style-type: none"> <li>(1) Serving as the agency official in government-to-government consultation or other coordination on issues relevant to tribes, when delegated;</li> <li>(2) Ensuring activities for which they are responsible are consistent with this policy;</li> <li>(3) Developing agreements with tribes under ISDEAA as we discuss in <a href="#">section 7 of 510 FW 1</a>;</li> <li>(4) Ensuring employees understand the relevance of this policy to their job duties;</li> <li>(5) Making relevant training opportunities related to implementing this policy available to employees whose duties may affect tribal interests;</li> <li>(6) Encouraging and supporting implementation of the goals and responsibilities described in this policy as they are applicable to the programs and projects for which they are responsible;</li> <li>(7) Providing assistance and support to the Regional Director in resolving conflicts between tribes and the Service; and</li> <li>(8) Assisting Service employees to implement this policy.</li> </ul>
<p><b>I. Employees</b> whose duties may affect tribal interests</p>	<ul style="list-style-type: none"> <li>(1) Understanding this policy and its importance in carrying out the agency mission, specifically by developing a working knowledge of any policy goals and responsibilities relevant to their job duties. This includes taking relevant training (see <a href="#">section 8 of 510 FW 1</a>);</li> <li>(2) Implementing applicable sections of the policy for issues or projects that may affect tribal interests (e.g., through coordination with tribal biologists or other staff of federally recognized tribes, development of working relationships with tribal staff in the area, etc.), to fulfill the Service’s Federal Indian trust responsibilities; and</li> <li>(3) Communicating with managers and supervisors when professional activities include federally recognized tribes.</li> </ul>



## AUTHORITIES FOR THE SERVICE'S NATIVE AMERICAN POLICY

The Service relies on the list of authorities below when working with tribes as we describe in the Service's Native American Policy, 510 FW 1. The Service recognizes that these authorities are not all encompassing, and we may update this list from time to time.

### *Statutes:*

- Alaska National Interest Lands Conservation Act of 1980, as amended (16 U.S.C. 3101-3233) (ANILCA).
- Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601-1629h) (ANCSA).
- American Indian Religious Freedom Act, as amended (42 U.S.C. 1996-1996a) (AIRFA).
- Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470aa-470mm) (ARPA).
- Bald and Golden Eagle Protection Act, as amended (16 U.S.C. 668-668d) (BGEPA).
- Consolidated Appropriations Act of 2004, (P.L. 108-199 Div. H. sec. 161 118 Stat 3 452, as amended by Consolidated Appropriations Act of 2005 P. L. 108-447, Div. H, Title V. Sec. 518, 118 Stat. 3267).
- Department of the Interior General Authorities, Duties of the Secretary (43 U.S.C. 1457).
- Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1544) (ESA).
- Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a-742d and 742e-742j-2).
- Fish and Wildlife Coordination Act of 1934, as amended (16 U.S.C. 661-667d)
- Freedom of Information Act (5 U.S.C. 552) (FOIA).
- Indian Reorganization Act (Wheeler-Howard Act) (25 U.S.C. 461, *et seq.*) (IRA).
- Indian Self-Determination and Education Assistance Act of 1975, as amended (Public Law 93-638 25 U.S.C. 450 *et seq.*) (ISDEAA).
- The Lacey Act of 1900 (16 U.S.C. 3371-3378).
- Marine Mammal Protection Act (16 U.S.C. 1361-1423h) (MMPA); for ANO cooperative agreements, *see* 16 U.S.C. 1388.
- Migratory Bird Treaty Act, as amended (16 U.S.C. 703-712) (MBTA).
- National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) (NEPA).
- National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101, *et seq.*) (NHPA).
- National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee).
- Native American Graves Protection and Repatriation Act (25 U.S.C. 3001-3013) (NAGPRA).
- Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb-2000bb-4) (RFRA).

### *Executive Orders (E.O.):*

- E.O. 13007; Indian Sacred Sites; May 24, 1996.
- E.O. 13175; Consultation and Coordination with Indian Tribal Governments; November 6, 2000.

### *Presidential Memoranda:*

- Government-to-Government Relations with Native American Tribal Governments; April 29, 1994.
- Government-to-Government Relationship with Tribal Governments; September 23, 2004. Tribal Consultation; November 5, 2009.

### *Secretary's Orders (S.O.):*

- S.O. 3206; American Indian Tribal Rights, Federal Trust Responsibilities, and the Endangered Species Act; June 5, 1997.

S.O. 3225; Endangered Species Act and Subsistence Uses in Alaska; January 19, 2001.  
S.O. 3335; Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries; August 20, 2014.

*Department of the Interior Policy:*

Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act Corporations (512 DM 5).

Department of the Interior Policy on Consultation with Indian Tribes and Native Corporations (512 DM 4).

Departmental Responsibilities for Protecting/Accommodating Access to Indian Sacred Sites (512 DM 3).

Rogers C. B. Morton, Secretary of the Interior, Policy Statement on Indian Use of Bird Feathers; February 5, 1975.

*Department of Justice Policy:*

*Attorney General Memorandum:* Possession or Use of Feathers or Other Parts of Federally Protected Birds for Tribal Cultural and Religious Purposes; October 12, 2012.

*Interdepartmental Memorandum of Understanding:*

Memorandum of Understanding Among the U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Department of Energy, and the Advisory Council on Historic Preservation Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites, December 4, 2012.



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