

DRAFT

1 **DIRECTOR’S ORDER #71C: CONSULTATION WITH INDIAN AND ALASKA**
2 **NATIVE TRIBES**

3 **Approved:** _____
4 Director

5 **Effective Date:** _____

6 **Duration:** Until amended, superseded, or rescinded

7 **Contents:**

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8 **1. Background and Principles**

9 **1.1 Background**

10 The Indigenous people of North America are the original inhabitants and first stewards of the
11 lands now known as the United States of America.¹ Many Indigenous people value their
12 connection to the land—it defines their lifeway, culture, language, existence, and experience as
13 Native people.

14 The United States has a unique nation-to-nation relationship with American Indian and Alaska
15 Native Tribes² that is based in the U.S. Constitution and treaties, statutes, regulations, Executive

¹ As the original stewards of these lands, Indigenous people have rapidly adapted to a variety of environments and social and political circumstances, including pressures due to loss of land and language and shifts in lifeways, over the course of a thousand years. The severe nature of these impacts eroded Indigenous identity away from unique band, society, clan, and family systems to larger collectives as a matter of survival and persistence. As traditional systems aggregated to form larger bodies of connected Indigenous communities, the term “Tribe” emerged to identify the qualities of the connection. A Tribe is a useful unit of distinction for the purpose of negotiations and managing governmental affairs, including treaty-making for the cession of lands and resources. As encounters, relationships, and negotiations increased between Indigenous and western European communities, the use of “American Indian,” “Alaska Native,” “Native Hawaiian,” and “Tribe(s)” became normalized, replacing the Indigenous communities’ names for themselves in their language.

² “Indian Tribes” or “Indian and Alaska Native Tribes” means any Indian or Alaska Native Tribe, band, nation, pueblo, village, or other organized group or community, which the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 ([25 USC 5130–5131](#)). See also chapter 4 of part 512 of the Departmental Manual ([512 DM 4](#)).

16 orders, and Federal court decisions. The historical interactions between the Federal Government
17 and Tribal nations have been complicated—frequently marked by conflict, power imbalance, and
18 under-representation of Tribal nations in decision-making. Today, the Federal Government
19 seeks to strengthen relationships with Indian Tribes and embrace attitudes of restoration and
20 reconciliation with Tribal nations and their communities. More recent Federal policies and
21 approaches aim to empower Indian Tribes to manage their resources and lands, engage in
22 economic development opportunities based on their own strategies and priorities, and self-govern
23 through their own independent judgment and cultural values.

24 Through principled policies that advance relationships and integrate Tribal perspectives and
25 Indigenous knowledge³ into decision making, the Federal Government can uphold its trust
26 responsibilities to Indian and Alaska Native Tribes. First among these principled policies is the
27 Federal Government’s commitment to Tribal sovereignty and the individual well-being of Native
28 Americans. The Federal policy of Indian self-determination establishes a framework for the
29 protection and promotion of Tribal sovereignty through partnerships with Tribal nations based on
30 a nation-to-nation relationship. Both the [Presidential Memorandum of April 29, 1994](#) and
31 [Executive Order 13175](#) (Consultation and Coordination with Indian Tribal Governments) direct
32 executive departments and agencies to engage in regular and meaningful consultation in good
33 faith with Tribal officials on Federal policies and actions with Tribal implications. The
34 [Presidential Memorandum of November 30, 2022](#) establishes uniform minimum standards for all
35 Federal agencies on how Tribal consultations are to be conducted (Uniform Standards for Tribal
36 Consultation).

37 In November 2022, the Department of the Interior (DOI) updated [512 DM 4](#) (Policy on
38 Consultation with Indian Tribes) and [512 DM 5](#) (Procedures for Consultation with Indian Tribes).
39 Together, they clarify and expand guidance on Tribal consultation in support of Executive Order
40 13175 and relevant statutes.

41 The National Park Service (NPS) recognizes and honors the right of Tribal governments to self-
42 governance and supports Tribal sovereignty and self-determination. A robust Tribal consultation
43 policy, based on two-way, nation-to-nation dialogue and mutual respect, will ensure Indian
44 Tribes have meaningful input into the development and implementation of decision-making
45 processes across the National Park System and within NPS programs.

46 **1.2 Principles**

47 The NPS acknowledges and supports the following principles:

- 48 • The United States recognizes the right of Indian Tribes to self-governance and supports
49 Tribal sovereignty and self-determination.

³ “Indigenous knowledge” means a body of observations, oral and written knowledge, practices, and beliefs that promote environmental sustainability and the responsible stewardship of natural resources through relationships between humans and environmental systems. It is applied to phenomena across biological, physical, cultural, and spiritual systems. It has evolved over millennia, and continues to evolve, and includes insights based on evidence acquired through direct contact with the environment and long-term experiences, as well as extensive observations, lessons and skills passed from generation to generation ([Joint Office of Science and Technology Policy and Council on Environmental Quality Memorandum “Indigenous Traditional Ecological Knowledge and Federal Decision Making,” November 15, 2021](#)).

30-day external review draft. Submit comments by **Monday, August 26, 2024**, using the [Comment Form](#), to amindian@nps.gov. The draft Order and Comment Form are online at <https://www.nps.gov/subjects/policy/new.htm>.

- 50 • The United States has a unique trust relationship with, and responsibility to protect and
51 support, Indian Tribes.
- 52 • Owing to this trust relationship, the United States has a responsibility to consult with
53 Indian Tribes and Indigenous communities when formulating policies and planning
54 activities that may directly or indirectly affect Tribal lands (including ancestral lands),
55 interests, practices, or traditional use areas.
- 56 • Consultation during the formulation of all management plans reduces the likelihood of
57 project delays and increases the efficiency of project implementation.
- 58 • Procedures for consultation will be designed and structured to give Indian Tribes the
59 opportunity to provide meaningful, informed input throughout the development and
60 decision-making processes.
- 61 • Increasing Federal and Tribal capacities for effective consultation builds institutional
62 knowledge, fosters greater efficiency, and benefits future actions.
- 63 • The consultation process will be formalized according to best practices that are designed
64 and administered by the NPS and that fulfill all legal requirements. (See Reference
65 Manual-71C (RM-71C)).
- 66 • Effective consultation demands ongoing, respectful, robust communication between NPS
67 managers and Indian Tribes.

68 Indian Tribes often have cultural and traditional spiritual ties to their ancestral lands, many of
69 which the NPS currently manages. More than 570 federally recognized Indian and Alaska
70 Native Tribes have a unique political status that is recognized by NPS managers. A more
71 comprehensive description of the NPS relationship with Indian and Alaska Native Tribes may be
72 found in section 3.1 of [Policy Memorandum 22-03](#).

73 **2. Purpose and Application**

74 **2.1 Purpose**

75 The purpose of this Director’s Order (Order) is to provide guidance for Tribal consultation
76 (consultation) to develop, implement, and maintain positive working relationships with Indian
77 Tribes, based on transparency, accountability, mutual trust, and responsibility.

78 This Order supplements existing guidance found in *NPS Management Policies* (2006),⁴
79 Executive orders, Presidential memoranda, statutes, regulations, judicial decisions, Secretary’s
80 orders, and DOI and NPS guidance. See section 14, below.

81 Consistent with guidance in [Director’s Order #1: National Park Service Directives System](#),
82 associate, assistant, and regional directors, and park and program managers, will integrate the
83 direction from this Order into relevant policies, procedures, and practices. Authority is hereby
84 delegated to the NPS Office of Native American Affairs (ONAA) to issue RM-71C as
85 supplemental guidance to support implementation of this Order.

86 **2.2 Application**

87 This Order applies only to consultation with Indian and Alaska Native Tribes. Separate

⁴ See, in particular, [section 1.11](#) of *Management Policies*, “Relationship with American Indian Tribes.”

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88 Director’s Orders on consultation with the Native Hawaiian Community⁵ and Alaska Native
89 entities⁶ will be issued subsequently. For guidance with respect to consultation with Alaska
90 Native entities, see [512 DM 6](#) (Policy on Consultation with Alaska Native Claims Settlement Act
91 Corporations).

92 While the NPS also consults with non-federally recognized Tribes, State-recognized groups, and
93 other traditionally associated peoples or groups⁷ who are connected with park resources or have
94 an interest in proposed NPS actions that might affect those resources⁸, that consultation is
95 beyond the scope of this Order. For information on such consultations, see *Management*
96 *Policies*, sections [5.2.1](#), [7.5.6](#), and [8.5](#); see also, RM-71C, and the Advisory Council on Historic
97 Preservation’s “[Guide to Working with Non-Federally Recognized Tribes in the Section 106](#)
98 [Process](#).” While not strictly applicable, the consultation basics and standards found in this Order
99 may be employed in those consultations.

100 **3. Authorities**

101 **3.1 Authority to Issue This Director’s Order**

102 Authority to issue this Order is contained in the National Park Service Organic Act and other
103 NPS laws ([54 USC 100101](#) *et seq.*), and the delegations of authority contained in [245 DM 1](#).

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

108 **3.2 Authorities Pertaining to Tribal Consultation**

109 Authorities⁹ pertaining to consultation include Executive Order 13175, the Presidential

⁵ “Native Hawaiian Community” means the distinct Native Hawaiian indigenous political community that Congress, exercising its plenary power over Native American affairs, has recognized and with which Congress has implemented a special political and trust relationship ([43 CFR 50.4](#)).

⁶ “Alaska Native entities” means the regional and village corporations established under the authority of the [Alaska Native Claims Settlement Act](#) of 1971, as amended (ANCSA), and their affiliated nonprofit organizations and Tribal consortia, and such other Alaska Native organizations created and designated by Tribes to represent their interests, consistent with ANCSA or with the Indian Self-Determination and Education Assistance Act of 1975, as amended.

⁷ “Traditionally associated peoples” means contemporary park neighbors and ethnic or occupational communities that have been associated with a park for two or more generations (40 years), and whose interests in the park’s resources began before the park’s establishment (*Management Policies*, [section 5.3.5.3](#)).

⁸ This may include consultation with Indigenous people of Guam, American Samoa, the Freely Associated States, the U.S. Virgin Islands, and other locations.

⁹ Many Federal laws and Executive orders have specific requirements for Tribal consultation, e.g., the National Historic Preservation Act (NHPA), the Native American Graves Protection and Repatriation Act, the National Environmental Policy Act of 1969, [Executive Order 13007](#) (Indian Sacred Sites), and [Executive Order 14096](#) (Revitalizing Our Nation’s Commitment to Environmental Justice for All). See also consultation requirements related to management plans for National Heritage Areas found in the John D. Dingell Jr. Conservation, Management, and Recreation Act of 2019 (Pub. L. 116-9) and National Heritage Area Act (Pub. L. 117-139), and the NPS regulation for the gathering of plants or plant parts by federally recognized Indian Tribes found at [36 CFR 2.6](#).

110 Memorandum of April 29, 1994, and the [Presidential Memorandum of November 30, 2022](#).

111 This Order supplements 512 DM 4 and 5.

112 **4. Consultation Basics**

113 **4.1 What is Consultation?**

114 Consultation is a process, based on a bilateral recognition of sovereignty, focused on a given
115 topic or set of topics, involving both Federal and Tribal officials with decision-making authority.
116 (See section 4.3(C) of 512 DM 4, and *Management Policies*, section [5.2.1](#); see also RM-71C).

117 **4.2 When Should the NPS Consult?**

118 The NPS must invite Indian Tribes to consult early in the planning process whenever an NPS
119 action—i.e., any, plan, policy, programmatic or operational activity, regulation, or legislative
120 proposal—may have a substantial direct effect on an Indian Tribe in matters including, but not
121 limited to:

- 122 • Tribal cultural practices, lands (including ancestral lands), treaty rights, resources, sacred
123 sites (including submerged sites), access to traditional areas of cultural or religious
124 importance on federally managed lands and waters;
- 125 • an Indian Tribe’s ability to govern or provide services to its members;
- 126 • an Indian Tribe’s formal relationship with the NPS; or
- 127 • any action planned by a non-Federal entity that involves funding, approval, or other final
128 agency action provided by the NPS, unless the Indian Tribe is a party to the action.

129 Substantial direct effects on Indian Tribes may include, but are not limited to, effects as shown in
130 the Consensus-seeking Model (see section 4.6 of 512 DM 4; see section 5.4 of 512 DM 5; RM-
131 71C).

132 All the above are examples of a “Departmental Action with Tribal Implications” (Departmental
133 Action). The NPS will (1) assume that all actions with land, water, or resource impacts may
134 have Tribal implications and are thus Departmental Actions, and (2) extend consultation invitations
135 accordingly. The NPS is aware that many Indian Tribes continue to have a deep connection with,
136 and interest in, ancestral lands, which may include traditional homelands from which they may
137 have been removed. (See RM-71C; see also [Director’s Order #6: Interpretation and Education](#).)

138 **4.3 Who Should Participate in the Consultation?**

139 The NPS manager or official with authority to decide on the proposed Departmental Action must
140 participate in the consultation. NPS staff with subject matter expertise on the topic or program
141 may also be involved. NPS staff (other than note-takers) must have the appropriate skills and
142 experience, including familiarity with this Order, to promote and maintain positive relations with
143 Indian Tribes. An Indian Tribe may be represented by an elected or appointed official, acting in
144 the official capacity as the leader of the Indian Tribe, or by that official’s designated
145 representative or Tribal entities designated by the Tribe. An Indian Tribe may also include
146 traditional practitioners and treaty officials or others as subject matter experts. The parties may
147 also want to include neutral facilitators. (See RM-71C.)

148 **4.4 What is the Consultation Process?**

149 Notice. The appropriate NPS manager will provide notice to Indian Tribes inviting them to
150 consult as early as possible when considering a Departmental Action. Providing notice alone,
151 however, is not consultation. The notice will include sufficient detail about the topic to be
152 discussed to allow Tribal leaders to determine if they want to accept the offer to consult, and if
153 so, provide an opportunity to fully engage in consultation. The notice should include a timeline
154 of the process under consideration and give Tribal leaders the opportunity to provide feedback
155 prior to the consultation.

156 Timelines. If the notice announces a scheduled consultation meeting(s), Indian Tribes must
157 receive the notice at least 30 days before the first scheduled consultation meeting. If the notice
158 merely announces an opportunity to consult, without a scheduled meeting, it should give Tribal
159 leaders at least 30 days to request consultation. An Indian Tribe may request that the NPS
160 provide an extension beyond the 30 days.

161 Lack of Response. If the NPS does not receive a response to its invitation to consult, it should
162 make good-faith, reasonable and periodic efforts to repeat the invitation and, when feasible,
163 should allow an Indian Tribe to join an ongoing consultation. These efforts of engagement must
164 be appropriately documented.

165 Tribal Requests. An Indian Tribe may request that the NPS initiate consultation when the Indian
166 Tribe believes the NPS is considering a Departmental Action. The appropriate NPS manager
167 will treat an official request for consultation in an expedited fashion and acknowledge its receipt
168 in writing using the most expedient method to communicate (e.g., by email or U.S. Mail).
169 Whenever an Indian Tribe makes such a consultation request, the NPS will work with the Indian
170 Tribe to schedule the consultation at a mutually agreeable time, usually 30 days from the time
171 the request is received by NPS.

172 See 512 DM 5; RM-71C.¹⁰

173 **5. Standards**

174 As provided above, the Federal Government and Indian Tribal relationship reflects the political
175 and historical development of the Nation. Consultation seeks to:

- 176 • respect and uphold Tribal sovereignty;
- 177 • invest in the nation-to-nation relationship;
- 178 • own and fulfill the Federal trust responsibility;
- 179 • recognize the legal, historical, and political importance of Tribal treaties;
- 180 • protect and preserve the integrity of sacred sites¹¹;
- 181 • understand and acknowledge the authority of Indigenous narratives and oral tradition to
182 bring them into dialogue and mutual understanding with non-Indigenous knowledge
183 systems and generate more holistic understanding;
- 184 • commit to actualizing Tribal self-determination and self-governance;

¹⁰ See Uniform Standards for Tribal Consultation.

¹¹ See Executive Order 13007.

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- 185 • amplify the interests of Indigenous peoples – e.g., data and food sovereignty, language
186 and cultural revitalization, and access to and co-stewardship¹² of traditional and cultural
187 landscapes and other properties of religious and cultural importance;
- 188 • honor the common Indigenous point of view that natural resources are cultural resources;
189 and
- 190 • acknowledge and embrace that consultation is an ongoing process.

191 Mutually acceptable consultation protocols to guide the nation-to-nation relationship will be
192 developed at the park and program levels with assistance from national, regional and support
193 offices, as needed. Consultation protocols and activities may be informed by national, regional,
194 and park-based subject matter experts.

195 Consultations can and should occur with intertribal organizations that officially represent
196 federally recognized Indian Tribes, when affected Indian Tribes do not object.

197 NPS managers will be open and candid with representatives of Indian Tribes during
198 consultations so that (1) affected Indian Tribes may fully evaluate the potential impact of the
199 proposed Departmental Action, and (2) the NPS may fully consider Tribal views in its decision-
200 making processes. This means that consultation should begin at the earliest possible stages of
201 planning. All final decisions will be relayed to the Indian Tribe with a written summary of how
202 Tribal interests were considered and/or implemented.

203 Consultation does not end with the decision or authorization itself, but rather continues through
204 implementation of the Departmental Action. The NPS will remain engaged with Indian Tribes
205 regarding land, water, and mineral resources, land uses, treatments, mitigation, inspections and
206 monitoring, reclamation requirements, and dissemination of reports, data, and information not
207 subject to withholding under another authority for the lands and resources affected.

208 See the [Uniform Standards for Tribal Consultation](#).

209 **6. Documentation**

210 All NPS managers and officials engaged in consultation activities must keep an official record of
211 all consultation communications, telephone logs, emails, and official letters. Meeting agendas,
212 notes (including any site visit notes), and any other documentation presented at the consultation
213 will be included in the official record. If the Indian Tribe deems any of the information
214 discussed before or during the consultation to be sensitive in nature, the NPS will work to
215 maintain the confidentiality of the sensitive information (see section 8, below).

216 **6.1 Record of the Consultation**

217 The NPS will maintain a record of the consultation that includes (1) a summary of Tribal input
218 received; (2) a general explanation of how Tribal input influenced or was incorporated into any
219 NPS action; and (3) if relevant, the general reasoning for why specific Tribal suggestions were
220 not incorporated into the NPS action or why consensus could not be attained.

¹² See [Policy Memorandum 22-03](#).

221 Upon completion of the consultation period, the NPS manager will share the record of
222 consultation with the affected Indian Tribe(s) within 10 business days. See 512 DM 5.

223 The NPS should obtain informed consent from authorized Tribal representatives in advance for
224 the use of sensitive information provided by the Indian and Alaska Native Tribe, and should
225 inform Tribal representatives that certain Federal laws, including the Freedom of Information
226 Act (FOIA; [5 USC 552](#)), may require disclosure of such information. While the record of
227 consultation may be subject to disclosure under FOIA, it does not waive any privilege or other
228 exception to such disclosure. See section 8, below.

229 **6.2 Annual Tribal Consultation Report**

230 Upon completion of each consultation, a summary record and/or report will be completed in
231 anticipation of the end-of-year report to the Secretary of the Interior (Secretary) as required in
232 512 DM 4 and 5 and Secretary's Order No. 3342 ([S.O. 3342](#)). (See RM-71C.)

233 **7. Additional Considerations**

234 **7.1 Costs of Consultation and Compensation for Subject Matter Experts**

235 The NPS has authority to pay for travel-related expenses for Tribal officials or their designees to
236 participate in consultation as necessary. See 512 DM 4 and 5. Additionally, NPS managers are
237 encouraged to travel to Tribal offices or other locations to facilitate consultation, particularly
238 where travel costs may be prohibitive for Tribal participation.

239 Consultation may result in a mutual decision that necessitates further work by Tribal subject
240 matter experts (SMEs) to successfully complete an NPS project or activity. The NPS has
241 authority to compensate Tribal SMEs for work associated with consultation activities including
242 associated costs to acquire relevant and critical information specific to an NPS project or
243 activity. *Management Policies*, [section 4.2.1](#), directs the NPS to identify and obtain information
244 and data, including applicable Indigenous knowledge, that will help NPS managers accomplish
245 management objectives. In addition to engaging in consultation, the NPS may support or
246 procure studies to ensure that plans and actions reflect Indigenous knowledge and best available
247 science about resources that have traditional cultural meaning and value to associated groups.
248 Where Tribal members may participate or contribute to such studies, then compensation for this
249 time and expertise may be allowed under applicable authorities.

250 There are various mechanisms for contracting and providing compensation to SMEs, such as
251 Indigenous knowledge keepers and program presenters. A park or program may solicit, or an
252 Indian Tribe may request, that a SME be involved in certain projects. Tribal officials or their
253 designees whose participation is necessary to accomplish an NPS project may be compensated as
254 would any other SME. Tribal consultation should be initiated as early as possible in order to
255 determine the appropriate Tribal SME(s) needed to complete the project. When developing a
256 budget for such a project or activity, compensation should be factored in as a component of
257 overall project planning and implementation. (See RM-71C.)

258 **7.2 Food and Beverage for Consultation Meetings**

259 While Federal funds generally may not be used to provide food and beverage at NPS-hosted
260 meetings and events, the Consolidated Appropriations Act, 2024 ([Pub. L. 118-42](#); see Operation
261 of the National Park System) enables the NPS to use up to \$15,000 for official reception and
262 representation expenses associated with Tribal consultation for fiscal year 2024.¹³ NPS
263 managers may also coordinate in advance with willing NPS or park partners (e.g., cooperating
264 associations, Friends Groups) to provide food and beverage when inviting Tribal representatives
265 to consultations. Advance approval from ONAA is required to use ONPS or donated funds to
266 purchase food and beverage for this purpose. See Director’s Orders [#21: Donations and](#)
267 [Philanthropic Partnerships](#) and [#32: Cooperating Associations](#); see also RM-71C.

268 **8. Confidentiality**

269 The NPS will respect Tribal needs for privacy and confidentiality of sensitive information. NPS
270 managers must inform Indian Tribes and Tribal officials prior to consultation of the likelihood
271 that information obtained or recorded will be subject to disclosure under FOIA ([5 USC 552](#)),
272 subject to limited exemptions afforded by FOIA or other laws that restrict the release of certain
273 information.¹⁴ When consulting, NPS managers should evaluate with Tribal partners what
274 information is necessary to collect or record to support sound management decisions. The NPS
275 will not collect or record culturally sensitive information without permission of the Tribal
276 representatives.

277 **9. Flexibility for Tribal Waivers**

278 For all statutory or regulatory requirements applicable to Indian Tribes that are subject to NPS
279 discretion and waiver, the NPS will streamline processes by which Indian Tribes apply for
280 waivers of those requirements, use flexible policy approaches when reviewing Tribal waiver
281 requests, and render a decision upon the request within 120 days of receipt, or as otherwise
282 provided by law or regulation. If the waiver request is not granted, the NPS will provide the
283 Tribal applicant with written notice of the decision and the reasons within 10 business days.
284 (See section 4.10 of 512 DM 4.)

285 **10. Federal Advisory Committee Act (FACA)**

286 The [Federal Advisory Committee Act](#) (FACA; 5 USC Ch. 10) does not apply to consultation
287 meetings held exclusively between NPS officials and elected officers of Tribal governments or
288 their designees.

289 **11. Consensus-seeking Model**

290 The basis of consultation is rooted in meaningful dialogue where the viewpoints of Indian Tribes
291 and DOI, including its bureaus and offices, are shared, discussed, and analyzed. Executive Order
292 13175 directs agencies to explore and, where appropriate, use “consensual mechanisms” for

¹³ Contact ONAA regarding NPS authority to use these funds in future fiscal years.

¹⁴ See, e.g., the Archaeological Resources Protection Act of 1979 (16 USC 470aa–470mm, in particular, [section 470hh](#)); and the NHPA (54 USC 300101 *et seq.*, in particular, [section 307103](#)).

293 developing regulations that relate to Tribal self-government, trust resources, or treaty or other
294 rights. Executive Order 13175 also establishes criteria for the following:
295 • policymaking, including directives to respect Tribal self-government and sovereignty,
296 honor Tribal treaty and other rights, and strive to meet the responsibilities that arise from
297 the unique legal relationship between the Federal Government and Indian Tribes;
298 • granting Indian Tribes the maximum administrative discretion possible;
299 • encouraging Indian Tribes to develop their own policies to achieve program objectives;
300 • where possible, deferring to Indian Tribes to establish standards; and
301 • determining whether to establish Federal standards, consult as to the need for Federal
302 standards and any alternatives to preserve the prerogatives and authority of Indian Tribes.

303 See 512 DM 4, Figure 1 and RM-71C.

304 **12. Competencies and Training**

305 The NPS will review staff positions to update core competencies for consultation and will
306 identify and provide required training opportunities for those competencies. The NPS will
307 develop and implement performance standards and accountability processes by which identified
308 employees will be measured on progress toward meeting the goals of Executive Order 13175 and
309 subsequent memoranda and policies. National, regional, and park managers and staff will be
310 expected to complete the required training and possess the core competencies necessary for
311 effective consultation.

312 The NPS will prioritize and make available required training for all staff who may be involved in
313 consultation to ensure they have an appropriate understanding of applicable laws and policies,
314 treaty rights, and trust responsibilities. Additionally, the NPS will foster and actively support
315 continuous learning and skills development for staff with consultation responsibilities and will
316 use a variety of communication methods to share information about consultation with employees
317 and the public. All NPS employees should attend cross cultural trainings when offered by the
318 NPS or DOI.

319 The NPS will support joint training opportunities with Indian Tribes.

320 **13. Roles and Responsibilities**

321 **13.1 Director**

322 As the head of the NPS, the Director will:

- 323 • acknowledge and support consultation as a means to uphold Tribal sovereignty and self-
324 determination;
- 325 • provide Service-wide leadership on effective and meaningful consultation;
- 326 • designate the Supervisory Native American Affairs Liaison (NAAL) as the agency's
327 Tribal Liaison Officer per section 4.5(C) of 512 DM 4; and
- 328 • ensure all Washington Support Office (WASO) associate and assistant directors are fully
329 trained in, and possess the necessary competencies for, effective consultation.

330 **13.2 Office of Native American Affairs**

331 The NAAL, ONAA, is an assistant to the Director within the Office of the Director. The NAAL
332 will:

- 333 • lead and guide consultation policy implementation with and for NPS employees with
334 consultation responsibilities;
- 335 • complete the required training and possess the consultation core competencies, including
336 co-stewardship and Indigenous knowledge, and support continuous learning;
- 337 • serve as the NPS’s lead consultation SME;
- 338 • coordinate consultation strategies with WASO staff who are designing and implementing
339 national programs or policies;
- 340 • review all requests to use ONPS or donated funds to purchase refreshments when inviting
341 Tribal representatives to consultations, and maintain a record of all approvals, denials,
342 and purchases;
- 343 • facilitate Service-wide training opportunities for NPS employees with consultation
344 responsibilities;
- 345 • regularly communicate with regional Tribal Relations programs and others with
346 consultation responsibilities; and
- 347 • issue, revise, and update RM-71C, as necessary.

348 **13.3 WASO Associate and Assistant Directors and Program Managers**

349 WASO associate and assistant directors and program managers will:

- 350 • complete the required training and possess the consultation core competencies, including
351 co-stewardship and Indigenous knowledge, and support continuous learning;
- 352 • integrate the direction from this Order into relevant national policies, programs, planning,
353 procedures, practices, and projects;
- 354 • actively participate in consultations where they are the decision makers;
- 355 • ensure that WASO and program staff with consultation responsibilities complete required
356 training and possess the necessary core competencies, including co-stewardship and
357 Indigenous knowledge, and support continuous learning;
- 358 • direct WASO and program staff to engage in consultation from the early stages of policy,
359 program, planning, procedure, practice, or project development through its completion;
- 360 • where appropriate, offer guidance to partners about engaging Tribes in external program
361 delivery and partnership development opportunities; and
- 362 • where appropriate, assist parks and regions with consultation requirements.

363 **13.4 Associate Director, Workforce and Inclusion**

364 The Associate Director, Workforce and Inclusion will:

- 365 • provide Service-wide guidance on development of
 - 366 ○ consultation standards for new and existing position descriptions;
 - 367 ○ competencies and performance measures for managers and employees with
368 consultation responsibilities; and
- 369 • support collaboration between the Learning and Development Program, ONAA, regional
370 Tribal liaisons, and WASO associate and assistant directors on the development and
371 presentation of consultation training.

372 **13.5 Regional Directors**

373 Regional directors will:

- 374 • complete the required training and possess the consultation core competencies, including
- 375 co-stewardship and Indigenous knowledge, and support continuous learning;
- 376 • integrate the direction from this Order into relevant regional policies, programs, planning,
- 377 procedures, practices, and projects;
- 378 • host a biennial regional Indigenous meeting in consultation with Indian Tribes;
- 379 • report on biennial regional Indigenous meeting-related consultations to ONAA in the
- 380 Annual Tribal Consultation Report (see section 6.2, above);
- 381 • coordinate on matters relevant to Indian Tribes across regional boundaries with shared or
- 382 immediately adjacent sites;
- 383 • keep ONAA apprised of significant consultations and associated actions occurring within
- 384 their respective regions;
- 385 • actively participate in consultations where they are the decision makers;
- 386 • ensure that regional and park staff with consultation responsibilities complete required
- 387 training and possess the necessary core competencies, including co-stewardship and
- 388 Indigenous knowledge, and support continuous learning;
- 389 • ensure that regional and park staff obtain ONAA approval in advance for use of ONPS or
- 390 donated funds to purchase refreshments when inviting Tribal representatives to
- 391 consultations;
- 392 • prioritize consultation when developing an annual budget to support regional
- 393 consultations and the biennial meeting;
- 394 • employ and support regional Tribal liaison(s) to assist in the coordination of regional and
- 395 park consultations; and
- 396 • direct regional and park staff (including superintendents) to engage in consultation from
- 397 the early stages of policy, program, planning, procedure, practice, or project development
- 398 through its completion.

399 **13.6 Regional Program Directors and Program Managers**

400 Regional program directors and program managers will:

- 401 • complete the required training and possess the consultation core competencies, including
- 402 co-stewardship and Indigenous knowledge, and support continuous learning;
- 403 • actively participate in consultations where they are the decision makers and support
- 404 consultations, including any biennial regional meetings with Indian Tribes;
- 405 • keep the Regional Tribal Liaison apprised of consultations and associated actions
- 406 occurring within their respective programs;
- 407 • keep the Regional Tribal Liaison informed of all related agreements entered into with
- 408 Tribes and Tribal organizations; and
- 409 • direct regional program staff to engage in consultation from the early stages of policy,
- 410 program, planning, procedure, practice, or project development through its completion.

411 **13.7 Regional Tribal Liaisons**

412 Regional Tribal liaisons will:

- 413 • complete the required training and possess the consultation core competencies, including

- 414 co-stewardship and Indigenous knowledge, and support continuous learning;
- 415 • advise regional directors and regional and park staff on the development of a
- 416 comprehensive consultation strategy;
- 417 • participate in the development of regional and park consultation efforts;
- 418 • develop communication strategy with park-level Tribal liaisons;
- 419 • lead gathering and analysis of regional consultation data for the annual report to the
- 420 Secretary;
- 421 • keep ONAA apprised of all new, related agreements entered into with Tribes and Tribal
- 422 organizations within the region;
- 423 • keep the Regional Director apprised of significant consultations and associated activities;
- 424 • coordinate and implement Indigenously informed consultation training for regional and
- 425 park staff with the Learning and Development Program;
- 426 • review and recommend, as appropriate, regional budget support for consultations; and
- 427 • share consultation best practices information with park managers and park Tribal liaisons.

428 **13.8 Superintendents/Park Managers**

429 Superintendents/park managers will:

- 430 • complete the required training and possess the consultation core competencies, including
- 431 co-stewardship and Indigenous knowledge, and support continuous learning;
- 432 • actively participate in consultations where they are the decision makers and support
- 433 consultations, including any biennial regional meetings with Indian Tribes;
- 434 • engage in collaborative, meaningful, and ongoing relationship building with Indian
- 435 Tribes;
- 436 • develop, in consultation with Indian Tribes, mutually acceptable protocols to guide
- 437 formal nation-to-nation relationships;
- 438 • be responsible for maintaining a park's consultation records;
- 439 • be responsible for ensuring park staff is aware of consultation requirements and is
- 440 adequately trained;
- 441 • keep the Regional Tribal Liaison apprised of consultations and associated actions
- 442 occurring within their respective program;
- 443 • keep the Regional Tribal Liaison informed of all related agreements entered into with
- 444 Tribes and Tribal organizations;
- 445 • obtain ONAA approval in advance for use of ONPS or donated funds to purchase
- 446 refreshments when inviting Tribal representatives to consultations, and provide
- 447 documentation of purchase to ONAA;
- 448 • prioritize consultation when developing an annual budget to support park consultations
- 449 and ensure consultation is addressed within the budget section of the Project Management
- 450 Information System as part of any project or other compliance;
- 451 • designate a park Tribal liaison, as appropriate;
- 452 • direct park staff to engage in consultation from the early stages of policy, program,
- 453 planning, procedure, practice, or project development through its completion; and
- 454 • ensure park contractors, cooperating associations, and other partners are fully engaged in
- 455 consultation, when necessary.

30-day external review draft. Submit comments by **Monday, August 26, 2024**, using the [Comment Form](#), to amindian@nps.gov. The draft Order and Comment Form are online at <https://www.nps.gov/subjects/policy/new.htm>.

456 **13.9 Park Tribal Liaisons**

457 Park Tribal liaisons will:

- 458 • complete the required training and possess the consultation core competencies, including
- 459 co-stewardship and Indigenous knowledge;
- 460 • assist the Superintendent before, during and after consultations;
- 461 • work closely with their respective park and division managers to establish positive on-
- 462 going working relationships with Indian Tribes and Tribal organizations; and
- 463 • respond in a timely manner to the annual consultation and S.O. 3342 data call, as well as
- 464 other tribally relevant data calls throughout the year through their respective regional
- 465 Tribal liaisons.

466 **14. For Further Reference**

467 The statutes, Executive orders, Presidential memoranda, Secretary's orders, DM chapters and
468 NPS policies pertaining to consultation are extensive. A listing of them may be found in RM-
469 71C.

470 *-----End of Director's Order-----*