



July 9, 2025

The Honorable Doug Burgum
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240
via email: oliver.whaley@bia.gov

RE: Request for Implementation of Tribal Consultation Best Practices

Dear Secretary Burgum:

On behalf of the undersigned Tribal organization members of the Coalition for Tribal Sovereignty (CTS), consisting of more than 36 tribal organizations serving Tribal Nations and Tribal citizens and communities,¹ we commend the Department of the Interior (DOI) for engaging in government-to-government consultations with Tribal Nations on several key issues. Tribal consultation is *essential* to a meaningful and productive relationship between the United States and Tribal Nation governments. Learning to engage in effective Tribal consultation requires taking the time to understand Tribal Nations' inherent sovereignty and the United States' trust and treaty obligations to Indian Country—and we provide this letter in support of that goal.

To maximize the effectiveness of Tribal consultations moving forward, CTS respectfully requests that DOI implement the following Tribal consultation best practices.²

I. BEST PRACTICES TO IMPLEMENT BEFORE THE DAY OF A TRIBAL CONSULTATION SESSION

A. CHOOSING THE SCOPE AND TIMING FOR TRIBAL CONSULTATION

- **Best Practice: Schedule Tribal consultation to occur *before* federal officials have made a decision.** Tribal consultation is more than the mere conveyance of information by federal officials to Tribal leaders. Tribal consultation requires the federal government to discuss federal proposals *before* it makes decisions on how to move forward. Meaningful Tribal consultation must adhere to DOI's own policy "to invite Tribes to consult early in the planning process and throughout the decision-making process and engage in robust, interactive, pre-decisional, informative, and transparent consultation when planning actions with Tribal implications."³

¹ A CTS briefing paper on the formation and messaging of CTS can be found [here](#), and more information about CTS can be found on our website [here](#).

² A CTS briefing paper on Tribal consultation best practices can be accessed via CTS's website [here](#).

³ U.S. Department of the Interior, *Department of the Interior Policy on Consultation with Indian Tribes*, 512 DM 4 (2022) (*available* [here](#)) (emphasis added).

- **Best Practice: Provide Tribal Nations sufficient notice prior to Tribal consultation sessions beginning.** Meaningful Tribal leader participation in consultation sessions is more likely to occur with more advanced notice provided. Federal agencies should endeavor to follow DOI’s own recommendation and “[i]nitiate consultation as soon as they are contemplating a Federal policy or action that may impact Tribal interests.”⁴ *At a minimum*, federal agencies should seek to provide Tribal Nations notice at least 30 days before the first consultation session.
- **Best Practice: Confine the scope of a Tribal consultation to focus on a single topic or a manageable number of closely related topics.** Tribal consultations with expansive scopes raise barriers to meaningful participation by Tribal leaders and meaningful dialogue between governments. Tribal consultations with narrow scopes allow for consensus to emerge more clearly in the record and help ensure that government officials from Tribal Nations and the United States are well-versed in the specific topic being discussed.

For example, the recent DOI Tribal consultation on “Indian Affairs Workforce Efficiency and Productivity (EO 14210) and Emergency Permitting Procedures to Strengthen Domestic Energy Supply” covered too many different and unrelated topics to allow full participation of Tribal leaders and resulted in sessions that lasted, in some cases, eight hours or more. A better practice would have been to hold separate Tribal consultations on each of the following topics: potential reorganization of DOI; ways to increase efficiency at DOI; ways to strengthen and grow self-determination and self-governance through the Indian Self-Determination and Education Assistance Act (ISDEAA); evaluating new proposed National Environmental Policy Act (NEPA) procedures; evaluating new proposed Endangered Species Act (ESA) procedures; and evaluating new proposed National Historic Preservation Act (NHPA) procedures. Doing so would have reduced the need for all representatives interested in commenting on only one issue to spend an entire day waiting to speak. Additionally, given the technical nature of these topics, collecting meaningful technical feedback would likely have increased if Tribal consultation had been more topically focused. Lastly, the Tribal consultation records for each topic would have been more clear.

B. SCHEDULING TRIBAL CONSULTATION SESSIONS

- **Best Practice: Schedule ample Tribal consultation sessions to ensure all Tribal leaders wishing to participate are able to do so; at a minimum,**

⁴ U.S. Departments of the Interior, the Army, *Improving Tribal Consultation and Tribal Involvement in Federal Infrastructure Decisions* (January 2017) (available [here](#)).

Tribal consultation opportunities should be provided within each of the 12 Bureau of Indian Affairs (BIA) regions. It is critical for the federal government to ensure adequate time for all 574 federally recognized Tribal Nations to have the opportunity to engage in Tribal consultation.⁵ It is also critical DOI representatives travel throughout the country to each major area where Tribal Nations are located. *At a minimum*, the federal government should hold multiple consultation sessions and take steps to include all geographic regions of the country.

- **Best Practice: Reserve space for Tribal leaders to gather and caucus (without federal agents in the room) prior to the start of a Tribal consultation session, preferably for a period of at least two hours.** It is customary to provide Tribal leaders with an opportunity to meet and caucus with one another prior to meeting with the federal government. This practice allows Tribal Nations to engage with one another to discuss the issues at hand, and it frequently results in the prioritization of comments by Tribal leaders, the reduction of repetitive comments made during consultation sessions, and a more unified message.

C. ADEQUATELY INFORMING TRIBAL LEADERSHIP

- **Best Practice: Provide Tribal leaders with a *full agenda*, *all supporting information*, and a *clear statement* of the federal government's proposed actions and the scope of the Tribal consultation *before any sessions commence*.** Tribal Nations can provide more relevant and poignant feedback to the federal government when the federal government is transparent about its thoughts, plans, and proposed actions. The more prep time Tribal Nations have with complete information from the federal government, the more time Tribal Nations have to produce useful input and devise solutions to shared challenges.
- **Best Practice: Offer Tribal Nations technical assistance *before* Tribal consultation sessions begin, especially for highly technical or specialized consultation topics.** Tribal Nations vary in their amount of technical capacity, and no single Tribal Nation has all the scientific, legal, and technical resources of the federal government. Thus, particularly when consultation topics involve highly specialized legal, scientific, or technical knowledge, the federal government must offer technical assistance to Tribal Nations to ensure a fully informed and meaningful government-to-government dialogue is possible.

⁵ Additionally, in the context of education, 25 U.S.C. § 2011 requires not only Tribal Nation consultation, but also opportunities for “interested parties,” including Bureau of Indian Education “school officials,” to be given an opportunity to participate in discussions and joint deliberations and to present issues, when applicable.

- **Best Practice: Inform Tribal leaders of all key federal decision-makers who will be in attendance at each Tribal consultation session—providing their names and position titles—before any sessions commence.** Out of respect for our sovereignty—and in the interest of efficiency—Tribal Nations expect the federal government to send individuals with decision-making authority to *all* Tribal consultation sessions. Elected Tribal leaders speak on behalf of our Tribal Nations and have authority to do so, and we expect the same from the United States. It is frustrating and a poor use of time when the United States does not have anyone in the room who can answer questions and make decisions on behalf of the agency. Additionally, when we do not know who we will be speaking with ahead of time, we cannot tailor our comments to their roles and expertise. The federal government should provide Tribal Nations with the names and positions of federal decision-makers who will be in attendance *before* the consultation sessions begin to allow Tribal Nations to prepare remarks appropriately.

II. BEST PRACTICES TO IMPLEMENT DURING THE DAY OF A TRIBAL CONSULTATION SESSION

- **Best Practice: Ensure that, at a minimum, there is always at least one federal decision-maker in attendance from each relevant agency or office.** DOI policy defines “formal government-to-government consultation” as a process having both “Department [of the Interior] and Tribal officials with decision-making authorities present.”⁶ The federal government must take steps to guarantee key federal decision-makers are not only in attendance at all Tribal consultation sessions, but also are well-versed on the meaning of Tribal sovereignty as well as any topics being discussed.
- **Best Practice: Engage in meaningful back-and-forth dialogue with Tribal leaders.** Listening to Tribal leaders is a fundamental component of Tribal consultation, but meaningful consultation requires DOI “to seek consensus” with Tribal Nations via “robust, interactive . . . and transparent” dialogue. To achieve this end, in addition to having fully briefed federal decision-makers present, federal agencies should also take steps to include, as needed, additional federal officials with relevant expertise to improve the quality of dialogue and to be able to answer Tribal leader questions in the event the federal decision-maker cannot do so.
- **Best Practice: Plan for necessary breaks and provide food and drink for Tribal leaders when sessions are scheduled for at least three hours, especially when food and drink are not easily accessible.** Tribal leaders spend considerable time and resources to participate in federal consultation sessions—particularly when participating in-person. Many Tribal leaders

⁶ U.S. Department of the Interior, *Department of the Interior Policy on Consultation with Indian Tribes* (2022).

are elders. The federal government should take steps to ensure that all participants can maintain focus and remain reasonably comfortable throughout the process by scheduling breaks and meals, as necessary, during the consultation session.

III. BEST PRACTICES TO IMPLEMENT AFTER TRIBAL CONSULTATION SESSIONS HAVE ENDED

- **Best Practice: Accept written comments for a minimum of 30 days after the final in-person Tribal consultation session has taken place.** While Tribal consultation sessions are an excellent place for direct communication to take place, the federal government should also always provide a means for formal, written comments to be submitted on the consultation topic. This practice allows for increased participation by Tribal Nations unable to attend one or more consultation sessions, and it allows for longer and/or more technical commentary that may not be practical during in-person sessions. It also allows for Tribal Nation comments that reflect what was shared during the Tribal consultation sessions. With rare exceptions for more time-sensitive circumstances, written comment submission deadlines should be scheduled a minimum of 30 days after the last consultation session so that Tribal Nations can incorporate anything learned during the sessions into their final, formal comments.
- **Best Practice: Provide Tribal leaders with transcripts and recordings of all Tribal consultation sessions before the written comment period has ended—redacting sensitive Tribal data and information, as needed.** Tribal Nations should be provided with transcripts and recordings of consultation sessions no later than 14 days after the session in the interest of transparency and to preserve a record of all government-to-government dialogues. Additionally, producing transcripts and recordings allows Tribal Nations to fully review the ongoing dialogue and incorporate valuable information from the consultation sessions into any submitted written comments.
- **Best Practice: Produce a written report after the consultation comment period has ended summarizing the Tribal consultation comments and each comment's impact on DOI's decision-making.** No later than 30 days after the Tribal consultation comment window has closed, the federal government should release a final report summarizing each Tribal consultation session, synthesizing the comments and recommendations received, and sharing DOI's understanding of Tribal leaders' feedback, concerns, and proposed solutions to existing challenges. Additionally, no later than when DOI has made a decision or taken action, DOI should submit a written report (either as part of the original report or as an addendum to that report) detailing how Tribal leader input impacted DOI



actions and, if DOI did not implement Tribal leader feedback, an explanation as to why it did not do so.

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Robust and healthy relationships between Tribal Nations and the United States are of paramount importance to protecting the rights and interests of our citizens and communities. Tribal consultation also results in better and less costly decisions for all parties. We are eager to engage in meaningful dialogue with DOI and other federal agencies anytime our sovereign rights may be impacted. We urge DOI to implement our recommendations so that our time together at the upcoming Tribal consultation sessions can be used efficiently and with an eye towards achieving consensus on how to move forward together.

Sincerely,

Affiliated Tribes of Northwest Indians (ATNI)
Alaska Native Health Board (ANHB)
American Indian Higher Education Consortium (AIHEC)
Indian Gaming Association (IGA)
Inter Tribal Association of Arizona (ITAA)
Great Plains Tribal Chairmen's Association (GPTCA)
National American Indian Housing Council (NAIHC)
National Association of Tribal Historic Preservation Officers (NATHPO)
National Congress of American Indians (NCAI)
National Indian Child Welfare Association (NICWA)
National Indian Education Association (NIEA)
National Indigenous Women's Resource Center (NIWRC)
Rocky Mountain Tribal Leaders Council (RMTLC)
United South & Eastern Tribes Sovereignty Protection Fund (USET SPF)

cc:

Scott Davis
Bryan Mercier
Tony Dearman
Margaret Williams