



Tribal Consultation Plan

Proposed Programmatic Agreement for U.S. Customs and Border Protection (CBP) Undertakings along the U.S. Northern Border

CBP has analyzed the proposed Programmatic Agreement (PA) for its undertakings along the Northern Border of the U.S. and has determined that consultation with Tribal Nations is required, pursuant to Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*. The following Tribal Consultation Plan has been developed in adherence to the principles and key policy tenets of Presidential Memorandum of November 30, 2022 (*Uniform Standards for Tribal Consultation*) and Department of Homeland Security (DHS) Directive 071-04, "Consultation and Coordination with Tribal Nations" and its implementing instructions (DHS Instruction 071-0-001: Implementing Coordination with Tribal Nations").

Invitations for Tribal Governments to consult:

- Invitations to consult will be sent via email. CBP will host at least two (2) sets of two (2) consulting party meetings with Tribal Governments, four (4) in total (separate from general consulting party meetings). The first two (2) meetings will discuss the proposed PA, undertakings, and tribal consultation protocols; the second two (2) meetings will follow-up on comments and recommendations made during consultation and provide a revised draft PA document. Government-to-Government meetings will be officiated by CBP Enterprise Services Office of Facilities and Asset Management Assistant Commissioner Yvonne R. Medina.
- CBP will aim to provide Tribal Governments with a sixty (60) calendar day notice for consultation meetings, listening sessions, etc. but no less than forty-five (45) calendar days of advance notice will be provided for consultation meetings.

The point of contact (POC) for historic preservation will work in tandem with the CBP Office of Intergovernmental Public Liaison to ensure that all Tribal consultation respects tribal sovereignty and is conducted as government-to-government. The CBP POC is a subject matter expert and will support CBP leadership. The POC will be present at all consultation meetings and will conduct listening sessions and/or additional conversations, as needed or requested. The POC will return phone calls and emails no later than one (1) business day (unless otherwise specified in out of office message).

CBP POC for Historic Preservation:

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Historic Preservation Program Manager

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Tribal Consulting Party Meetings

- Consulting party meetings will be held on Microsoft Teams. Participants will be asked to register for one of the proposed meetings.
- Each Tribal consultation will be conducted by a Tribal Consultation Official (an employee of the Federal Government at the Deputy Assistant Secretary level or above who has decision-making authority over the issues discussed).
- The CBP POC shall send agendas for each consultation meeting and any relevant information to assist in consultation to Tribal governments.
- Unforeseen scheduling conflicts or changes in scheduling: if a scheduled meeting needs to change, CBP will provide alternate dates with at least forty-five (45) calendar days advance notice.
- Participants will be asked to sign in by providing their name and affiliation via chat for the record. Each meeting's chat comments will be saved for record keeping purposes.
- Duration of consultation meetings will be two (2) hours or less. The format will allow a meaningful dialogue and exchange including (but not limited to) questions and/or recommendations.
- Questions may be emailed to the CBP POC at any time during the consultation process. The CBP POC will respond as quickly as possible. If a question requires additional information or CBP research to provide a meaningful answer, the CBP POC will respond within thirty (30) calendar days of receipt of the question.
- Copies of the slide deck for each meeting will be made available to all Tribal consulting parties.
- CBP staff will ask meeting participants if they wish to be recorded and obtain consent before beginning recording.

Post-Consultation Actions

After each consulting party meeting and/or listening session, CBP will do the following:

- CBP will draft meeting minutes to include a meeting summary, questions, comments, and actionable items.
- The CBP POC will provide meeting minutes via email to Tribal consulting parties to review before it is published on CBP's website. Consulting parties will have fifteen (15) calendar days to provide corrections.
- Fifteen (15) calendar days from emailing meeting summary, CBP will publish meeting notes on its [Cultural Resources](#) website. To the extent allowable, comments subject to

privacy requirements or comments providing sensitive information will not be shared without permission, if requested by a Tribal government. Please refer to Public Information and Public Comments disclosure disclaimer below.

Comments from Tribal Governments

- CBP will provide Tribal Governments at least thirty (30) calendar days to provide official comments after each Tribal consulting party meeting.
- CBP shall respond to comments within thirty (30) calendar days and provide an explanation of how comments are being acted upon and how the results of consultation meetings have influenced decision-making.

CBP shall conduct additional consultation meetings with Tribal Governments on a case-by-case basis, as requested by Tribal Governments, and in coordination with the CBP Office of Intergovernmental Public Liaison.

Public Information and Public Comments

All information related to the Northern Border PA development consultation will be placed on CBP's [Cultural Resources website](#). Public documents related to the development of the PA will include (but are not limited to): dates of consulting party meetings, consultation schedule, redline drafts of the PA, a question-and-answer matrix related to the PA, summaries of each consulting party meeting and copies of meeting presentations, and any relevant information needed to properly understand the development of the PA.

Records of consultation for program alternatives for Section 106 compliance are considered public documents subject to the Freedom of Information Act (FOIA). CBP may only withhold certain information from FOIA requests and public dissemination when identified by a Tribal Government as information having the potential to risk harm to historic property or impede the use of a religious site by practitioners pursuant to Section 304 of the National Historic Preservation Act, as amended, 36 Code of Federal Regulations Part 800.11(c), the Archaeological Resources Protection Act (ARPA), and any other applicable laws. After consulting with the Secretary of the Interior, CBP may also withhold from public disclosure any information that is protected by FOIA exemptions (for additional information, see [FOIA exemptions](#)).