

## Best Management Practices

### Goal.

The goal of this section is to identify best practices that will avoid, neutralize or overcome common barriers to effective tribal involvement. Guidance on Best Management Practices in Native American consultation is available on line from many sources. The Advisory Council on Historic Preservation's Office of Native American Affairs provides the documents titled, *Consultation with Indian Tribes in the Section 106 Process: A Handbook* (<http://www.achp.gov/regs-tribes2008.pdf>; provide direct link) and *Tribal Consultation Principles* (<http://www.achp.gov/docs/Tribal%20Consultation%20Principles%20March%202010.pdf>; provide a direct link), among others. Many federal agencies such as the National Park Service (<http://www.nps.gov/history/howto/PAToolkit/consult.htm>; provide a direct link), the Federal Highway Administration (<http://www.tribalplanning.fhwa.dot.gov/tcqa.aspx#r7>; provide a direct link) and the Federal Communications Commission (<http://environment.fhwa.dot.gov/histpres/tribal.asp>; provide a direct link) also provide guidance on tribal consultation and coordination. In addition the National Conference of Tribal Historic Preservation officers has produced *Tribal Consultation: Best Practices in Historic Preservation* ([http://www.nathpo.org/PDF/Tribal\\_Consultation.pdf](http://www.nathpo.org/PDF/Tribal_Consultation.pdf); provide a direct link).

Tribal consultation and coordination should be an essential element in environmental reviews. It is a common misunderstanding that tribal consultation is only required on tribal lands or only with federally recognized tribes. Section 106 of the National Historic Preservation Act, for example, requires consultation with federally recognized tribes on lands that may be ancestral homelands of an Indian tribe and may contain historic properties of religious and cultural significance to them. However, it encourages consultation with others who may have a "demonstrated interest".

It is important to consider what *Consultation* means. The Advisory Council on Historic Preservation defines *Consultation* as the process of seeking, discussing, and considering views of other participants, and, where feasible, seeking agreement with them on issues arising in the review process. The consultation process must give an Indian tribe a reasonable opportunity to identify its concerns, to participate in identification and evaluation surveys of historic properties, including those that may be of religious and cultural importance to the tribe, to offer their views on the project's effects to those properties and to participate in resolving any effects. To be meaningful consultation should be initiated early in the process when the fullest range of alternatives is available for consideration.

The initial consultation should be respectful and directed to the chief or tribal leaders from the responsible agency. Once a tribe has accepted the initial opportunity to comment, it may be acceptable to work with designated staff. Prepare information in plain English, avoiding dense technical language. Flexibility is key. Face to face meetings may be appropriate. Hold individual or small meetings to help to help identify the tribe's interests and knowledge. Listen. Agencies should document all consultation, phone calls, meetings, etc and keep notes on the

content and take care to follow any agreements reached. Suggested resources include *The Model Plan for Public Participation*. Office of Environmental Justice, National Environmental Justice Advisory Committee (<http://www.epa.gov/projctxl/nejac.htm>; provide a direct link) and *Public Involvement Techniques for Transportation Decision-making with Ethnic, Minority and Low-Income Groups*. U.S. Department of Transportation [http://www.fhwa.dot.gov/planning/public\\_involvement/publications/techniques/index.cfm](http://www.fhwa.dot.gov/planning/public_involvement/publications/techniques/index.cfm); provide a direct link)

### **Providing Project Information.**

The agency should develop a review packet that provides the full scope of the project and the project's boundaries. Present the information in plain English, avoiding dense technical language. At a minimum this information will include:

- Responsible agency, the nature of its involvement, and an agency contact person with his/her address, phone, and e-mail;
- Project description, including size and configuration of the proposed action, total acreage, what is known about past and current land use, and the type and extent of the proposed ground disturbance, the location (street address if available);
- A copy of the current plans;
- Maps that clearly identify the location., including a copy of the a 7.5" USGS map
- Clearly defined Area of Potential Effects (APE) for both direct and indirect (visual, audible, atmospheric changes) effects, described verbally and drawn on a map;
- Information on any previous studies and recorded archaeological sites resources within the APE;
- Sharp, clear photographs of the project area, including views from different perspectives. All photos should be clearly labeled and keyed to the map indicating location and direction of the view;
- The project schedule.