


TITLE:	Tribal Relations	
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CONTACT INFORMATION:	Office of Tribal Relations Tribal Liaison	
AUTHORIZING SOURCES:	43.376 government-to-government Relationship with Indian Tribes ESHB 1753 Chapter 253, Laws of 2022 - Climate Commitment Act Funding-Tribal Consultation Executive Order 21-02 Archaeological and Cultural Resources Presidential Executive Order #13175 (2000) Presidential Memoranda: Tribal Consultation (2009) SB 5141 Chapter 314, Laws of 2021 - HEAL Act (Environmental Justice-various provisions) Section 106 of the National Historic and Preservation Act SHB 1717 Chapter 252, Laws of 2022 - Growth Management Act Planning- Tribal Participation Washington State 1989 Centennial Accord Washington State 1999 Centennial Accord Millennium Agreement	
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APPROVAL:	 <small>boxSIGN 1JROZPPP-1BLXL7LS</small> <hr/> <i>Kyla Shkerich Blair, Chief of Staff</i>	<hr/> Nov 29, 2023 <i>Date</i>

SCOPE

Tribal Relations is an overarching term that encompasses all levels of tribal communication and partnership from informal coordination to the formal government-to-government (G2G) consultation, whether initiated by the Department of Commerce or the federally recognized

tribe(s). The Department of Commerce (Commerce) respects and honors tribal sovereignty by engaging in a meaningful relationship in policy, program development, and administration. The G2G relationship will be supplemented and enhanced with regular informal engagement and coordination between Commerce and the tribes. G2G consultation and all levels of tribal engagement occurs independent of the public involvement and stakeholder engagement process.

This policy defines Commerce's commitment to meaningful and effective tribal relations, in the planning and implementation of Commerce programs and services, delivered by Commerce or by contractors, to ensure effective communication, collaboration, and relationship building with tribal partners and provision of quality services to tribal people in Washington.

POLICY

A. Commerce internal education and cultural awareness.

Commerce staff will learn a basic history of, and the laws that apply to state agencies, state agencies working with tribal governments through internal educational offerings. Updated best practices and educational opportunities will be communicated by the Office of Tribal Relations in partnership with the Commerce Training Manager on a regular cadence.

B. Commerce communications, policy, and practices reflect respect for tribal sovereignty.

Agency processes, written communications, agency agreements with tribal governments, funding opportunities and other documentation and processes will reflect our dedication to supporting tribal sovereignty.

Tribal data sovereignty is a priority. Data management practices are subject to the sovereign oversight of federally recognized tribe(s) to outline and give permission for Commerce to utilize the data management parameters set by tribes, which may include use being limited to a set period of time and to specifically stated purpose(s) with the understanding that Commerce does not own the data.

Programs that work directly with tribal communities and have an oversight body such as a commission, work group, and/or a community board will have proportionate tribal representation based on the overall makeup of the governing body.

All agency communications with a tribal audience will be conducted in accordance with the Tribal Relations Resource Guide and/or in partnership with the Office of Tribal Relations.

C. Tribes will engage to the degree that benefits their community and at their discretion.

D. This policy is in full force and effect regardless of the degree of participation of any tribe(s).

E. Commerce appointing and hiring authorities shall request input and participation from OTR while developing positions that anticipate interacting with director level and/or elected tribal representatives in any regular intervals. In the interview phase, OTR will offer support in inviting a tribal representative to sit on the hiring panel.

F. Commerce recognizes the rights of the tribes to bring their issues and needs to the direct attention of the Governor and/or Director under the Centennial Accord, at any time and in processed outside the bounds of this policy.

DEFINITIONS

Tribal coordination: Informal engagement would be conversations focused on information sharing between Commerce and tribal staff, or when working with tribal groups/organizations that are not part of tribal government, such as urban Indian organizations and/or tribal populations not located in their Indian Country. This includes non-federally recognized tribes. Informal engagement will not impact any formal Commerce policy or process as the conversations are informational in nature. Please note that when informally engaging with non-federally recognized tribes, it may become appropriate to include staff from the Office of Tribal Relations if tribal leadership is present.

Federally recognized tribe(s): Any one of the [574 American Indian or Alaskan Native tribes](#), confederations, and nations formally recognized by the United States government. According to the Justice Department, "recognition" is a legal term meaning that the federal government recognizes a government-to-government relationship with a tribe, and that a tribe exists politically in a "domestic dependent nation" status. Federally recognized tribes possess certain inherent powers of self-government and are entitled to certain federal benefits, services, and protections because of the special trust relationship.¹ There is a long and complex history around the issue of federal recognition, including de-recognition of tribes with whom the US government had active treaties (primarily during the [Termination Era](#)). Federal recognition is one of the elements Commerce uses in determining whether to follow government-to-government protocols with tribes. When provisos do not distinctly prohibit funding tribes, we consider them eligible.

Formal government-to-government (G2G): The Governor's Office of Indian Affairs describes G2G as a two-way dialogue between official representatives of tribes and state agencies "to reach mutually agreeable decisions that acknowledge the broad interests within the state, including interests of concern to state government and interests of concern to tribal governments, while recognizing agreement cannot

¹ <https://www.justice.gov/otj/about-native-americans>

always be reached.² Formal G2G consultation can be initiated by the head of a state agency (such as the Director of Commerce), a higher official, or by the corresponding tribal leadership.³ More information is available under [Types of Tribal Consultation](#) on the [IntraCOM Tribal Engagement page](#).

Informal consultation: Informal or facilitated engagement should be utilized when Commerce is sharing information with a request for feedback, gathering information to inform updates, or making changes to a program, policy, or administrative procedure. A specific example would be engaging with tribal partners around any significant agency action. Tribal partners may request facilitated engagement for any of the above reasons or any they deem appropriate. Facilitated engagement should happen early in the planning process, before any decisions have been made; it should be conducted on the same timeline but on a separate track as other stakeholder engagement. In the event that elected tribal leadership attends a facilitated engagement event, Office of Tribal Relations staff will be sure to share the session and its outcomes with the Commerce Director for awareness. Please note that when holding virtual sessions with tribal partners we do not default to recording the session unless directly asked to and with permission of all in attendance.

Tribal data sovereignty: tribal nations are sovereign governments. Due to their sovereign status, Commerce has no right to hold or utilize tribal data without written permission from a tribal government. Under [RCW 42.56.300](#) tribal data designated as culturally sensitive is not subject to public records requests. Commerce will abide by tribal determinations of cultural sensitivity.

Tribal Relations: an overarching term that encompasses all levels of tribal communication and partnership from informal coordination to the formal government-to-government (G2G) consultation, whether initiated by the Department of Commerce or the federally recognized tribe(s).

Tribal sovereignty: According to the National Congress of American Indians, “The essence of tribal sovereignty is the ability to govern and to protect and enhance the health, safety, and welfare of tribal citizens within tribal territory. Tribal governments maintain the power to determine their own governance structures and enforce laws through police departments and tribal courts. The governments exercise these inherent rights through the development of their distinct forms of government, determining citizenship; establishing civil and criminal laws for their nations; taxing, licensing, regulating, and maintaining and exercising the power to exclude wrongdoers from tribal lands.”

Like any sovereign nation, tribes have an inherent right to govern themselves free from the influence of other political and legal bodies. This has been repeatedly reaffirmed in the treaties originally agreed upon with the federal government. There are numerous categories of governing that include government structure, justice, tribal citizenship, commerce, taxation and more. Within each category, true independence from the reach of both federal and state government authority has been and continues to be an evolving topic.

RELATED RESOURCES

² [Section I - Background | GOIA \(wa.gov\)](#)

³ [Section I - Background | GOIA \(wa.gov\)](#); [Section II - Consultation Process | GOIA \(wa.gov\)](#)

[Tribal Relations Resources Guide](#)
[Tribal Resources Glossary of Terms](#)