

ADM 1072.1 GSA Policy Toward Native American and Alaskan Tribes

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GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

ADM 1072.1
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GSA ORDER

SUBJECT: GSA Policy Toward Native American and Alaskan Tribes

1. Purpose. The following policy statements provide general guidance to the General Services Administration's employees for actions dealing with federally recognized Native American and Alaskan tribes (hereinafter referred to as "Native Americans" and/or "tribes").

2. Definitions.

a. Federal lands. Any land or interests in land owned by the United States, including leasehold interests held by the United States, except Indian trust lands.

b. Indian tribe. An Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.

c. Sacred site. Any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site.

d. Tribal trust resources. Those natural resources, either on or off Indian lands, retained by, or reserved by or for Indian tribes through treaties, statutes, judicial decisions, and executive orders, which are protected by a fiduciary obligation on the part of the United States.

3. Background.

a. On April 29, 1994, President Clinton issued an Executive Memorandum on Government-to-Government Relations With Native American Tribal Governments (59 Fed. Reg. 22,951). The Executive Memorandum directed all executive departments and agencies, to the greatest extent practicable and to the extent permitted by law, to consult with federally recognized Indian tribal governments prior to taking actions that affect federally recognized Indian tribal governments. The President directed executive agencies to implement activities uniquely affecting Indian tribal governments in a knowledgeable, sensitive manner respectful of tribal sovereignty.

b. Herein are the principles to be followed in GSA's interactions with Native American and Alaskan tribes who have federal recognition. These principles are based on the Executive Memorandum on Government-to-Government Relations with Native American Tribal Governments and Executive Order 13084 (63 Fed. Reg. 27,655 (1998)). This policy supports Native American and Alaskan tribal self-governance.

c. As of December 30, 1998, there are 554 federally recognized Native American and Alaskan tribes with

their own unique culture and identity. GSA will continue to recognize the sovereignty of each while undertaking actions or formulating policies on matters that may have the potential to affect significantly or uniquely Indian tribal governments.

4. Applicability.

a. This policy pertains to federally recognized Indian tribes (referred to as "tribes" herein).

b. This policy is not intended to, and does not, grant, expand, create, or diminish any legally enforceable rights, benefits, or trust responsibilities, substantive or procedural, not otherwise granted or created under existing law. This policy shall not be construed to alter, amend, repeal, interpret, or modify Indian tribal sovereignty, any treaty rights, or other rights of any Indian tribes, or to preempt, modify, or limit the exercise of any such rights and shall not be construed to grant or vest any right to any party with respect to any Federal action not otherwise granted or vested by existing law or regulations.

5. Policy Principles. The following policy statements provide guidance to GSA components undertaking activities affecting Indian tribal rights or trust resources.

a. GSA recognizes and commits to a government-to-government relationship with federally recognized Indian tribal governments. GSA recognizes that the tribal right of self-governance flows from the inherent sovereignty of Indian tribal governments, and that Federally recognized tribes have a unique relationship with the Federal Government. GSA further recognizes such tribes' rights to set their own priorities and goals for the welfare of their nations. GSA will consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking action or formulating policies that will significantly or uniquely affect those particular tribal governments or their tribal trust resources. This consultation requirement will not apply to routine customer-vendor relationships or to the provision of services through a sponsoring Federal agency.

GSA will apply the requirements of Executive Order 13084 (Consultation and Coordination With Indian Tribal Governments) and 12866 (Regulatory Planning and Review) to design solutions and tailor Federal programs, when appropriate, to address specific or unique needs of tribal communities to the fullest extent practicable. To the extent practicable and permitted by law, GSA will consider an application by an Indian tribal government for a waiver of statutory or regulatory requirements and render a decision within 120 days in accordance with Executive Order 13084.

GSA will integrate these guiding principles and practices of meaningful consultation and communication with Indian tribal governments down to the regional and local levels of GSA. GSA will continue to provide a national level tribal liaison within GSA to ensure that GSA responds to tribal inquiries in a timely manner.

Appropriate steps will be taken to reduce impediments, if any, to GSA working with tribes on activities that may significantly or uniquely affect protected tribal trust resources, and working with other Federal agencies, in consultation with tribes, to minimize duplicative requests for information from tribes.

GSA will provide tribes, to the extent permitted by law, information and procedures concerning GSA opportunities available to tribes to: obtain excess and surplus real and personal property, participate in cooperative agreements or grants, if applicable; obtain employment; and compete for GSA contracts and subcontracts.

b. GSA will cooperate with other Federal departments and agencies to further the goals of this policy.

c. GSA will incorporate this policy into ongoing and long-term planning and management processes, as well as day-to-day operations.

6. Environmental, cultural and natural resources protection. GSA will accommodate, to the extent practicable and consistent with security, and operational requirements, Indian tribal access to sacred sites and off-reservation treaty fishing, hunting, and gathering sites located on land or property managed by GSA. GSA will develop Indian tribal specific protocols to protect, to the maximum extent practicable and consistent with the Freedom of Information Act, Privacy Act, National Historic Preservation Act, Archeological Resources Protection Act, and other applicable law Indian tribal information regarding protected Indian tribal trust resources that has been disclosed to, or collected by, GSA.

7. Implementation. The Administrator of General Services hereby directs GSA and its regional offices to implement this policy by incorporating all of the above policy in planning and management activities,

legislative and regulatory initiatives, and other policy development.

DAVID J. BARRAM
Administrator