

**CONSULTATION AND VISITATION
WITH AMERICAN INDIAN AND ALASKAN NATIVES**

1. **REASON FOR ISSUE:** To establish a directive regarding government-to-government relationships, consultations, and visitation policy between the Department of Veterans Affairs (VA) and American Indian and Alaska Native tribal governments.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive sets forth the policies and procedures to be used by VA's staff when contacting or contacted by American Indian and Alaska Native tribal governments.
3. **RESPONSIBLE OFFICE:** Office of Intergovernmental Affairs (075)
4. **RESCISSIONS:** This directive supersedes the Deputy Secretary's October 19, 2004, "Official Visits to Native American Tribal Nations."

CERTIFIED BY:

/S/
Robert T. Howard
Assistant Secretary for
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**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS**

/S/
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**CONSULTATION AND VISITATION
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1. PURPOSE: This directive contains policy regarding government-to-government relationships, consultations, and visitations between VA and American Indian and Alaska Native tribal governments. It provides procedures to be followed when contacted or initiating a contact to American Indian, and for Alaska Native tribal governments.

2. POLICY:

a. VA will implement and follow a government-to-government relationship between VA offices and officials and tribal governments. That relationship will include notification to tribal management of proposed official visits to tribal lands; consultation with tribal governments on proposed VA policies, consultations in good faith, early and often with tribal governments prior to any actions that may have the potential to significantly affect tribal resources, rights or lands. Tribes are acknowledged as entities that maintain the right to self-government and exercise inherent sovereign powers over their members and territory.

(1) When formulating and implementing policies that have tribal implications, VA will encourage tribes to develop their own policies to achieve program objectives; and, where possible, VA will defer to Indian tribes to establish standards. In respect to Federal statutes and regulations administered by Indian tribal governments, VA shall grant maximum administrative discretion possible.

(2) When there is a question whether to establish Federal standards, VA will consult with tribal officials as to the need for Federal standards and explore any alternatives that would otherwise preserve the prerogatives and authority of Indian tribes. VA will collaborate with tribal officials and tribal staff to ensure that VA's benefits, services and health care are made highly accessible to veteran tribal members.

(3) VA officials will coordinate with the Deputy Assistant Secretary for the Office of Intergovernmental Affairs and consult with the Center for Minority Veterans and VA facilities (Veterans Health Administration, Veterans Benefits Administration and National Cemetery Administration) nearest to the tribal nation prior to an initial visit to tribal lands for official business or initial consultation with tribal government officials concerning a proposed VA policy or concerning an action that may have the potential to significantly affect tribal resources, rights or lands. Thereafter, the Office of Intergovernmental Affairs will continue in an advisory role.

(4) This policy is based upon the Constitution of the United States, treaties, statutes, court decisions, executive orders and memoranda, and VA's long-standing relationships with tribal governments. The policy is enacted pursuant to Executive Order 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," and previous and subsequent executive orders and government memoranda, and White House Memorandum of September 23,

2004, "Government-to-Government Relationship with Tribal Governments." This policy shall not be construed to alter, amend, repeal, interpret or modify tribal sovereignty, any treaty rights, or other rights of any American Indian tribes, or to preempt, modify or limit the exercise of such rights.

b. PRINCIPLES: GOVERNMENT-TO-GOVERNMENT RELATIONS AND CONSULTATION. VA seeks to build stable and enduring relationships with tribes by:

- (1) Communicating with tribes on a government-to-government basis in recognition of their sovereignty.
- (2) Requiring that communications address tribal concerns between tribes and VA offices and facilities.
- (3) Assessing through consultation, the effect of proposed VA actions that may have potential to significantly affect tribal rights and prerogatives.
- (4) Removing to the extent possible, procedural or regulatory impediments to VA working directly and effectively with tribes on activities that may affect tribal rights and prerogatives.
- (5) Coordinating with other federal agencies, in consultation with tribes, to minimize duplicative interactions with tribes or requests for information or actions from tribes.
- (6) Ensuring that the Department fully and often consults and communicates with tribal governments on issues important to the tribe through a process of government-to-government dialogue. Consultation with tribes requires that VA officials recognize that whenever VA actions may have potential to significantly affect protected tribal resources, tribal rights or Indian lands, VA will provide the affected tribes with an early opportunity to participate in the decision-making process.
- (7) Providing timely notice to, and consulting with, tribal governments prior to taking any actions that may have the potential to significantly affect protected tribal resources, rights or lands.
- (8) Consulting in good faith early and often in any decision-making processes that affect may significantly affect tribes, their rights or lands.
- (9) Developing and maintaining effective communication, coordination and cooperation with tribes, especially at the tribal leadership level.

3. RESPONSIBILITIES: The Deputy Assistant Secretary for Intergovernmental Affairs is designated as the Department's primary point-of-contact for implementation of this policy, and to coordinate VA's relationships with tribal governments and other tribal entities. The Deputy Assistant Secretary for Intergovernmental Affairs shall represent the Secretary in interactions with those groups; and will serve as the liaison on these matters between VA and other Federal agencies, American Indian/Native Alaskan-related organizations, and private industry.

4. REFERENCE:

- a. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
- b. White House Memorandum of September 23, 2004, Government to Government Relationships with Tribal Governments