



Tribal Consultation

DGO Policy Internal 10

Effective Date: 10/18/2021

Revised Date:

Sunset/Next Review Due: 10/18/2023

Approved By:

References/Authority: Governor's Executive Order EO/2014/005, "Executive Agency Consultation with Federally Recognized Indian Tribes" (<https://rules.utah.gov/execdocs/2014/ExecDoc155570.htm>)

1 PURPOSE

This policy establishes Department of Government Operations (DGO) processes for regular and meaningful consultation with Indian Tribes to comply with the provisions of Executive Order EO/2014/005, "Executive Agency Consultation with Federally-Recognized Indian Tribes" issued on July 30, 2014.

2 GUIDING PRINCIPLES

The DGO tribal consultation policy establishes processes for regular and meaningful consultation with federally recognized Indian Tribes when there is a proposed state action with tribal implications that affects a tribe as a sovereign or governmental entity. The department will make every effort to ensure that consultation with the tribe is conducted as early as possible, is carried out in good faith, and that honesty and integrity are maintained by the department at all stages of the consultation process.

3 POLICY

3.1 Definitions

Terms used in this policy are defined in Executive Order EO/2014/005.

3.2 Designated Agency Official

Pursuant to the terms of Executive Order EO/2014/5, DGO designates the following agency official to represent DGO for the purposes of implementing this policy:

Deputy Executive Director
4315 South 2700 West, Floor 3
Taylorsville, UT 84129-2128
Phone: 801-957-7171

3.3 Consultation Process

Consultation consists of four phases: Identification, Notification, Input, and Follow-up:



Utah Department of Government Operations

- A. **Identification Phase:** When contemplating a state action, DGO shall identify whether such action may have tribal implications per the guidelines of EO/2014/005 and therefore requires consultation.
- B. **Notification Phase:** If DGO determines a state action may have tribal implications and requires consultation, DGO will notify the Tribe(s) to request consultation.
 - a. Consultation should occur early in the decision-making process to allow tribes the opportunity to provide meaningful input and give state agencies the opportunity to consider input by the Tribe(s). DGO management will determine the best time to begin consultation.
 - b. Notification can occur in a number of ways depending on the nature of the proposed state action and the number of tribes potentially affected. For example, agencies may meet face-to-face with one or more tribes, may contact tribal governments by phone, through written correspondence, via email, or other effective means.
 - c. Notification includes sufficient information for Tribal Officials to make an informed decision about whether to participate in consultation and how to provide informed input. Sufficient information includes:
 - i. An overview of the contemplated state action,
 - ii. Description of the topic(s) to be discussed in consultation activities,
 - iii. A proposed time frame during which consultation activities should take place and/or deadlines for Tribes submitting input, and
 - iv. The contact information for the designated Agency Official or other personnel who can respond to any questions, or provide any clarifications.
- C. **Input Phase:** The purpose of consultation is to receive input from Tribal Officials on state actions that have tribal implications.
 - a. During the input phase, Tribal Officials will have the opportunity to submit input and discuss their questions and concerns. Input can be received in a number of ways depending on the nature of the proposed state action. Input can be received in face-to-face meetings, by phone, via email, or by other written communication.
 - b. DGO will consider input received from Tribal Officials regarding the proposed action as part of its decision-making process. DGO may need to undertake subsequent rounds of consultation if there are significant changes in the originally-proposed activity, or as new issues arise.
- D. **Follow-up Phase:** After DGO consults with Tribal Officials regarding a proposed state action with tribal implications, and considers input received during the consultation process as part of its decision-making process, DGO will follow-up with all Tribal Officials who participated in the consultation process as follows:
 - a. Once the department finalizes its action, the Agency Official will communicate the DGO decision on the action to Tribal Officials and Indian Tribes who participated in consultation.
 - b. Follow-up with Tribal Officials will include:
 - i. a description of the action for which consultation occurred;
 - ii. a description of consultation activities, including dates on which consultation occurred and names of those involved;
 - iii. the DGO decision on the action; and
 - iv. the contact information for the Agency Official or other personnel who can provide any technical assistance or respond to any questions.



3.4 Tribal Consultation Reporting

To comply with the reporting requirement found in Section 5 of EO/2014/005:

- A. The DGO designated agency official will track information about consultation activities, including, but not limited to: the number of consultations conducted, the Tribe or Tribes which were consulted, Tribal Officials and agency officials or personnel who participated in the consultations, and the results of consultation efforts.
- B. The designated agency official will compile a report of all consultation activities for the prior fiscal year and submit the report to the Division of Indian Affairs one month prior to the commencement of the annual Governor's Native American Summit.

3.5 Miscellaneous

- A. DGO, in coordination with the Division of Indian Affairs, will provide reasonable training opportunities for agency officials and employees authorized to implement any state action with tribal implications, per the requirements of Section 6 of EO/2014/005.
- B. Nothing in this policy is intended to prevent a Tribe, the State, or the department from taking action or adopting a policy that the entity believes is in its best interest.
- C. This policy is not intended to unnecessarily delay an action or the adoption of a policy.

4 RELATED DOCUMENTS (e.g., procedures, other policies, forms etc.)

- Governor's Executive Order E0/2014/005, "Executive Agency Consultation with Federally Recognized Indian Tribes" (<https://rules.utah.gov/execdocs/2014/ExecDoc155570.htm>)



Amendment/Change Log

<Policy Name> Amendment/Change Log					
Date	Section/ Heading	Change/Edit	Additional Information (if needed)	Change Approved By	Change Approval Date