

Background:

The US Forest Service recognizes that the United States government and the governments of American Indians have a unique government-to-government relationship based on U.S. constitution, treaties, Federal statutes, court decisions, and executive branch policies, as well as moral and ethical considerations. This special relationship has emphasized self-determination for Indian tribes and meaningful involvement by Indian tribes in federal decision-making where such decisions affect Indian tribes, either because of their status as Indian tribes or otherwise.

As a federal agency, the USDA Forest Service has a responsibility to include and honor the contributions of Tribal Nations to the process every step of the way. Centering Tribal Nations in the planning process enables Tribes to steer the forest plan towards the greatest protection of cultural and natural resources that are of interest to their communities. Coordination with Indian tribes should be initiated early in the planning process, so that all perspectives can be considered. This would include conversations regarding the assessment, plan development, and monitoring phases with Tribes. Early coordination does not substitute for required consultation.

Purpose statement: The terms “federally recognized Indian tribe,” “Indian tribe,” and “Tribe” are used in this guide to refer to any Indian tribe, band, nation, town, or other community of federally recognizes Tribes. This guidance consists of three parts including a narrative, a checklist, and a letter template. This guidance has been provided by the Southern Region Tribal Relations program to help forests navigate the forest plan revision processes and early Tribal engagement. This guidance is meant to be fluid and will be updated as best practices are learned and implemented.

For more information, see:

Tribal coordination and consultation see Departmental Regulation 1350-002, Tribal Consultation, Coordination, and Collaboration; FSH 1509.13 and FSM 1500.

“Understanding Your Opportunities for Participating in the Forest Service Planning Process A Guide for State, Local, and Tribal Governments.” Prepared by the Federal Advisory Committee on Implementation of the 2012 Land Management Planning Rule Washington Office 2016

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd520672.pdf

How to Engage Tribes:

Engaging Tribes early in the Forest Plan Revision process could take on many forms. One way is to meet on an annual (or other interval) basis to discuss outyear project planning, and other issues that may arise as part of the Forest Plan Revision process, outside of consultation. This could also include conducting these meetings via virtual platforms. If working in a virtual platform, it is always important to also have a phone call in number, to accommodate those who may not have access to the virtual platform but can still call in to participate. Letters of invitation for early engagement to Tribal leaders and cc to other Tribal organization points of contact are another way to begin the process but should not be the sole method.

Forests may consider engaging other Tribal organizations (United South and Eastern Tribes, (USET), National Congress of American Indians, Intertribal Agriculture Council, for example) or Tribes who have previously engaged in forest plan revisions, for assistance in getting the word out about the importance of Forest Plan Revision to Tribes. However, it is important to remember that each Tribe and organization is different and one Tribe or organization does not speak for another.

Relationships: The foundation for early collaboration. Solutions tend to have a much better chance of success when they are developed in a meaningful way leading to cooperation and coordination with affected parties. Meaningful relationships can also lead to more effective collaboration and offer a forum in which potential conflicts can be addressed. Tribes feel equally as responsible as we do to appropriately manage the cultural and natural resources in their ancestral homelands. The National Historic Preservation Act (NHPA), NEPA, and Tribal Consultation requirements recognize this shared responsibility.

Correspondence/Logistics

Current Contact List: Make sure you are using the most up to date Tribal contact list to help identify and contact interested Indian tribes that may have an interest in the proposed project planning. Also, it helps to confirm that your Forest Plan Revision documents are getting to the correct points of contact (Tribal leaders and Department heads) within the Tribal organization to receive the most meaningful comments and engagement. Engage your forest Tribal Liaison into this communication and early Tribal engagement process. (Current Regional Tribal point of contact list should be included with this guidance and will be sent out periodically from the Regional Office.)

Correspondence: The USDA Forest Service (USFS) Southern Region values the unique relationship and trust responsibilities between the Tribes and the US Federal Government. We value the important roles Tribes perform in informing our decision-making and increasing our knowledge of sacred landscapes, cultural practices, and traditional ecological knowledge. Because of this, Tribes are treated separately from the public in the Forest Plan Revision process.

When corresponding with a Tribal Nation by letter or electronic means, the letter should be personalized to each Tribal leader or Tribal organization point of contact. There should not be a “dear friend of the forest” greeting. A generic greeting such as this doesn’t rise to consultation with tribes and many Tribes will not recognize such a letter as a request for consultation on a project, but instead will recognize it as a mass mailing to a wider group of people. Personalizing letters lets the Tribe know we are specifically requesting their input and are opening doors for project specific consultation.

When requesting Tribal engagement, it is important to request Tribes be as specific as possible in ways they could be engaged in the forest plan revision process that would be of interest to their

Tribe. If comments are received, they should be responded back to in a government to government fashion in a separate response to the public, in a timely manner.

File Codes: When corresponding with Tribal organizations, you should classify all record material, including correspondence, using multiple file codes, as appropriate. For example, on a NEPA scoping letter to Tribal Governments, it should have both the NEPA code 1950 and 1560 (Tribal Relations code.) The same can be said for heritage letters sent to Tribal contacts; they should have both 2360 file code as well as 1560.

For more information on records management, please refer to FSM 6200, Chapter 6230 (office management, records management program manual.)

USDA Tribal Consultation Database: Additionally, all Government to Government consultation actions should be recorded in the USDA Tribal Consultation Database. Specifics from our directives are cited below.

It is the responsibility of Forest, Grassland, and Prairies Tribal Liaisons to “Maintain the Unit’s input to the USDA Tribal Consultation Database” (FSM 1563.04l(3)). At FSM 1563.11, Forest Service officials shall “Report on each consultation to consulting partners and the USDA Tribal Consultation Database”, and at FSM 1563.14, “All consultation events must be entered into the USDA Tribal Consultation Database.”

To complete this will mean constant and proactive coordination with the Forest, Grassland and Prairies Tribal Liaisons.

For more information on the USDA Tribal Consultation Database, please refer to USDA D.R. 1350-002, and Forest Service policy can be found in our directives at FSM 1500, Chapter 1560 (1563.03(4)) and at FSH 1509.13, Chapter 10 (11.42).

When to engage Tribes

It is recommended to engage Tribes early when the forest plan revision timeline is first known, typically 2 years out. Understanding what the forest plan revision process may mean to a Tribe versus what it means to the agency is an important point to explore.

The federal agency should make it clear to Indian tribes that it is asking for input on revising the forest plan. Tribes should be engaged during the **assessment, plan development, and monitoring phases**. Transparency in the process is necessary for all parties to have opportunity to be effective, and federal agencies should not assume that Indian tribes have a working knowledge of the plan revision process or proposals available. As the forest plan revision process begins to be implemented within the region, it will become increasingly necessary to coordinate early engagement with Tribes in these processes.

Things to Consider

Sacred Sites: If your proposed project lies within a Trail of Tears/Unicoi Turnpike Corridor or management area, or includes other sacred sites, consider that it will take extra time for the project to go through the sacred sites screening process and incorporate that time into the planning process.

Native Knowledge (Traditional Ecological Knowledge): The 2012 Planning Rule specifically identifies the importance of incorporating Traditional Ecological Knowledge, native knowledge, indigenous ecological knowledge, and land ethics, cultural issues, and sacred and culturally significant sites, in the planning process. To the extent possible, this information should be identified in the assessment phase and considered throughout the planning process.

Tribal Capacity: Indian tribes often face limitations of time and funding. The agency should be aware that their project is one of many governmental concerns being balanced by their tribal counterparts. Tribal governments also have their own decision-making processes and schedules which may not align with project schedules and deadlines. Many Tribes require a **30-day notice** time for meetings, whether virtual or in person. Therefore, in forest plan revision, consider tribal processes and other means to facilitate their participation. While it was always a good idea to try to engage, a non-response does not mean that a particular Tribe is uninterested in your project. If a Tribe does elect to participate, they would be there as a subject matter expert for their interests and to contribute information and perspectives that we may not have thought of previously.

Confidentiality: When engaging Tribes early in forest plan revision, there may be concerns regarding the protection of sensitive information. The Cultural and Heritage Cooperation Authority (CHCA) as well as Section 304 of the NHPA affords some protection from public disclosure for certain information gathered or obtained by federal agencies in the Section 106 process. It may not be possible for tribal representatives to share some or any information about certain places because of cultural prohibitions. Or, there may be issues of trust that prevent the sharing of information. The agency and Indian tribes are encouraged to explore ways to protect sensitive information at the beginning of coordination.

For more information, please refer to CHCA, 25 U.S. Code Chapter 32A or Section 304 of the National Historic Preservation Act.

Forest Plan Revision Early Tribal Engagement Checklist

<input type="checkbox"/>	Forest Plan Revision is on the horizon and planning is set to begin
<input type="checkbox"/>	Coordination with Forest Tribal Liaison.
<input type="checkbox"/>	Current Tribal contact list and Tribal points of contact for the most meaningful comments.
<input type="checkbox"/>	Tribes who are interested in the area where the forest plan is located.
<input type="checkbox"/>	Planned Tribal engagement to meet Tribal staff timelines and preferred platform (in person, virtual, etc.)
<input type="checkbox"/>	Correspondence has a personalized greeting, correct file code(s), and looped in the Tribal Liaison for entry into the USDA Tribal Consultation Database. If comments are received, they are responded back to in a government to government fashion, in a timely manner.
<input type="checkbox"/>	Communications have been made clear about it being early interaction of the forest plan revision process and Tribal engagement is incorporated throughout the process. If the project is within the Trail of Tears Corridor or management area, or sacred sites are involved, the time it will take for the sacred sites process has been implemented into the planning process.
<input type="checkbox"/>	A minimum of 30-day notice for engagements with Tribes have been made, or there have been prior arrangements made with Tribes.
<input type="checkbox"/>	Protection of sensitive information has been explored and coordinated.

Tribal engagement invite to meeting/virtual platform/letter template:

File Code: 1950, 1560

Date:

Personalized Address Block

Personalized Dear Chief/Governor/President Greeting

I would like to invite you to actively participate in our forest plan revision process. We are asking for your input and meaningful involvement in decision-making where such decisions affect your Tribe and the resources your Tribe may have an interest in. This request for engagement is for early interaction of the Forest Plan Revision process that will help assess, propose, and monitor how work happens on the forest for the next several years.

Your Tribe may have an interest in this (point out specific landscape, area, resources or floral/fauna or wildlife species) that lies within this project area.

We value the important roles Tribes fulfill in informing our decision-making process and increasing our knowledge of sacred landscapes, cultural practices, and traditional ecological knowledge on the landscapes you have an interest in. We would like to engage your Tribe in helping to revise the forest management plan for this area. Please let us know, as specific as possible, how engaging in the forest plan revision process is important to your Tribe.

The USDA Forest Service (USFS) (Forest) values the unique relationship between the Tribes and the US Federal Government. Please let _____, Project Leader, or _____ know if you wish to participate as a representative of your Tribe in helping to plan our next project. We can schedule future meetings and arrangements can be made for field trips to the project area. _____ can be reached at ???-???-???? (ext. ???) or via e-mail at _____.

Sincerely,

District Ranger/Consultation Official