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OF THE AIR FORCE**

**DEPARTMENT OF THE AIR FORCE
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Special Management

**INTERACTIONS WITH
FEDERALLY RECOGNIZED TRIBES**

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This publication implements Department of Defense Instruction (DoDI) 4710.02, *DoD Interactions with Federally Recognized Tribes*, Air Force Policy Directive (AFPD) 90-20, *Encroachment Management Program*, and AFPD 32-70, *Environmental Considerations in Air Force Programs and Activities*. This Department of the Air Force Instruction (DAFI) applies to the Department of the Air Force, according to "Department of the Air Force Policy Memorandum to DAFPD 90-1, *Policy, Publications and DoD Issuance Management*," which includes the Regular Air Force, Air Force Reserve, Air National Guard (ANG), United States Space Force (USSF), and civilian employees of the Department of the Air Force. This DAFI also applies to government contractors of the Department of the Air Force when required by the terms of their agreement or contract. Ensure all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Instruction (AFI) 33-322, *Records Management and Information Governance Program*, and disposed of in accordance with the Air Force Records Disposition Schedule, which is located in the Air Force Records Information Management System. Refer recommended changes and questions about this publication to the Office of Primary Responsibility using the Air Force Form 847, *Recommendation for Change of Publication*; route form 847 from the field through the appropriate functional chain of command. This DAFI may be supplemented at any level. Major Commands (MAJCOMs), Field Operating Agencies, and Direct Reporting Units must send a draft copy of their proposed supplement to the Headquarters Air Force, Office of the Director of Civil Engineers (AF/A4C) for coordination; all other component commands excluding ANG send one copy of each supplement to Deputy Assistant Secretary of the Air Force, Environment, Safety and Infrastructure (SAF/IEE). The authorities to waive wing/unit level requirements in this publication are identified with a Tier

(“T-0, T-1, T-2, T-3”) number following the compliance statement. See AFI 33-360, *Publications and Forms Management*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers using Air Force Form 679, *Air Force Publication Compliance Item Waiver Request/Approval*, through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the requestor’s commander for non-tiered compliance items.

SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. Major changes include clarification of the roles and responsibilities for tribal consultation to reflect changes in the Department of the Air Force organizational structure. It simplifies the requirements for meaningful consultation in order to facilitate implementation and expands upon the activities that typically involve tribal stakeholders. The document provides more detailed explanation of the role of the Installation Tribal Liaison Officer (ITLO) and redistributes the responsibilities for the MAJCOMs to the right organization.

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Chapter 1

PROGRAM OVERVIEW

1.1. Purpose. This DAFI directs actions to ensure policy compliance, assigns responsibilities, and outlines procedures to guide Department of the Air Force interactions with federally recognized tribes. It directs all echelon levels to build relationships and conduct consultation with federally recognized Indian/Alaska Native tribes, bands, nations, pueblos, or communities as required by federal laws and regulations, Executive Orders, and Presidential Memoranda listed in [Attachment 1](#). It supports the unique trust relationship the United States Government has with tribes and highlights aspects of the Department of the Air Force's mission that may affect tribes. The intent of this DAFI is for Department of the Air Force senior leaders to develop long-lasting relationships with installation-affiliated tribes. Detailed guidance on installation-level procedures is provided in adaptable tools such as the Air Force's Civil Engineer Process Playbooks and Air Force Operational Airspace Instructions. Due to their unique standing, apart from federally recognized tribes, the Department of Defense (DoD) published separate instructions for Native Hawaiian Organizations. Please refer to DoDI 4710.03, *Consultation With Native Hawaiian Organizations (NHOs)*, for policy, responsibilities, and essential procedures regarding Native Hawaiian Organizations.

1.2. Procedures. It is Department of the Air Force practice to:

- 1.2.1. Take into consideration the significance that tribes place on protected tribal resources, ancestral lands, and Treaty Lands.
- 1.2.2. Meet responsibilities to tribes in accordance with applicable federal trust doctrine, treaties, and agreements between the United States Government and tribal governments.
- 1.2.3. Comply with federal laws and regulations, Executive Orders, and Presidential Memoranda governing interactions with tribes, including those listed in [Attachment 1](#).
- 1.2.4. Build stable and enduring government-to-government relations with federally recognized tribal governments in a manner that sustains the Department of the Air Force mission and minimizes effects on protected tribal resources and activities.
- 1.2.5. Fully integrate the principles and practices of meaningful consultation and effective cross-cultural communication with tribal representatives down to the lowest level of installation staff officers and civilian staff personnel.

1.3. General.

1.3.1. The Department of the Air Force has a responsibility to consult with tribes who have a documented interest in Department of the Air Force lands and activities even though the tribe may not be geographically located near the installation or its airspace. The United States Government relocated many tribes to Indian Territory in Oklahoma in the early 1800s, and many of these tribes express concern for their ancestral lands in the southeastern and eastern states.

1.3.2. The Department of the Air Force has a responsibility to consult with tribes in good faith, meaning consultation in a timely fashion concerning activities of documented interest to tribes, while respecting tribal sovereignty according to laws, regulations, and executive directives, including Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*.

1.3.3. Consultants and contractors may not conduct government-to-government consultation, but may provide administrative and logistical support.

1.4. Activities Typically Involving Tribes.

1.4.1. Department of the Air Force actions that may negatively impact or affect tribes include, but are not limited to:

1.4.1.1. Land-disturbing activities.

1.4.1.2. Construction.

1.4.1.3. Training.

1.4.1.4. Over-flights.

1.4.1.5. Management and protection of properties of traditional, religious, and cultural importance including historic properties and sacred sites.

1.4.1.6. Activities involving access to sacred sites according to Executive Order 13007, *Indian Sacred Sites*.

1.4.1.7. Disposition of cultural or funerary items in accordance with Title 25 United States Code (USC) Section 3001 *et seq.*, the *Native American Graves Protection and Repatriation Act of 1990* (NAGPRA), implemented by regulations promulgated at Title 43 Code of Federal Regulations (CFR) Part 10, *Native American Graves Protection and Repatriation Regulations*.

1.4.1.8. Activities affecting tribal-reserved treaty rights to natural and cultural resources.

1.4.1.9. Access to subsistence resources.

1.4.1.10. Educational and public affairs activities linked to tribal topics.

1.4.1.11. Business contracting matters.

1.4.1.12. Other land use/military airspace operations in general.

1.4.1.13. Actions concerning symbols or emblems that may have cultural significance.

1.4.2. Installations with historic properties are required to develop and maintain an Integrated Cultural Resources Management Plan (ICRMP), pursuant to Air Force Manual (AFMAN) 32-7003, *Environmental Conservation*, and DoDI 4715.16, *Cultural Resources Management (T-0)*.

1.4.2.1. Tribes having a historic or cultural affiliation with lands addressed by an installation's ICRMP, or otherwise attaching religious and cultural importance to historic properties or sacred sites covered by the ICRMP, will be provided opportunities to consult on, and participate in, the development and maintenance of the ICRMP.

1.4.2.2. The ICRMP will include an appended Installation Tribal Relations Plan (ITRP) and copies of formal written agreements (e.g., Memoranda of Understanding, Comprehensive Agreements, Programmatic Agreements, Plans of Action, etc.).

1.4.2.3. Many tribes attribute cultural significance to natural resources. Installations shall inform tribes of the content of the natural resources program and provided the opportunity to consult on, and participate in, as appropriate, the development of the installation's Integrated Natural Resources Management Plan (INRMP) in accordance with DoDI 4715.03, *Natural Resources Conservation Program* and AFMAN 32-7003. **(T-0)**.

1.5. Tribal Consultation Practices.

1.5.1. Traditional cultural knowledge obtained from a recognized leader or designated representative of a tribe should be respected and considered as expert evidence or opinion.

1.5.2. Department of the Air Force staff should take into consideration and respect tribal protocols when consulting. In doing so, keep in mind that:

1.5.2.1. Tribal representatives may open a meeting with a traditional ceremony.

1.5.2.2. The installation should schedule meetings in advance allowing enough time for the tribe to decide on appropriate attendees such as tribal elders, traditional religious leaders, and translators.

1.5.2.3. Tribal representatives may be reluctant to discuss culturally sensitive information outside of the tribe or at certain times of the year. Tribal representatives may need to clear the release of information with traditional religious leaders or tribal council members before making commitments.

1.5.2.4. Tribal government organizational structures and corporate cultures differ, and these differences may affect formal titles and forms of address (such as Chief, Governor, or Chair) and other forms of protocol.

1.5.2.5. Tribal representatives may be elected or unelected, political or religious, and exhibit other variations from tribe to tribe.

1.5.3. Consult with each tribe separately, unless affiliated tribes choose to act and or meet collectively. Installations should not in any way coerce tribes to meet collectively, as this would not constitute government-to-government consultation. Tribes may act collectively, on their own initiative, at the invitation of another tribe, or at the invitation of the installation.

1.5.3.1. Many tribal members do not consider large, multi-base and multi-tribe meetings to be government-to-government consultations.

1.5.3.2. Installation commanders, ITLOs, and others should consider planning sidebar meetings with leaders of individual tribes for government-to-government consultations during large, multi-tribal and multi-day meetings.

1.6. Culturally Sensitive Information. During the consultation process, Department of the Air Force representatives must take into account confidentiality concerns raised by tribes for any culturally sensitive information they provide. **(T-0)**. The Department of the Air Force and its representatives will:

1.6.1. Make every reasonable effort, consistent with the law, to withhold from public disclosure specific information that a tribe identifies as confidential, especially information related to sacred sites and other traditional cultural properties. **(T-0)**.

1.6.2. Provide public access to relevant installation records in accordance with Air Force Freedom of Information Act (FOIA) regulation, DoDM 5400.07-M_AFMAN 33-302, *Freedom of Information Act Program*, except those records protected from disclosure by a statutory exemption. **(T-0)**.

1.6.3. Encourage tribes to seek the advice of their own legal counsel before providing sensitive information to the Department of the Air Force. **(T-0)**.

1.6.4. Identify tribal confidentiality concerns, and agree on a process for dealing with culturally sensitive information early on in the consultation process. **(T-0)**. When appropriate, consider the use of Consultation Protocol agreements to memorialize the agreed to process for handling culturally sensitive information.

1.7. Recording the Results of Consultation.

1.7.1. Department of the Air Force installations will develop formalized agreements with tribal governments to foster relationships that facilitate military training and readiness and that capture issues of common interest to each party, including addressing issues of importance to tribes. **(T-1)**. Examples are consultation protocol agreements, NAGPRA Comprehensive Agreements, or memoranda of understanding.

1.7.2. Meeting facilitators must document in writing each consultation and formal meeting for the administrative record, while sequestering or omitting culturally sensitive information identified by tribal members during the discussions. **(T-0)**.

1.7.3. Consent, approval, or formal agreement from tribal governments is not required to conclude the consultation process and proceed with a project on federal land. In every instance, the record must show that the Department of the Air Force carefully considered all the available evidence and points of view before determining a final course of action.

1.7.4. Meeting facilitators will ensure that consultation results, decisions, and other outcomes are distributed to all consulting parties for review before they are entered into the installation's consultation record. **(T-0)**. The consultation record must include the outcome, the reason behind the decisions that led to the outcome, and the data compiled to reach the final outcome. The Department of the Air Force and its representatives will ensure exclusion of any direct reference to culturally sensitive information and information sensitive to the Department of the Air Force mission. **(T-0)**.

Chapter 2

ROLES AND RESPONSIBILITIES

2.1. The Assistant Secretary of the Air Force for Installations, Environment, & Energy (SAF/IE). The SAF/IE, through the Deputy Assistant Secretary of the Air Force for Environment, Safety and Infrastructure (SAF/IEE), shall:

2.1.1. Serve as the principal Department of the Air Force representative on all tribal-related issues with the Office of the Secretary of Defense and its staff, other federal agencies, and Congress. **(T-0)**.

2.1.2. Serve as, or appoint, a Department of the Air Force Tribal Liaison Officer who is the office of primary responsibility for the Department of the Air Force tribal relations program, and the advocate within the Department of the Air Force corporate structure for tribal relations resources. **(T-1)**.

2.1.3. Provide policy, direction, and oversight for all matters pertaining to the formulation, review, and execution of plans, policies, programs, and budgets related to Department of the Air Force government-to-government tribal interaction. **(T-1)**.

2.1.4. Delegate authority to AF/A4C and all other Department of the Air Force commands, including ANG, for tribal program execution management. **(T-1)**.

2.1.5. Provide overall oversight of the Department of the Air Force tribal relations program to include program performance compliance with known requirements. **(T-1)**.

2.2. The Department of the Air Force Tribal Liaison Officer shall:

2.2.1. Ensure appropriate action is taken to resolve significant tribal issues and disputes that have been elevated. **(T-1)**.

2.2.2. Coordinate policy and best practices throughout the Department of the Air Force, as well as the other Military Services, other federal agencies, and tribal organizations, as appropriate, on tribal issues of regional and national scope. **(T-1)**.

2.2.3. Engage in government-to-government relations with federally recognized tribes, as appropriate, when requested by installations, installation support section, or tribes. Consult in a timely manner, responsive to stakeholder interests and needs. **(T-1)**.

2.2.4. Honor treaties and implement trust relationships. **(T-1)**.

2.2.5. Work with non-federally recognized tribes and interest groups, when appropriate. **(T-3)**.

2.2.6. Integrate the requirements for Department of the Air Force tribal relations from federal laws and regulations, Executive Orders, and Presidential Memoranda, into AFIs and guidance. **(T-1)**.

2.2.7. Issue specific guidance regarding training and funding opportunities pertinent to this DAFI. **(T-1)**.

2.3. The Director, Public Affairs, (SAF/PA) shall:

2.3.1. Develop Department of the Air Force strategic messaging on tribal relations in coordination with the Department of the Air Force Tribal Liaison Officer. **(T-2)**.

2.3.2. Assist Department of the Air Force organizations in developing cross-cultural communication opportunities. **(T-2)**.

2.3.3. Develop processes to coordinate communication between tribal leadership, installations, and headquarters leadership with the Department of the Air Force Tribal Liaison Officer. **(T-2)**.

2.4. The Deputy Chief of Staff for Operations shall:

2.4.1. Incorporate Department of the Air Force tribal relations policy requirements into Department of the Air Force operational instructions when installation, airspace, and/or range operations may affect tribal lands, rights, resources, or interests. **(T-1)**.

2.5. The Air Force General Counsel, Installations, Energy and Environmental Law (SAF/GCN).

2.5.1. SAF/GCN shall:

2.5.1.1. Advise Department of the Air Force organizations on matters involving development of policy relating to Tribal treaty rights, consultation requirements of federal laws, regulations, Executive Orders, and Presidential Memoranda. **(T-1)**.

2.5.1.2. Provide subject matter expertise, assistance, and training opportunities to Department of the Air Force organizations, as requested, on issues involving Indian and Alaskan Native tribes. **(T-1)**.

2.5.1.3. Assist Department of the Air Force organizations with tribal consultation requiring Secretarial-level participation, or involving high visibility or controversial issues or opportunities. **(T-1)**.

2.5.1.4. Coordinate engagement with the general counsel of Federal agencies as required. **(T-1)**.

2.5.1.5. Consult with the Air Force Legal Operations Agency, Environmental Law Field Support Center (AFLOA/JACE-FSC) on significant or policy development matters. **(T-1)**.

2.5.2. Nothing in this paragraph is inconsistent with Headquarters Air Force Mission Directive (HAFMD) 1-14, *General Counsel and the Judge Advocate General*.

2.6. The Air Force Legal Operations Agency, Environmental Law Field Support Center (AFLOA/JACE-FSC).

2.6.1. AFLOA/JACE-FSC shall:

2.6.1.1. Provide legal counsel to Department of the Air Force organizations concerning the application of settled policy regarding Indian treaties, Indian case law, and DoD policies to Department of the Air Force plans, activities, and operations. **(T-1)**.

2.6.1.2. Assist Department of the Air Force organizations in identifying and complying with tribal interaction requirements of federal laws and regulations, Executive Orders, and Presidential Memoranda. (T-1).

2.6.1.3. Assist Department of the Air Force organizations to meet tribal consultation responsibilities, including those identified in **Chapter 1** of this DAFI. (T-1).

2.6.1.4. Provide subject matter expertise, assistance, and training opportunities to installation legal offices, as well as Department of the Air Force organizations, as requested, on issues involving Indian and Alaskan Native tribes. (T-1).

2.6.1.5. Coordinate engagement with regional Federal agencies, state, or tribal counsel, or the Department of Justice, on matters involving settled policy. (T-1).

2.6.1.6. Provide guidance when requested about payments to tribes and tribal members for expenses related to compliance with this DAFI. (T-1).

2.6.2. Nothing in this paragraph is inconsistent with HAFMD 1-14.

2.7. The Deputy Chief of Staff for Logistics, Installations and Mission Support (AF/A4), through the Office of the Air Force Director of Civil Engineers (AF/A4C), shall:

2.7.1. Prepare and issue guidance for executing Department of the Air Force Tribal Relations Program policy and supplemental guidance, advocate for resources, and oversee execution of tribal relations programs and management requirements throughout the Department of the Air Force. (T-1).

2.8. The Air Force Civil Engineer Center (AFCEC) shall:

2.8.1. Assist installation commanders and ITLOs in identifying tribes that have historic or cultural affiliation with lands controlled, used, or overflowed by the Department of the Air Force. (T-1). Provide information from authoritative sources to commanders, including input from tribes, when appropriate. (T-1).

2.8.2. Ensure installation commanders receive appropriate senior-level training that highlights tribal history, laws, treaties, and government-to-government consultation requirements and techniques. (T-1).

2.8.3. Advise on the development and maintenance of installation tribal relations plans. (T-2).

2.8.4. Maintain a Cultural Resources Subject Matter Expert and specialists who will provide technical assistance, and statutory and regulatory guidance on cultural resources and tribal relations issues to the Department of the Air Force enterprise. (T-1).

2.8.5. Provide cultural resources subject matter specialists to assist installations with technical issues and guidance, and provide reach-back support to the Cultural Resources Subject Matter Expert. (T-1).

2.8.6. Identify training opportunities and provide training information on tribal culture, history, laws, and treaties, as well as access, use, and privacy issues that may be affected by Department of the Air Force operations, such as low-level flights and access to sacred sites. (T-1).

2.8.7. Produce an annual report on the Department of the Air Force's compliance with this DAFI and submit through AF/A4C to the Department of the Air Force Tribal Liaison Officer in SAF/IEE. **(T-1)**.

2.8.8. Maintain annual tribal relations reports, copies of installation tribal relations plans, and an updated list of ITLOs on the AFCEC Environmental Dashboard webpage. **(T-2)**.

2.9. Major Commands (MAJCOMs) shall:

2.9.1. Work closely with the AFCEC National Environmental Policy Act (NEPA) Center and AFCEC Cultural Resources Subject Matter Expert to initiate consultation with tribes as early as possible in the planning process to develop an Environmental Assessment or Environmental Impact Statement in compliance with Department of the Air Force's NEPA regulations at Title 32 Code of Federal Regulations Part 989, *The Environmental Impact Analysis Process (EIAP)*. **(T-1)**.

2.9.2. Be aware of tribal relations requirements for the installations comprising the MAJCOM, using the assistance of the AFCEC cultural resources expert and specialists. **(T-2)**.

2.10. The Air National Guard (ANG).

2.10.1. The ANG shall support the intent of this DAFI by preparing an appropriate policy document reflecting its unique legal status and structure, as recognized by the reserve component authorities of Title 10 of the USC, Department of the Air Force Doctrine, and other governing authorities. **(T-1)**.

2.11. The installation commander. The installation commander's role in tribal government-to-government consultation is similar to the commander's role with an ambassador. The installation commander sets the tone for discussions geared towards building relationships between, and of mutual benefit to, the Department of the Air Force and tribes. Installation commanders shall:

2.11.1. Conduct at least one annual face-to-face meeting with affiliated tribal leaders to establish mutually beneficial relationships, discuss installation or tribal issues of interest, and confirm protocols for continued interaction by supporting staff. **(T-1)**. Video teleconference, or similar virtual or telephonic communications, may be an appropriate replacement for face-to-face meetings if tribes approve.

2.11.2. Obtain appropriate training in tribal communications, culture, and consultations within their first year of assignment to an installation, preferably prior to the first face-to-face meeting. **(T-1)**.

2.11.3. Develop protocols or standard processes for communicating with tribes that have a cultural or historical affiliation with the lands affected by the installation and its activities. **(T-1)**.

2.11.4. Personally initiate regular consultation with tribes. **(T-1)**. Determine protocols for follow-on interactions with tribal leadership, such as staff-to-staff consultation under Title 54 USC Section 300101 *et seq.*, the *National Historic Preservation Act* (NHPA), specifically NHPA Section 106 undertakings (54 USC §306108), or NEPA actions. Include these kinds of interactions in the ITRP. Tribes may elevate consultations to the installation commander, if desired.

2.11.5. Designate a civilian government employee as the Installation Tribal Liaison Officer (ITLO) and ensure they obtain the appropriate training soon after their appointment. **(T-1)**. The ITLO must be a high-level civilian who is able to interact directly with base leaders, and is allowed access to the installation commander without multiple chain of command impediments. **(T-1)**.

2.11.6. Approve the ITRP and its updates, and ensure it is appropriately implemented by installation personnel. **(T-2)**.

2.11.7. Coordinate with other installation commanders to identify a single installation to serve as the designated point of contact for a tribe(s) in cases where more than one installation manages the airspace over a specific tribe's land. **(T-2)**.

2.11.8. Involve tribal governments early in the planning process for proposed actions so that tribal governments have enough time to provide meaningful comments on potential effects to protected tribal rights, land, water, or other resources. **(T-0)**. Ensure sufficient time for follow-on discussions. **(T-0)**.

2.11.9. Ensure that proponents of actions on installation lands, or in installation-managed airspace, coordinate tribal issues with the host installation in order to identify and address tribal concerns early in the planning process. **(T-0)**.

2.11.10. Review and provide information on tribal relations to AFCEC during the biannual data calls to support Department of the Air Force, DoD, and Congressional reporting requirements. **(T-0)**.

2.11.11. Publish the list of federally recognized Indian tribes affiliated with the installation on the installation's public website. **(T-3)**.

2.12. The Installation Tribal Liaison Officer (ITLO) shall:

2.12.1. Obtain appropriate training in tribal communications, culture, and consultations within a year of appointment by an installation commander. **(T-1)**.

2.12.2. Develop and oversee the implementation of the ITRP, and ensure this plan is developed after engaging in tribal consultation and receiving feedback from affiliated tribes. **(T-1)**.

2.12.3. Coordinate with tribal representative(s) to work routine issues, along with the Cultural Resources Manager or the AFCEC Cultural Resources Installation Support Section, if applicable. **(T-2)**.

2.12.4. Coordinate with the installation Small Business Director to increase local tribal awareness of Small Business Administration and business development program opportunities. **(T-2)**. For example, provide information on requirements for prequalification of tribal firms to bid on Department of the Air Force projects.

2.12.5. Identify and contact tribes that have historic or cultural affiliations with installation-controlled lands, or lands under managed airspace. **(T-1)**.

2.12.6. Monitor turnover in tribal governments and contact new leadership to ensure continuity with ongoing consultations and protocols. **(T-1)**.

2.12.7. Work with the Base Civil Engineer (BCE) to ensure compliance with all agreements that have the potential to affect protected tribal resources, tribal rights, or Indian Lands, including Memoranda of Agreement under Title 36 CFR § 800.6(c), *Resolution of Adverse Effects*, and Programmatic Agreements under Title 36 CFR § 800.14(b), *Federal Agency Program Alternatives*. **(T-0)**.

2.12.8. Work with the BCE to ensure tribes with historic or cultural affiliations with lands and resources managed by the installation have opportunities to consult on, and/or participate in, the development and maintenance of the ICRMP and the INRMP. **(T-0)**.

2.12.9. Work with tribes affiliated with the installation to develop appropriate consultation protocols. **(T-1)**. Memorialize these protocols in a Consultation Protocol Agreement when practicable.

2.12.10. Work with the installation Cultural Resources Manager, installation Natural Resources Manager, and the AFCEC cultural resources experts and specialists, as appropriate, to consider and understand cultural and natural resources, tribal histories, customs, cross-cultural communication, courtesies, and places of concern to tribes that might be affected by installation activities. **(T-1)**.

2.12.11. Ensure installation commanders are aware that tribes are often concerned with protecting properties (or areas) of religious, traditional, ancestral, and/or cultural importance. **(T-2)**.

2.12.12. Ensure consultation protocols are developed to help facilitate tribal relations for NHPA Section 106 consultations under 36 CFR Part 800, NAGPRA consultations under 43 CFR Part 10, compliance with Title 42 United States Code Section 1996, the *American Indian Religious Freedom Act of 1978* (AIRFA), and other relevant laws, regulations, and policies. **(T-1)**.

2.12.13. Work with the BCE and the Cultural and Natural Resources Managers to ensure affiliated tribes are provided opportunities to participate in early planning for actions according to the NEPA implementing regulations at Title 40 CFR Parts 1500 - 1508, *Council on Environmental Quality*, and according to the Department of the Air Force EIAP at 32 CFR § 989. **(T-1)**.

2.12.14. Ensure installation personnel who conduct activities that might affect tribal lands or resources are aware of the associated tribal issues and rights. **(T-1)**.

2.12.15. Ensure installation organizations and personnel with access to locations of, and information about, sensitive archaeological resources, traditional tribal places, and sacred sites do not disclose that information to the public according to Title 16 USC Section 470aa-mm, the *Archaeological Resources Protection Act of 1979*, as amended, its implementing regulations for DoD at Title 32 CFR Part 229, *Protection Of Archaeological Resources: Uniform Regulations*, and other laws and regulations. **(T-0)**.

2.12.16. Collect and facilitate the submission of accurate tribal relations information to AFCEC in support of biannual data calls for DoD and Congressional environmental program management reporting. **(T-1)**.

2.12.17. When requested, provide tribes with information on acquiring surplus equipment and personal property through the Defense Logistics Agency, Reutilization, Transfer and Donation program. **(T-1)**.

2.12.18. Ensure good-faith consultation occurs in a timely manner with Alaska Native villages on any proposed action or policy that may have a substantial, direct effect on corporate lands, waters, or other natural resources, or on the ability of an Alaska Native village to participate in a DoD or Department of the Air Force program for which it may otherwise be eligible. **(T-0)**.

2.12.19. Engage with tribes, face-to-face when possible, to develop formal agreements that identify common goals and include general protocols, and/or other formal issue-based agreements. **(T-2)**. The primary goal of such agreements is to foster relationships that facilitate Department of the Air Force missions, while respecting issues of importance to tribes.

2.12.20. Provide regular updates to, and seek feedback from, affiliated tribes regarding ongoing activities of the installation that might affect protected tribal resources, tribal rights, or Indian Lands. **(T-1)**.

2.13. Installation Staff Judge Advocates shall:

2.13.1. Advise installation commanders on relationships with Indian tribes and legal requirements for tribal consultation, when requested. **(T-1)**.

2.13.2. Seek assistance from the AFLOA/JACE-FSC in resolving new or complex issues requiring a higher level of legal review. **(T-1)**.

2.13.3. Ensure that judge advocates and civilian attorneys, whose duties include advising on cultural resources matters and/or tribal consultation and communication, receive training in tribal relations commensurate with the resources, history, and interest of the installation and its affiliated tribes. **(T-2)**.

2.14. Installation Public Affairs Offices (PAOs) shall:

2.14.1. Maintain the official installation administrative record of all tribal interaction meetings. **(T-1)**. The records must include the date, time, location or venue, attendees, a concise summary of the meeting, and recommended action items. **(T-1)**.

2.14.2. Assist the installation commander, ITLO, and Natural and Cultural Resources Managers in organizing and facilitating annual and other tribal relations meetings. **(T-1)**.

2.15. The Installation Contracting Activity, with assistance as necessary from the Air Force Installation Contracting Agency, shall:

2.15.1. Coordinate with the appropriate Department of the Air Force entities (e.g., Air Force Small Business Programs (SAF/SB), Assistant Secretary for Acquisition, Technology, and Logistics (SAF/AQ), etc.) to ensure that the installation is well informed on programs and opportunities of potential interest to tribes. **(T-2)**.

2.15.2. Make information on contracting opportunities, grants, and cooperative agreements available for distribution to Indian tribes, Native American corporations, and Indian-owned businesses. **(T-2)**.

2.15.3. Ensure contracts include Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.226-7001, *Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns*, when required by DFARS Subpart 226.1, *Indian Incentive Program (T-0)*. This clause implements the DoD Indian Incentive Program, which is designed to generate business for Indian-Owned Economic Enterprises and Indian Organizations.

2.16. Installation Force Support Squadrons. Installation Force Support Squadrons shall, upon request from tribes, provide information on education, training, and employment opportunities. (T-2).

Chapter 3

REPORTING REQUIREMENTS

3.1. Annual Report. Installations shall report on all their tribal relations activities from the previous fiscal year to SAF/IEE. (T-1). AFCEC will solicit this information in conjunction with its biannual data call to support DoD and congressional environmental program management reporting. (T-1). This data will be compiled and coordinated through AF/A4C. (T-1).

JOHN W. HENDERSON, P.E.
Assistant Secretary of the Air Force
(Installations, Environment, and Energy)

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

16USC §§ 470aa-mm, *Archaeological Resources Protection Act*

16USC §§ 670 et seq., *Sikes Act*

25USC § 3001 et seq., *Native American Graves Protection and Repatriation Act* (NAGPRA)

42USC § 1996, *Protection and Preservation of Traditional Religions of Native Americans*

42USC §§ 4321 et seq., *National Environmental Policy Act* (NEPA)

54USC §§ 300101 et seq., *National Historic Preservation Act* (NHPA)

54USC § 306108, *Effect of Undertaking on Property* (referred to as Section 106 of NHPA)

32CFR Part 229, *Protection of Archaeological Resources: Uniform Regulations*

32CFR Part 989, *Environmental Impact Analysis*

36CFR Part 800, *Protection of Historic Properties*

40CFR §§ 1500-1508, *Regulations for Implementing the Procedural Provisions of NEPA*

43CFR Part 10, *Native American Graves Protection and Repatriation Regulations*

48CFR Chapter 2, *Defense Federal Acquisition Regulation Supplement* (DFARS) Subpart 226.1, *Indian Incentive Program*

EO 13007, *Indian Sacred Sites*, 24 May 1996

EO 13175, *Consultation and Coordination with Indian Tribal Governments*, 6 November 2000

Presidential Memorandum on *Tribal Consultation*, 5 November 5 2009

Presidential Memorandum, *Government-to-Government Relationship with Tribal Governments*, 23 September 2004

Presidential Memorandum, *Government-to-Government Relations with Native American Tribal Governments*, 29 April 1994

DoDI 4710.02, *Department of Defense Interactions with Federally Recognized Tribes*, 24 September 2018

DoDI 4710.03, *Consultation With Native Hawaiian Organizations (NHOs)*, 31 August 2018

DoDI 4715.16, *Cultural Resources Management*, 31 August 2018

Headquarters Air Force Mission Directive (HAFMD) 1-14, *General Counsel and the Judge Advocate General*, 29 December 2016

AFPD 90-20, *Mission Sustainment*, 18 April 2019

AFPD 32-70, *Environmental Considerations in Air Force Programs and Activities*, 30 July 2018

AFI 33-322, *Records Management and Information Governance Program*, 23 March 2020

AFI 33-360, *Publications and Forms Management*, 1 December 2015

AFMAN 32-7003, *Environmental Conservation*, 20 April 2020

DoDM 5400.07-M_AFMAN 33-302, *Freedom of Information Act Program*, 27 April 2018

“Department of the Air Force Policy Memorandum to DAFFPD 90-1, *Policy, Publications and DoD Issuance Management*,” DAFFPD90-1_DAFFPM2020-01, 15 July 2020

Adopted Forms

AF Form 679, *Air Force Publication Compliance Item Waiver Request/Approval*

AF Form 847, *Recommendation for Change of Publication*

Abbreviations and Acronyms

AF/A4—Air Force Deputy Chief of Staff for Logistics, Installations and Mission Support

AF/A4C—Air Force Director of Civil Engineers

AFCEC—Air Force Civil Engineer Center

AFLOA/JACE-FSC—Air Force Legal Operations Agency, Environmental Law Field Support Center

AFMAN—Air Force Manual

ANG—Air National Guard

BCE—Base Civil Engineer

CFR—Code of Federal Regulations

DAFI—Department of the Air Force Instruction

DoD—Department of Defense

DoDI—Department of Defense Instruction

EIAP—Environmental Impact Analysis Process

ICRMP—Integrated Cultural Resources Management Plan

INRMP—Integrated Natural Resources Management Plan

ITLO—Installation Tribal Liaison Officer

ITRP—Installation Tribal Relations Plan

MAJCOM—Major Command

NAGPRA—*Native American Graves Protection and Repatriation Act* of 1990

NEPA—*National Environmental Policy Act* of 1969

SAF/IE—Assistant Secretary of the Air Force for Installations, Environment and Energy

SAF/IEE—Deputy Assistant Secretary of the Air Force for Environment, Safety and Infrastructure

USC—United States Code

Terms

Administrative Record—Compiled information, located at or near the facility and available to the public, that contains the documents that form the government’s consultation record.

Archaeological resources—Any material remains of past human life or activities that are capable of providing scientific or humanistic understandings of past human behavior and cultural adaptation through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation, and explanation (see 16 USC §§ 470aa-mm and 32 C.F.R. Part 229).

Comprehensive Agreement—An agreement between a federal agency and an Indian Tribe concerning remains or cultural objects, concerning all agency land management activities that could result in the intentional excavation or inadvertent discovery of Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony (heritage), subject to NAGPRA. The comprehensive agreement should establish procedures for consultation, treatment, and disposition of NAGPRA remains or cultural objects likely to be found during any undertaking or action on agency lands. The signed agreement, or correspondence related to efforts to reach agreement, constitute proof of consultation. A Contingency Plan of Action is similar to a comprehensive agreement, but deals only with NAGPRA remains and objects likely to be discovered during a specific undertaking or action. Tribal and agency officials (e.g., the installation commander) must sign comprehensive agreements, but only the agency official signs Plans of Action, under 43 CFR § 10.5(e).

Consultation—Primarily, a process involving regular meetings, preferably face-to-face, supplemented by written, telephonic, and electronic communications about issues and concerns important to the parties involved. Consultation involving tribes is most effective when based on respect, trust, and strong relationships between Department of the Air Force leaders and tribal leaders. It is a dynamic, ongoing dialogue including face-to-face communication at both technical and leadership levels, and not necessarily driven by a single need or issue. Achieving consensus, when possible, is a major goal. Legal requirements often prompt specific consultation efforts, resulting in formal agreements.

Consultation Protocol Agreement—A Consultation Protocol Agreement is the documentation of the consultation procedures agreed upon between the installation and the tribe. While the agreement may take tribal cultural practices into account, the agreement should address issues of common interest to both parties. The goal of a protocol agreement is to foster relationships that facilitate military mission needs and address issues important to the tribe.

Council on Environmental Quality—The CEQ formulates policy and promulgates regulations to implement NEPA at 42 USC §§ 4321 *et seq.*

Cultural Resources Manager—A qualified, trained cultural resources program manager who meets the Secretary of the Interior Standards and Guidelines for Federal Agency Historic Preservation Programs pursuant to NHPA Section 110, or who has sufficient historic preservation, archaeological, historical, or architectural training to successfully carry out the responsibilities of the Department of the Air Force Cultural Resources Program.

Department of the Air Force Tribal Liaison Officer—The Department of the Air Force Tribal Liaison Officer is designated as the Deputy Assistant Secretary of the Air Force (Environment, Safety, and Infrastructure). This individual is responsible for guidance, direction, and oversight for all matters pertaining to the formulation, review, and execution of plans, policies, programs, and budgets related to Department of the Air Force tribal interaction requirements from DoDI 4710.02.

Environmental Impact Analysis Process—The EIAP provides Department of the Air Force procedures for environmental impact analysis and Department of the Air Force compliance with NEPA. The EIAP is essential to achieve and maintain compliance with 40 CFR §§ 1500-1508. To comply with NEPA and complete the EIAP, the CEQ and EIAP Regulations must be used together.

Freedom of Information Act—FOIA is a Federal law that establishes the public's right to request existing records from Federal Government Agencies. The FOIA program is governed by DoD 5400.7-M, and AFMAN 33-302.

Government-to-Government—The relationship between federally recognized tribes and the United States is one between sovereigns, i.e., between a government and a government.

Historic Properties—Those properties listed or eligible for listing in the National Register of Historic Places.

Indian—A member of a federally recognized tribe.

Indian lands—Any lands the title to which is either (1) held in trust by the United States for the benefit of any Indian tribe or Indian, or, (2) held by an Indian tribe or Indian subject to restrictions by the United States against alienation as defined by DoDI 4710.02 and 32 CFR § 229.3(f), *Protection of Archaeological Resources*; or (3) Treaty Lands.

Installation Tribal Relations Plan—The installation tribal relations plan outlines the approach installations will use to establish long-term relationships between the Department of the Air Force, specific to a given installation's mission, and tribes. This DAFI gives flexibility to installations to develop their own installation tribal relations plan for building and maintaining tribal relationships. AFCEC developed an installation tribal relations plan outline template, for modification and use by installations. At a minimum, the installation tribal relations plan should include (1) how the installation plans to reach out to identified federally recognized tribes with historic or cultural affiliation to installation lands; (2) specific details on how the installation plans to address areas of concern for tribes; (3) how the installations plans to maintain tribal relationships after the initial meeting between the commander and tribal leaders; (4) a standard process for consultation whenever issues arise between the tribe(s) and the installations; and (5) a list of current tribal government points of contact.

Integrated Cultural Resources Management Plan (ICRMP)—A document prepared by each DoD installation that describes how it defines the procedures and outlines plans for managing cultural resources on that installation. Integrated Cultural Resources Management Plans must contain the information required by DoDI 4715.16, Enclosure 6, and AFMAN 32-7003.

Integrated Natural Resources Management Plan (INRMP)—A plan based on ecosystem management that describes and delineates the interrelationships of the individual natural resources elements in concert with the mission and land use activities affecting the basic land management plans. Defines the natural resources elements and the activities required to implement stated goals and objectives for those resources. Integrated Natural Resources Management Plans are required in accordance with the *Sikes Act*, 16 USC § 670a(a)(1)(B), and based on the criteria in AFMAN 32-7003.

Meaningful consultation—The Department of the Air Force and installations make a good-faith effort to engage the tribe(s) early enough in the planning process to consider potential effects of the proposed action or project on the tribe(s) and consider tribal input in the decision making process.

National Environmental Policy Act (NEPA)—Signed into law on January 1, 1970, 42 USC § 4321 *et seq.*, NEPA establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment and provides a process for implementing these goals for federal agencies. The Act also establishes the CEQ, 42 USC §§ 4321 *et seq.*, to formulate environmental policy and regulations promulgating NEPA.

Native American—A person with origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or has community recognition as an American Indian or Alaskan Native.

Native American Graves Protection and Repatriation Act (NAGPRA)—Provides a process for museums and federal agencies to return certain Native American cultural items -- human remains, funerary objects, sacred objects, or objects of cultural patrimony -- to lineal descendants, and culturally affiliated Indian Tribes and NHOs. NAGPRA includes provisions for unclaimed and culturally unidentifiable Native American cultural items, intentional and inadvertent discovery of Native American cultural items on federal and tribal lands, and penalties for noncompliance and illegal trafficking. In addition, NAGPRA authorizes federal grants to Indian Tribes, NHOs, and museums to assist with the documentation and repatriation of Native American cultural items, and establishes the Native American Graves Protection and Repatriation Review Committee to monitor the NAGPRA process and facilitate the resolution of disputes that may arise concerning repatriation under NAGPRA.

Natural Resources Manager—The natural resources management professional who is delegated responsibility for the management of the natural resources program on an installation.

Protected tribal resources—Those natural resources and properties of traditional or customary religious or cultural importance, either on or off Indian lands, retained by or reserved by or for Indian tribes through treaties, statutes, judicial decisions, or executive orders, including tribal trust resources.

Public Affairs—The formal office that is responsible for the media and community issues related to the installation mission.

Sacred Site—Defined in EO 13007 as, “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” (see DoDI 4710.02 and DoDI 4710.03).

Treaty lands—Ancestral lands that tribes transferred to the United States Government in exchange for (1) protection from encroachment, disturbance, or interference from non-Indians and (2) continued access to resources and significant places.

Tribal rights—Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, un-extinguished aboriginal title, treaty, statute, judicial decision, executive order, or agreement, and that give rise to legally enforceable remedies.

Tribe—A federally recognized Indian or Alaska Native tribe, band, nation, pueblo, village, community, or other tribal entity that the Secretary of Interior acknowledges to exist as an Indian tribal entity pursuant to the annual update to the Department of Interior list of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs published in the Federal Register.