



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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WASHINGTON DC 20350-1000

SECNAVINST 11010.14B
ASN (EI&E)

SECNAV INSTRUCTION 11010.14B

From: Secretary of the Navy

Subj: DEPARTMENT OF THE NAVY POLICY FOR CONSULTATION
WITH FEDERALLY RECOGNIZED INDIAN TRIBES, ALASKA
NATIVE TRIBAL ENTITIES, AND NATIVE HAWAIIAN
ORGANIZATIONS

Ref: (a) 54 U.S.C. §300101 et seq.
(b) 42 U.S.C. §1996
(c) 16 U.S.C. §470aa et seq.
(d) 25 U.S.C. §3001 et seq.
(e) Public Law 103-454
(f) Memorandum on Government-to-Government Relations
With Native American Tribal Governments of
29 April 1994
(g) E.O. 13007
(h) E.O. 13175
(i) Department of Defense Plan of Action to Implement the
Policies and Directives of E.O. 13175
(j) SECNAVINST 4000.35A
(k) DoD Instruction 4715.16 of 21 November 2017
(l) DoD Instruction 4710.02 of 14 September 2018
(m) DoD Instruction 4710.03 of 31 August 2018
(n) Department of Defense American Indian and Alaska
Native Policy of 20 October 1998
(o) Memorandum of Understanding Regarding Interagency
Coordination and Collaboration for the Protection
of Tribal Treaty Rights of 9 November 2016

Encl: (1) Department of the Navy Guidance for
Consultation with Federally Recognized Indian
Tribes, Alaska Native Tribal Entities, and Native
Hawaiian Organizations
(2) Department of the Navy Responsibilities
for Consultation with Federally Recognized
Indian Tribes, Alaska Native Tribal Entities,
and Native Hawaiian Organizations

1. Purpose. To update Department of the Navy (DON) policy, procedures and responsibilities under references (a) through (o) when consulting with representatives of federally recognized Indian tribes, including Alaska Native tribal entities, and Native Hawaiian Organizations (NHOs).

2. Cancellation. SECNAVINST 11010.14A.

3. Definitions

a. Alaska Native Tribal Entities. Native villages or corporations recognized as eligible for special programs and services pursuant to Section 104 of reference (e). Hereinafter, references to Indian tribes include these Alaska Native tribal entities.

b. Consultation. The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement.

c. Cultural items. In accordance with reference (d), cultural items include human remains, funerary objects, sacred objects, and objects of cultural patrimony relating to a people or culture indigenous to the United States, including Alaska and Hawaii.

d. Indian Lands. Any lands the title to which is either held in trust by the United States for the benefit of any Indian tribe or Indian, or held by an Indian tribe or Indian subject to restrictions by the United States against alienation.

e. Indian Tribe. Any federally recognized Indian tribe, band, nation, or other organized group or community; including Alaska Native tribal entities (see reference (e)).

f. Federal Trust Responsibility. A legally enforceable fiduciary obligation under which the United States has charged itself with moral obligations of the highest responsibility and trust toward Indian tribes to protect tribal treaty rights, lands, assets, and resources, as well as a duty to carry out the mandates of federal law with respect to Indian Tribes and Alaska Native tribal entities.

g. Native Hawaiian Organization. Any organization which serves and represents the interests of Native Hawaiians; has a primary and stated purpose to provide services to Native Hawaiians; and has demonstrated expertise in Native Hawaiian affairs.

4. Applicability. The policies and responsibilities assigned in this instruction apply to the DON shore establishment and the active and reserve operating forces.

5. Background

a. The federal trust responsibility between Indian tribes and the Federal government is an outgrowth of the Federal treaty period when Congress provided certain assurances in return for ceded lands. Among these are reserved rights, which often include the use of their ancestral lands for fishing, hunting, and gathering in usual and accustomed places and tribal sovereignty. Consultations with Indian tribes concerning actions taken on DON installations or undertaken by the DON are recurring requirements. Consultations regarding proposed DON actions may include, but are not limited to ground-disturbing activities, construction, training, low level overflights, management of sites with religious or cultural significance, protection of sacred sites, access to sacred sites, access to subsistence and medicinal natural resources, disposition of cultural items under the purview of reference (d), and land use decisions, including development of Integrated Cultural Resource Management Plans and Integrated Natural Resource Management Plans.

b. Planning and consultation to comply with this instruction is an ongoing requirement that will be incorporated into all DON actions.

c. Consent, approval, or formal agreement is not necessary to satisfy consultation requirements; however, the DON is committed to developing and maintaining long-term working relationships of respect, trust, and cooperation with Indian tribes and NHOs. DON commands should also consider the impact of reaching (or not reaching) agreement on project permitting requirements.

6. Policy. It is DON policy to:

a. Consult with Indian tribes and NHOs as provided by law on all issues impacting Indian lands, properties of traditional religious and cultural importance to Indian tribes or NHOs, cultural items subject to reference (d), rights protected under treaties, and issues of concern to Indian tribes and NHOs;

b. Conduct consultation on a government-to-government basis in recognition of Tribal sovereignty and in accordance with reference (e) and enclosure (1);

c. Conduct consultation openly and in good faith, using written, electronic, telephonic and face-to-face consultation formats, as appropriate;

d. Initiate consultation at the earliest possible juncture in the planning process, in accordance with references (a) through (o) and enclosure (1);

e. Retain final decision-making authority over DON assets and actions;

f. Protect culturally sensitive information from public disclosure in accordance with references (a) and (c), and consult in good faith with Indian tribes and NHOs to take all available steps to protect sensitive information; and

e. Consult with non-federally recognized Indian tribes, traditional cultural leaders, and other Native Americans under reference (a) and other applicable statutes and regulations.

7. Responsibilities. See enclosure (2).

8. Delegation of Authority. ASN (EI&E), Chief of Naval Operations, and the Commandant of the Marine Corps may delegate responsibilities assigned in this instruction, as appropriate.

9. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page:
<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local Records Manager or the DRMD program office.



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