



## **Tribal Consultation Plan - 2021**

### **Institute of Museum and Library Services**

#### **1. Purpose Statement**

The United States government has a unique legal relationship with Federally-recognized Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. The Federal government recognizes the right of self-determination for Indian tribal governments and the obligation to work with Indian tribal governments in a government-to-government relationship. As an executive agency, the Institute of Museum and Library Services (“IMLS” or “agency”) has a responsibility and is committed to working with Indian tribal governments in this unique relationship, respecting tribal sovereignty and self-determination.

IMLS seeks to foster and facilitate positive government-to-government relations between the agency and all Federally-recognized Indian tribes. The purpose of this Tribal Consultation Plan (“Plan”) is to develop, improve, and sustain partnerships with Indian tribes by using agreed-upon processes when IMLS develops, changes, or implements policies, programs, or services with tribal implications.

#### **2. Summary of the Presidential Memoranda and Executive Order**

On January 26, 2021, President Biden issued a “Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships” <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/> This January 26, 2021 Memorandum reaffirmed the policy announced in the President Obama’s Memorandum of November 5, 2009 (“Tribal Consultation”).

In furtherance of those Presidential Memoranda, IMLS has developed this Plan for implementing the November 6, 2000 Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”) (available at <https://www.doi.gov/pmb/cadr/programs/native/Executive-Order-13175>) in order to engage in “regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications.”

Executive Order 13175 recognizes the unique legal relationship that the Federal government has with Indian tribes and sets forth the criteria agencies should follow when formulating and implementing policies that have tribal implications. In addition,

Executive Order 13175 requires Federal agencies to establish a consultation process for interactions with Indian tribes in the development of regulatory policies that have tribal implications.

IMLS affirms its commitment to the principles set forth in Executive Order 13175 and the Presidential Memoranda of January 26, 2021 and November 5, 2009 in establishing this Plan of actions.

### **3. Definitions**

1. “*Consultation*” refers to meaningful and timely discussion in an understandable language with tribal governments.
2. “*Indian tribe*” or “*Tribe*” means an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 (see 25 U.S.C. § 5130 and § 5131).
3. “*Policies that have tribal implications*” refers to regulations, legislative comments or proposed legislation and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.
4. “*Tribal government*” refers to the recognized government of a tribe. A listing may be found at [Tribal Leaders Directory | Indian Affairs \(bia.gov\)](https://www.bia.gov/tribal-leaders-directory)
5. “*Tribal implications*” means substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power between the Federal government and Indian tribes.
6. “*Tribal member*” refers to a member of a tribe as determined by tribal membership rules.
7. “*Tribal officials*” means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

### **4. Goals and Actions**

IMLS will continue to support the fundamental principles of self-government, self-determination, and tribal sovereignty specified in Executive Order 13175. IMLS will implement this Plan to establish meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have tribal implications, and to strengthen the government-to-government relationship between the United States and Tribal Nations. Specifically, and subject to the availability of funding and applicable law, IMLS will:

Foster meaningful Government-to-Government relations by:

- ◆ Holding consultations consistent with applicable laws, Presidential Memoranda, and Executive Order 13175. The goal of these consultations will be to create trust and partnership with tribal governments in the development of IMLS policies that have tribal implications.
- ◆ Trying to reach consensus with Tribal Nations on all IMLS matters affecting them.
- ◆ Supporting participation by invited IMLS officials at national tribal conferences, tribal/state meetings, summits, and conferences discussing tribal issues.
- ◆ Supporting direct contact with Indian tribal governments, including visiting tribal governments at reservations, Native villages, and communities, when invited.
- ◆ Seeking tribal government representation in meetings, conferences, summits, advisory committees, and review boards concerning issues with tribal implications.

Support meaningful Consultations by:

- ◆ Providing written notice to tribal governments of IMLS consultations. IMLS will try to provide such notice at least 30 calendar days in advance, unless there is an unanticipated urgency in which case IMLS will send the notice with as much time as possible.
- ◆ In the written notices of consultation, IMLS will provide background and other materials designed to inform Tribal leaders of the subject matter as well as logistical information.
- ◆ IMLS will identify, and send the notices of consultation to, Tribal leaders using the BIA Tribal Leaders Directory at [Tribal Leaders Directory | Indian Affairs \(bia.gov\)](https://www.bia.gov/tribal-leaders-directory) . IMLS will also send notices of the consultation through other distribution channels, as appropriate, such as the IMLS website, recent IMLS Native American grant programs recipients, the National Congress of American Indians, and organizations supporting tribal matters.
- ◆ IMLS will host the consultations in a practical manner that is convenient to the participants. This may include holding consultations in person, virtually, telephonically, or through a combination (hybrid) of approaches. For virtual consultations, IMLS will try to provide features that allow for simultaneous written discussion.

- ◆ After a consultation, IMLS will send out a follow-up communication. Such communication may include notes, a transcript, a recording, and other materials, as well as a description of any next steps. Participants may respond, or send any proposed corrections, to IMLS. IMLS will review and respond, as appropriate.

Improve existing IMLS tribal programs by:

- ◆ Seeking tribal input when IMLS develops or revises regulations with tribal implications, and providing adequate time to allow for comment.
- ◆ Seeking tribal input when IMLS contemplates new IMLS programs or major changes to existing ones, and providing adequate time to allow for comment.
- ◆ Notifying tribes of grant opportunities through multiple means, including announcements on the IMLS website and in Grants.gov and the Federal Register, as appropriate.

Actively seek tribal input through Listening Sessions:

- ◆ Hosting listening sessions with tribal library, archive, and museum staff at the working level. This could be held once a year or more frequently as needed.

## **5. Accountability**

Designated Official. The Deputy General Counsel is the agency's Designated Official responsible for implementation of this Plan, and related policies and requirements. The Designated Official will advise and make recommendations to the IMLS Director on IMLS policies, issues, programs, and activities with tribal implications. The Designated Official will also update this Plan as necessary.

Plan Transmission. In accordance with President Biden's January 26, 2021 Memorandum, IMLS will submit to the Office of Management and Budget (OMB) this detailed Plan by April 26, 2021.

Progress Reports. The Designated Official will submit to OMB a progress report on the status of each action included in this Plan, together with any proposed updates to this Plan, within 270 days (by October 25, 2021). The Designated Official will submit such progress reports annually thereafter.

*[Edition: 4/26/2021]*