



ARIZONA DEPARTMENT OF TRANSPORTATION POLICIES AND PROCEDURES

MGT-16.01 DEPARTMENT-WIDE NATIVE NATION/ TRIBAL GOVERNMENT CONSULTATION POLICY

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Supersedes: MGT-16.01 (11/19/2008)

Responsible Office: Director's Office (602) 712-7227

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1.01 PURPOSE

This policy establishes guidance for the Arizona Department of Transportation's (ADOT) relationship with Native Nations/Tribal Governments in the State of Arizona.

1.02 SCOPE

This policy is intended to guide ADOT personnel when interacting with the Native Nations/Tribal Governments in Arizona. To support the implementation of this policy, a detailed process is described in the [Tribal Transportation Consultation Process Reference Manual](#) developed for use by ADOT personnel (October 2009). The Manual describes the role and practice of tribal consultation throughout the ADOT program and project development process.

1.03 BACKGROUND

The Arizona Highway Department was established in 1927; subsequently, the agency became ADOT in 1974 and is responsible for planning, developing, maintaining, and operating highway transportation facilities for the efficient movement of people and products by surface and air throughout Arizona. Within the State, multimodal transportation systems cross numerous jurisdictional boundaries. In particular, approximately 1,143 centerline miles of the state highway system traverse Native Nation/Tribal lands along with 20 airports maintained by the Native Nations/Tribal Governments. Additionally, there are 22 Native Nations/Tribal Governments that have jurisdiction over approximately 28% of the land base within Arizona. Thus, the State is committed to work together with the Native Nations/Tribal Governments for the common purpose of protecting the health, safety and welfare of the traveling public in Arizona through a continuously improving working relationship.

Furthermore, [Executive Order 13175](#) (November 6, 2000 reaffirmed by President Barack Obama November 5, 2009), "Consultation and Coordination with Indian Tribal Governments" and the [United States Department of Transportation \(US DOT\) Order 5301.1](#) (November 16, 1999), "Department of Transportation Programs, Policies and Procedures Affecting American Indians, Alaska Natives and Tribes" requires state departments of transportation to consult, cooperate and coordinate with Native Nations/Tribal Governments in statewide and metropolitan transportation planning processes. This is in addition to addressing environmental, cultural, historic, natural and human resource issues during the implementation of transportation programs and construction projects impacting Native Nations/Tribal reservations and aboriginal lands within the State boundaries. Consequently, the State is committed to consult, cooperate and coordinate with the Native Nations/Tribal Governments on the implementation of their respective multi-modal transportation mission and goals.

1.04 DEFINITIONS

Intergovernmental Agreement
(IGA)

An agreement between political subdivisions including cities, counties, tribes or any other governmental agency or political subdivision. Includes interagency agreements,

	i.e., agreements between agencies or departments of the State.
Joint Project Agreement (JPA)	An agreement between parties for the joint exercise of powers to accomplish a task. A Joint Project Agreement is any intergovernmental agreement (IGA).
Memorandum of Agreement (MOA)/ Memorandum of Understanding (MOU)	A document written between parties to cooperatively work together on an agreed upon project or meet an agreed upon objective. The purpose is to have a written understanding of the agreement between parties.
Native Nations/Tribal Governments	The 22 Federally recognized Native Nations, Tribal Governments, and Tribal Communities that have jurisdiction over lands located within the boundaries of the State of Arizona. These tribes are acknowledged to exist by the Secretary of the Interior pursuant to the Federally Recognized Indian Tribe List Act of 1994, Public Law 103-454.
Consultation	One or more parties conferring with other identified parties in accordance with an established process and prior to taking action(s), that considers the views of the other parties and periodically informs them about action(s) to be taken.
Cooperation	The parties involved in carrying out the decision-making work together to achieve a common goal or objective.
Coordination	The cooperative actions among agencies and entities to achieve synchronization and integration of activities, responsibilities, and command and control structures to ensure that the resources of an organization are used most efficiently in pursuit of the specified objectives.
State Transportation Improvement Program (STIP)	A statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range transportation plan, metropolitan transportation plans, and Transportation Improvement Programs (TIPs), and required for a project to be eligible for funding under Title 23 U.S.C. and Title 49 U.S.C. Chapter 53.

1.05 POLICY

ADOT recognizes the sovereign status of Native Nations/Tribal Governments and their jurisdiction over lands within reservation boundaries as defined by Federal law [[18 U.S.C. §1151](#)]. ADOT also recognizes its exclusive control and jurisdiction over state highways within reservation boundaries as defined in [A.R.S. §28-332\(A\)](#). In recognition of Native Nations/Tribal sovereignty, ADOT respects the unique and continuous existence of each Native Nation's/Tribe's government, people, history, culture, codes and laws.

- A. ADOT is committed to developing relationships with the Native Nations/Tribes in Arizona, and will respect and consider all transportation concerns. ADOT appreciates and encourages the

Native Nations'/Tribal Governments' contribution to the transportation concerns of the State of Arizona.

- B. ADOT will neither solicit nor assert any claim to Federal resources that would otherwise be provided directly to Native Nations/Tribes, unless an impacted Native Nation/Tribe gives consent.
- C. ADOT will maintain and operate State owned transportation infrastructure within Native Nation/Tribal lands in the best interest of the State while respecting the concerns of the Native Nations/Tribal Governments and local communities.
- D. ADOT management, including the director, assistant directors, district engineers, and other designated staff, will maintain the appropriate working relationships with Native Nation/Tribal Government elected officials and staff to assure the continuous operation of all respective transportation systems.
- E. ADOT will consult with Native Nations/Tribal Governments during the transportation planning processes and implementation of the Statewide Transportation Improvement Program (STIP) in accordance with Federal Highway Administration, Federal Transit Administration, and Federal Aviation Administration policies and this policy.
- F. ADOT will assist Native Nations/Tribal Governments to implement transportation programs by providing technical assistance, reference tools such as the ADOT Transportation Planning and Programming Guidebook for Tribal Governments manual (November 2009), sharing data, conducting joint Native Nations/Tribal Government and State projects, and cooperatively resolving transportation issues to the extent resources allow.
- G. ADOT will enter into Intergovernmental Agreements, Joint Project Agreements, Memoranda of Agreement, or Memoranda of Understanding when considered mutually appropriate by ADOT and the appropriate Native Nation/Tribal Government.
- H. ADOT, while acknowledging funding and jurisdictional limitations, will work with Native Nations/Tribal Governments to identify available resources to jointly or individually fund projects to benefit the State and Native Nation/Tribal communities.
- I. ADOT will conduct technical training, when appropriate and as resources allow, to support planning, development, construction, maintenance, and operation of transportation facilities under Native Nations/Tribal jurisdiction.
- J. ADOT will engage in partnering efforts, when appropriate and as resources allow, to encourage and improve understanding and communication with the Native Nations/Tribal Governments.
- K. ADOT encourages mutual understanding of unique cultural and organizational practices among ADOT and the Native Nations/Tribal Governments.
- L. ADOT will provide timely opportunities for communication with Native Nations/Tribal Governments about decisions that may affect them. ADOT values reciprocity by Native Nations/Tribal Governments and encourages timely notification on matters that may affect the State.
- M. ADOT will share appropriate technical information and data with Native Nations/Tribal Governments in accordance with established ADOT policy. ADOT values reciprocity and encourages all Native Nations/Tribal Governments to share appropriate technical data with the State in accordance with established Native Nations/Tribal Government policy.

- N. ADOT will update both the Tribal Transportation Consultation Process Reference Manual developed for use by ADOT personnel (October 2009) and the ADOT Transportation Planning and Programming Guidebook for Tribal Governments Manual (November 2009).

1.06 RESPONSIBILITY

- A. In good faith, the Director of ADOT, in his/her official capacity, or through his/her designee(s), including the Communication and Community Partnerships Division, the Intermodal Transportation Division and its Engineering Districts, the Motor Vehicle Division, the Multimodal Planning Division, the Administrative Services Division, the Enforcement and Compliance Division, Arizona Highways Magazine and the Transportation Services Group shall endeavor to implement the terms of this policy.
- B. Responsibility for the enforcement of this policy lies with the Director's Office; State Engineer's Office; Division Directors and District Engineers; and, Group, Section, and Team Managers.