



# United States Department of the Interior

## OFFICE OF THE SECRETARY

Office of Native Hawaiian Relations



## STANDARD OPERATING PROCEDURE FOR CONSULTATION WITH THE NATIVE HAWAIIAN COMMUNITY

### I. BACKGROUND

#### A. About the Office

Congress established the Office of Native Hawaiian Relations (Office) within the U.S. Department of the Interior (Department) in 1995 and 2004.<sup>1</sup> The Assistant Secretary for Policy, Management and Budget (ASPMB) is responsible for administering the United States' responsibilities under the Federal laws governing the Hawaiian Home Lands Trust. The Office discharges the ASPMB's and Secretary's responsibilities for matters related to the Native Hawaiian Community (NHC), the Hawaiian Home Lands Trust, and, when appropriate, serves as a conduit for the Department's field activities in Hawai'i. This Standard Operating Procedure (SOP) is consistent with the Congressional directive that the Office "fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian people by assuring timely notification of and prior consultation with the Native Hawaiian people before any Federal agency takes any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands."<sup>2</sup>

#### B. United States' History with the Native Hawaiian Community

Since the annexation of Hawai'i as a U.S. territory in 1898, the Department has had a continuing role in the stewardship of lands and resources in the islands as well as the political and trust relationship with the Native Hawaiian people. Congress, under its plenary authority over Indian affairs, enacted the Hawaiian Homes Commission Act, 1920

**Key:** Self-identification is an exercise of self-determination.

Kanaka maoli and kanaka 'ōiwi are terms by which Native Hawaiian individuals may identify themselves. Lāhui is a term by which the Native Hawaiian Community may identify the political community as a whole.

Although the Framers of the U.S. Constitution used the term "Indian tribe" to broadly reference indigenous peoples, a grouping that includes the Native Hawaiian Community, Congress also has enacted laws distinctly and expressly for the benefit of the Native Hawaiian Community.

<sup>1</sup> In 1995, Congress directed the Secretary to appoint an individual to administer the responsibilities of the United States under the Hawaiian Home Lands Recovery Act (109 Stat. 357, 363) and the Hawaiian Homes Commission Act (42 Stat. 108). In 2004, Congress established the Office of Native Hawaiian Relations within the Office of the Secretary of the Interior. (118 Stat. 445).

<sup>2</sup> 118 Stat. 445, 446.

(HHCA)<sup>3</sup> to protect the welfare of and rehabilitate the Native Hawaiian people. The HHCA provides for the homestead leasing of Hawaiian home lands to beneficiaries by having placed approximately 200,000 acres of former crown lands into the Hawaiian Home Lands Trust. For nearly 100 years, the State of Hawai‘i (vested with the day-to-day administration of the Trust) and the Secretary of the Interior have provided oversight of the Trust. Congress also set aside various tracts of former crown lands for the establishment of National Parks and National Wildlife Refuges. In the enabling legislation for the Hawai‘i Parks, Congress acknowledged the importance of Native Hawaiian history and sought to assist the NHC in both preserving and perpetuating its traditional activities and culture. It did so by affording the NHC the right to continue traditional fishing, gathering, and other customary practices, and provided opportunities for preferential employment at certain Parks.<sup>4</sup>

Congress further recognized a special political and trust relationship with the NHC through more than 150 legislative enactments. Under laws such as the Native American Graves Protection and Repatriation Act (NAGPRA), National Historic Preservation Act (NHPA), and Native Hawaiian Health Care Improvement Act (NHHCIA), Congress charged Federal agencies to work with the NHC through Native Hawaiian organizations (NHO).<sup>5</sup>

Congress requires Federal Agencies to work with NHOs who are the informal representatives of the NHC. The requirement to work with NHOs is necessary because the NHC currently lacks a unified formal government. It is also respectful of the traditional way the NHC has governed itself since the 1840s when the United States and other western powers began to infiltrate the Kingdom of Hawai‘i’s central government.<sup>6</sup>

**Resource:** [\*Consultation with Native Hawaiian Organizations In the Section 106 Review Process: A Handbook\*](#)

The Office worked with the Advisory Council on Historic Preservation (ACHP) to create this handbook that provides tools, requirements, principles, and tips specifically geared toward helping Federal Agencies engage and reach successful outcomes when working with the NHC on actions triggering Section 106.

<sup>3</sup> 42 Stat. 108.

<sup>4</sup> See 92 Stat. 3499; 52 Stat. 784; 94 Stat. 3321, 3323.

<sup>5</sup> 81 Fed. Reg. 71,278 (Oct. 14, 2016) (*And when enacting Native Hawaiian statutes, Congress expressly stated in accompanying legislative findings that it was exercising its plenary power over Indian affairs: “The authority of the Congress under the United States Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawaii.” Native Hawaiian Health Care Improvement Act, 42 U.S.C. 11701(17); see H.R. Rep. No. 66–839, at 11 (1920) (finding constitutional precedent for the HHCA “in previous enactments granting Indians . . . special privileges in obtaining and using the public lands”); see also Native Hawaiian Education Act, 20 U.S.C. 7512(12)(B)).*

<sup>6</sup> Davianna Pōmaika‘i McGregor, *Nā Kua‘āina: Living Hawaiian Culture* (Honolulu: Univ of Hawai‘i Press, 2007) pp. 3, 12-14, 55-59 (July petition to Kamehameha III by 1600 commoners concerning “the independence of the kingdom,” and prohibiting foreigners to own land); see also Silva, *Aloha Betrayed*, pp. 38-9; E.S. Craighill Handy and Mary Kawena Pūku‘i, *The Polynesian Family System in Ka‘ū, Hawai‘i* (Rutland, VT: Charles E. Tuttle, 1976), pp. 5-6.

Unlike tribes in the continental United States that have government officials who are easily identifiable, the NHC's leadership can be difficult to discern. Some NHOs serve the interests of the NHC as a whole, and others are focused geographically [generally *moku* (district) based] or by subject matter. The Office maintains the Department's NHO List at [www.doi.gov/hawaiian](http://www.doi.gov/hawaiian), in part, to help Federal Officials identify the most appropriate NHC leaders to work with on a particular project.

### **C. Requirements to Consult with the Native Hawaiian Community**

Congress expressly requires Federal agencies consult with the NHC under specific statutes such as NAGPRA, Section 106 of the NHPA and the NHHCIA. Congress has also required Federal agencies to consult before taking actions that have the potential to significantly affect Native Hawaiian resources, rights, or lands by correspondingly charging the Office with fully integrating the policy and practice of meaningful consultation by such Federal agencies.

The corollary to the underlying principles for formulating or implementing policies with implications for a native community in Executive Order 13175<sup>7</sup> may be stated as –

The United States:

1. respects and furthers its special political and trust relationship with the NHC;
2. must continue to work with the NHC on a government-to-sovereign basis to address concerns related to self-governance, Native Hawaiian trust resources, and other Native Hawaiian rights; and
3. recognizes the right of the NHC to self-government and supports Native Hawaiian sovereignty and self-determination.

In summary, the United States recognizes and respects that the better resolutions of challenges affecting the NHC and its resources and interests are informed and often implemented by the NHC.

### **D. Building Relationships and Trust**

Engaging the NHC, as with any other type of engagement, is all about relationships. The building of relationships with the NHC before an action requiring consultation occurs will pay large dividends. This is especially true when the action the Office is consulting on happens during an emergency or when time is limited. Mindful of this, the Office should seek input from NHC leaders even when not required by statute and when developing internal succession plans, include a means of connecting incoming staff to those leaders. The building blocks of a

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<sup>7</sup> Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, Nov. 6, 2000.

relationship are generally composed of small acts consistently, openly, and honestly executed by the Office.

### **E. Historical Context and Importance of Cultural Understanding**

Each consultation occurs on the continuum of the NHC’s experiences and relationships with officials and citizens of various nations, including the United States. While the United States has a special political and trust relationship with the NHC, it has acknowledged its role in historical events that altered the NHC’s exercise of its sovereignty. The resulting historical and intergenerational trauma endured by the NHC may affect how individual members of the NHC function and relate to others, especially the United States. Thus, it is important for the consulting official to understand the NHC’s history and relationship with the United States. The official, when appropriate, should also exemplify core values shared by consultation and Native Hawaiian culture, including humility, an ongoing process of self-exploration and self-critique, and a willingness to learn from others. This means entering a relationship with the NHC with the intention of learning of things the Office may not understand or even know about, as well as honoring their beliefs, customs, and values.

**Resource:** [\*‘Ike Hawai‘i – A Training Program for Working with Native Hawaiians\*](#)

Although the context of this training is for social work, its discussion of historical and intergenerational trauma and how the NHC’s endurance can be attributed in part to its cultural resiliency informs the importance and function of consultation.

## **II. PURPOSE OF THE STANDARD OPERATING PROCEDURE FOR CONSULTATION WITH THE NATIVE HAWAIIAN COMMUNITY**

The purpose of this SOP for Consultation with the NHC is to provide the basic steps for working with the NHC on regulatory, policy, or other administrative decision-making matters. This SOP is written by and for the Office but may be used by any office or agency seeking to engage with the NHC. This SOP is intended to complement, not supersede, any existing laws, rules, statutes, or regulations that guide consultation processes with the NHC or Federally-recognized tribes in the continental United States.

This SOP honors the government-to-sovereign relationship between the United States and the Native Hawaiian Community and complies with the intent of the Presidential Memorandum of November 5, 2009,<sup>8</sup> which affirms this relationship and obligates

**Input Welcome:** This SOP is a living document that is intended to reflect the collective uses and experiences of the Office, other Federal agencies, and the Native Hawaiian Community. Mahalo to all who have helped shape this SOP in countless ways. The Office continues to welcome suggestions to improve and enhance this SOP. Mahalo nui loa.

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<sup>8</sup> Presidential Memorandum on Tribal Consultation, November 5, 2009.

the Office to meet the spirit and intent of EO 13175.<sup>9</sup> Consultation is a deliberative process that aims to create effective collaboration and informed Federal decision-making. Consultation is built upon the exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Federal consultation conducted in a meaningful and good-faith manner further facilitates effective Office operations and governance practices. To that end, the consulting official(s) will seek and promote cooperation, participation, and efficiencies between agencies with overlapping jurisdiction, special expertise, or related responsibilities regarding an action with NHC implications. Efficiencies derived from the inclusion of the NHC in the Office's decision-making processes through consultation will help ensure that future Federal action is achievable, comprehensive, long-lasting, and reflective of the NHC's input.

### III. DEFINITIONS

When working with the NHC, the following definitions may prove helpful.

***Actions with Native Hawaiian Community Implications (Action)*** generally includes any rulemaking, policy, guidance, legislative proposal, or operational activity that may have a substantial direct effect on the NHC on matters including, but not limited to:

- (1) Native Hawaiian cultural practices, lands, natural and cultural resources, or access to traditional areas of cultural or religious importance on Federally managed lands;
- (2) The ability of the NHC to govern or provide services to its members;
- (3) The NHC's relationship with the United States; or
- (4) The consideration of the Department's statutory trust responsibilities to the NHC. This, however, does not include matters that are in litigation or in settlement negotiations, or matters for which a court order limits the Department's discretion to engage in consultation.

***Ahupua'a*** (singular and plural) means a land division in Hawai'i usually extending from the uplands to the sea which traditionally was, and in some cases remains, self-sustaining or whose occupants were or are permitted a right to gather and access for subsistence, cultural, or religious

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<sup>9</sup> 81 Fed. Reg. 71,278 (Oct. 14, 2016) (*A government-to-government relationship encompasses the political relationship between sovereigns and a working relationship between the officials of those two sovereigns. Although the Native Hawaiian community has been without a formal government for over a century, Congress recognized the continuity of the Native Hawaiian community through over 150 separate statutes, which ensures it has a special political and trust relationship with the United States. At the same time, a working relationship between government officials is absent. This rulemaking provides the Native Hawaiian community with an opportunity to have a working relationship, referred to as the "formal government-to-government relationship." The Native Hawaiian community's current relationship with the United States has substantively all of the other attributes of a government-to-government relationship and might be described as a "sovereign to sovereign" or "government to sovereign" relationship. It is important to note that a special political and trust relationship may continue to exist even without a formal government-to-government relationship.*).

purposes. In contemporary times, ahupua‘a is also considered a cultural resource management principle.

**Beneficiary or beneficiaries** means “native Hawaiian(s)” as that term is defined under section 201(a) of the Hawaiian Homes Commission Act.

**Comment** means information, concerns, advice and suggestions that may be received orally or in writing through methods of submission specified by the Office, including during consultation meetings. *Input* refers to an aggregate of comments.

**Consultation or consult** generally means representatives of the government engaging in an open discussion process that allows interested parties to provide input regarding potential government issues, changes, or actions. Consultation does not transfer or cede government decision-making authority. Consultation requires dialogue which does not necessarily require, although often preferred and highly recommended, formal face-to-face meetings. Consultation may also occur through telephonic, electronic, or printed means. The complexity and geographic location of the Action along with the potential effects that the matter may have on the NHC will dictate the appropriate process and means for consultation.

**Consultation Report** refers to a document that reports on the consultation meetings and discussions as well as the comments received relating to an Action necessitating a consultation and lists any interim and preliminary recommendations and decisions made during the consultation process, when applicable.

**Cultural affiliation or culturally affiliated** means a connection between a cultural item or place and a present day NHO is established by reasonably tracing a relationship of shared group identity between the present day NHO and an identifiable prehistoric or historic earlier group connected to the cultural item or place.

**Hawaiian Home Lands Trust** means all trust lands given or that assumed the status of available lands or Hawaiian home lands under sections 203 and 204 of the Hawaiian Homes Commission Act, respectively, and as otherwise directed by Congress.

**Hawaiian Homes Commission Act (HHCA)** – A cooperative federalism statute, a compound of interdependent Federal and State law that establishes a Federal law framework but also provides for implementation through State law, the HHCA designated tracts totaling approximately 200,000 acres of available lands throughout Hawai‘i for exclusive homesteading by eligible native Hawaiians. Act of July 9, 1921, 42 Stat. 108. Introduced, revised and reported as a bill for the “Rehabilitation of Native Hawaiians,”<sup>10</sup> the HHCA was enacted in response to the precipitous decline in the Native Hawaiian population since Western contact. By 1919, the Native Hawaiian population declined, by some estimates, from several hundred thousand in 1778 to only 22,600. 20 U.S.C. § 7512(7).

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<sup>10</sup> H. R. Rep. No. 839, 66<sup>th</sup> Cong., 2d Sess., 1-2 (1920).

**HHCA Beneficiary Association** means an organization controlled by beneficiaries who submitted applications to the DHHL for homesteads and are awaiting the assignment of a homestead; represents and serves the interests of those beneficiaries; has as a stated primary purpose the representation of, and provision of services to, those beneficiaries; and filed with the Secretary a statement, signed by the governing body, of governing procedures and a description.

**Homestead Association** means a beneficiary-controlled organization that represents and serves the interests of its homestead community; has as a stated primary purpose the representation of, and provision of services to, its homestead community; and filed with the Secretary a statement, signed by the governing body, of governing procedures and a description of the territory it represents.

**Homestead and Beneficiary Associations (HBA)** means Homestead Association(s) and HHCA Beneficiary Association(s) and *an HBA* means either a Homestead Association, an HHCA Beneficiary Association or a Homestead and HHCA Beneficiary Association.

**Native Hawaiian** means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawai‘i.

**Native Hawaiian Community (NHC)** means the distinct Native Hawaiian indigenous political community that Congress, exercising its plenary power over Native American affairs, has recognized and with which Congress has implemented a special political and trust relationship.

**Native Hawaiian organization (NHO)** means any organization that:

- (1) Serves and represents the interests of Native Hawaiians;
- (2) Has as a primary and stated purpose the provision of services to Native Hawaiians; and
- (3) Has expertise in Native Hawaiian affairs,

and includes but is not limited to:

- a. Native Hawaiian organizations registered with the Department of the Interior’s Office of Native Hawaiian Relations; and
- b. HHCA Beneficiary Associations and Homestead Associations as defined under 43 C. F. R. §§ 47.10 and 48.6.

#### IV. CONSULTATION STANDARD OPERATING PROCEDURE

Depending upon the Action, the form and intensity of consultation will vary. Routine operational activities may necessitate a simplified process; whereas, rulemaking or changes in policy may require a more formal and structured process. There is no “standard” for consultation; however, all consultations should generally follow the seven procedural steps listed in this section.

Using the flow chart attached to this SOP, record each action taken under the seven steps. Creating a simple record of the findings or determinations made in each of the seven steps is a key feature of this Consultation SOP. By documenting the process, the Office:

- Assists the NHC and the general public to understand how the comments from the consultation were utilized in reaching a final decision;
- Provides an assurance of accuracy in the final decision; and
- Bolsters the defense of the final decision if litigation or controversy arises.

To assist in implementation of the seven steps, the Office also maintains a list of frequently asked questions (FAQ). Along with this SOP and its Seven Steps Flow Chart, the FAQ is a living document that the Office will revise and update as needed.

#### **SEVEN STEPS**

##### **Step 1: Assessment – Is Consultation Needed or Advantageous?**

At the outset of a proposed Federal action, it is important for the Office to assess whether consultation with the NHC is necessary or advantageous.<sup>11</sup> To conduct this assessment, it is important to consider the following:

- What is the proposed Federal action and its scope?
- Is it controversial or precedent setting?
- Is the NHC aware of the proposed Federal action and if so, what is the NHC’s level of awareness, interest, or concern in the proposed Federal action?
- What are the NHC implications, if any?

If at this stage, the proposed Federal action is neither controversial nor precedent setting, there is a low awareness or negligible interest, and/or there are no implications to the NHC; then it may

**Key:** Create a simple record of the findings and determinations made in each of the seven steps.

Aim to be clear and concise. A short phrase may be sufficient when documenting a bulleted action listed under a step.

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<sup>11</sup> In cases where the Office is not the initiating the Action, but has agreed to partner with another Federal office, department, or bureau, the Office will seek adoption of this consultation SOP for that particular action.



be appropriate to conclude that the Action (see definition) does not require consultation with the NHC.

However, if any answers to the preceding questions is in the affirmative or there is significant awareness, interest, or implications within the NHC, then the Action warrants further assessment.

In particular, it is important to consider the following:

- How would the NHC be affected, both adversely and positively?
- How might the NHC offer unique solutions?
- Is consultation required by statute or policy (even if consultation is not required by statute or policy there may be other reasons to consult)?

Additionally, it is important to consider the Hawai‘i-wide context under which the Action is being conducted and how consultation might be conducted. For example, it is reasonable to assess the advantages or disadvantages to consulting with the NHC at a point in time, given the scope of the Action may be coinciding with other circumstances or Federal Actions. Would the NHC be confused, overwhelmed, or conflate multiple Federal Actions? Would it be advantageous to delay consultation or coordinate with other federal agencies on their consultation actions?

If, through the Office’s assessment of the Action, it is determined that consultation is necessary or advantageous to the Action, then the Office should proceed to the next step in the consultation process.

## **Step 2: Planning – Develop a Consultation Plan**

Once it is determined that the Office will engage in consultation with the NHC for the Action, the Office needs to prepare for this process and begin the development of a Consultation Plan. There is no “one size fits all” for consultation planning as the level of depth and detail are dependent upon the scope of the Action. However, there are common principles that all planning activities should consider:

- **Goal/Purpose** – Given the scope of the Action and statutory or policy context under which consultation is to be conducted, it is important to determine the goals or purposes for the consultation. For example, is consultation on the Action to:
  - Provide information to the NHC about the Action and respond to questions;
  - Engage in a dialogue to exchange ideas or solutions about the Action;
  - Solicit and receive comments concerning the Action; or
  - All of the above?

These types of goals or purposes are a key factor in guiding the appropriate mode and forum of consultation with the NHC.

- **Mode or Forum** – In general, there are three modes of consultation: in-person or face-to-face; e-remote such as teleconferences, video calls, or webinars; and written, either through hard copy or electronic submissions (email or FAX). Each mode of consultation has its strengths and limitations, and it will be incumbent on the Office to determine which mode is most appropriate given the goals and purpose of the consultation. In order to include participants who have connectivity or mobility issues or lack transportation, consider making hard copies of background information available by mail upon request or at a local library or government office and always provide a means by which the NHC may physically submit written input.
- **Budget** – In deciding on the most effective mode of consultation, another consideration for the Office (as with any government agency) is the available budget for the Action. The cost of consultation, especially if it involves in-person meetings, can be substantial in Hawai‘i. Inter-island travel, lodging, facility rental and other expenses require thoughtful consideration given the Office’s annual budget and the scope of the Action. In some instances, while in-person meetings may be most desired by the NHC, budgetary constraints may dictate that meetings be conducted through e-remote or written means.
- **Assemble a Team** – Inasmuch as consultation is about communication and dialogue, another important consideration for the Office is the identification of personnel to conduct consultation and their respective roles in the process. Having a defined team with assigned roles allows the Office to meaningfully consult with the NHC. Team members can also be drawn as needed from the Department or other federal government agencies. When appropriate, outside consultants and NHC members may also be designated as Team members.
- **Scope** – The scope of the Action will largely guide the consultation process. Actions that are small or limited in scope and guided by policy may only require a single consultation in the form of soliciting written comments. Complex or controversial Actions that are part of a regulatory process (e.g., NEPA,<sup>12</sup> NHPA, etc.) are much more structured and procedural. Consultation for Actions that involve new or amended Federal rulemaking are guided by the content and complexity of the proposed rule. The Office will need to determine the most appropriate mode and number of consultation meetings that align with the Action and available budget. In this planning effort, the Office will need to consider the geographic locations for any in-person meetings, and their respective ease of access and seating capacity, support equipment, etc. For e-remote meetings it is important to consider the call-in or access capacity of any teleconference or videoconference system.

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<sup>12</sup> “NEPA” means the National Environmental Policy Act of 1969, 42 U.S.C. §§4321 *et seq.* NEPA’s basic purpose is to assure that all branches of the Federal government give proper consideration to the environment prior to undertaking any major Federal action that significantly affects the environment.

- **NHO and HBA Engagement** – Another consideration in consultation planning is to engage an NHO or HBA for assistance. Such organizations and associations often have place-specific knowledge and long-standing relationships within the NHC and have an interest in the Action. Further, for in-person consultations, NHOs and HBAs may have facilities or other support services that can be provided to the Office to assist in consultation. Depending on the scope of the Action and purpose of the consultation, early outreach and engagement with such NHOs or HBAs can benefit the Office.
- **Information for the NHC** – To assist the Office in consultation (regardless of the mode), it is vital to provide NHC participants with sufficient information through which they can not only understand the scope and effect of the Action, but more importantly, provide the Office with meaningful comments that the Office can consider in its deliberation and decision-making. Information that will be helpful to the NHC in consultation can include, but is not limited to: FAQs, maps, graphics, prior studies or research, and regulations or policies concerning the Action. In general, more information provided to the NHC is better and demonstrates transparency of the Office. For some Actions, establishing a specific page on the Office’s website may be a convenient means of providing information and updates to the NHC.
- **Report Out** – In addition to providing the NHC information about the scope of the Action, it is also important to share with the NHC how their comments will be used and reported by the Office, and how they will inform decision-making on the Action. Additional details are provided in Steps 6 and 7 below.

As the Office considers the above-mentioned planning elements, the Office will benefit from documenting its analysis, decisions, and supporting rationale in a Consultation Plan for the Action. Again, the depth and detail of the Consultation Plan should be commensurate with the scope of the Action and the purposes and goals of consultation. At a minimum, a Consultation Plan should include:

- The basis and rationale for consultation;
- A description of how NHC input will be used and reported for the Action;
- An agenda/outline of the consultation meetings; and
- The mode, location(s), and schedule of consultation meeting(s) with key milestones.

### **Step 3: Notification – Invitation to Consult**

Implementation of the Consultation Plan typically begins with a notification or invitation to the NHC to begin consultation on the Action. Invitations and notices can take several forms, including but not limited to notices in local newspapers or government publications, letters to NHC leaders, or electronic or telephonic communication to NHC leaders.

Regardless of the mode, notifications or invitations should contain sufficient information that:

- Describes the Action and its scope;
- Describes how the comments received from the NHC will be used by the Office;
- Provides supporting information and materials (FAQs, maps, weblinks to reports or studies, etc.);
- Provides a point-of-contact email, telephone, and mailing address for general questions and written input;
- Provides the date(s) and time(s) for the consultation meeting(s). Sufficient time should be provided to interested parties and the date of the (first, if there are several) consultation meeting should be no less than 30-days from the date of the notice or invitation. If exceptional circumstances prevent notice within 30 days of the consultation, an explanation for the abbreviated notification should be provided. The Office may contact NHC leaders to determine their availability for consultation meetings in order to increase the effectiveness of the meeting(s).
- Provides the location(s) of the consultation meeting(s) if in-person meetings will be conducted; or provides the telephonic or video call-in information if consultation will be conducted remotely; and
- Provides the deadline date and time for receipt of written comments.

At a minimum, notifications and invitations to consult shall be sent to the NHO List and HBA List posted to [www.doi.gov/hawaiian](http://www.doi.gov/hawaiian).

#### **Step 4: Dialogue – Conducting Discussion(s)**

Engaging the NHC in dialogue is the most important aspect and the heart of the consultation process. As such, it is vital that it be conducted in a manner that not only informs the NHC of the Action and its implications, but also creates a suitable environment through which meaningful comments and feedback can be shared and received. Determining the mode of dialogue (written correspondence, tele- or video-conference calls, in-person discussions, etc.) is best performed during consultation planning (Step 2). However, there may be times when it is necessary to modify the means and level of dialogue with the NHC even after an initial notification has been sent out to the NHC.

Preparation is essential before engaging in a dialogue with the NHC. Even with the simplest consultations, or those that are done through written comments require the Office to be prepared before contact is made. Prior to a consultation meeting, it is important for the Office to:

- Confirm consultation leader(s) and/or facilitator(s);
- Confirm Office representatives to attend;
- Assign speaking roles for Office staff (e.g., opening, background, closing, etc.);

- Develop ground rules (including how to deal with conflicts of opinion and views during the meeting) and an agenda for the meeting;
- Print materials for distribution (FAQs, maps, graphics, prior reports or studies, etc.);
- Prepare presentation materials (slides, handouts, etc.);
- Determine mode and system for collection of input (e.g., note taking, recording, etc.); and
- Conduct practice “dry runs” of the meeting.

For in-person consultation meetings, it is also important for the Office to:

- Review logistics (travel, audio-visual needs, signage, accessibility, directions to meeting space, etc.); and
- Secure any meeting support services (recording, facilities, security, etc.)

On the day of a consultation meeting, there are additional items that the Office needs to consider. Since it may be the first time the Office is meeting with NHC leaders, making a good first impression can help the meeting and any future engagements be more productive. For in person meetings, the Office should:

- Arrive early to set up and test equipment and greet participants;
- Review agenda and double-check materials;
- Reconfirm ground rules and speaking roles;
- Confirm any cultural protocol; and
- Reconfirm meeting support services.

Similarly, on the day of an e-remote consultation where teleconferencing or videoconferencing will be utilized, the Office should:

- Email participant reminders and instructions for entry and participation (e.g., password for access to meeting, how to virtually raise hand to speak, whether there is a need to mute phone while others are speaking, etc.), if needed;
- Ensure communication systems are operating and connectivity is established;
- Conduct tests of presentations, facilitation controls, as necessary; and
- Log-on or call-in early to greet participants.

During the consultation meeting, it is important for the Office to cover various administrative, cultural, and procedural actions to help start the meeting with the right tone, allow NHC leaders to effectively contribute their comments, and end the dialogue with an understanding of next steps. The Office should:

- Have a sign-in sheet with contact information;
- Greet participants as they arrive and assist them as needed;
- Allow for cultural protocol to open the meeting and at the end to close the meeting;

- For smaller consultation meetings, allow for self-introductions and brief remarks;
- Review agenda and meeting purpose and goals;
- Provide historical context for the Action;
- Discuss the administrative process and milestones;
- Remind participants on how to submit comments;
- Remind participants about how their comments will be used by the Office;
- Remind participants to leave contact information; and
- Review schedule and next steps after consultation.

Having a successful consultation meeting with the NHC requires good facilitation to keep the meeting on-schedule and on-agenda. Without active facilitation, meetings can easily get off-subject and confuse or aggravate NHC leaders and result in difficulties for future consultation meetings and potential delays in completing the Action. Whether the Office facilitates the meeting or uses a 3<sup>rd</sup> party facilitator or moderator, it is important that they:

- Relax – Most of the hard work was done during the preparation. Take time to establish rapport with participants. If you are visibly stressed, this can be misinterpreted as being defensive;
- Be responsive to questions or create “parking lot” for issues not specific to the agenda;
- Set ground rules for the meeting;
- Ask tele- or video- conference attendees to mute their microphones when not speaking;
- Create “safe” environment for open discussion;
- Enforce speaking time limits and meeting length;
- Manage participant expectations;
- Maintain focus on agenda - minimize digressions and refer unrelated issues to the “parking lot”;
- As appropriate, afford NHC leaders an opportunity to consult with one another in exercise of their self-determination and self-governance;
- If time permits, go around the room to provide each person an opportunity to share their thoughts about the Action (this demonstrates to each participant that you value their voice and also allows introverts to participate without having to compete with extroverts);
- Thank participants for their comments and attendance; and
- Treat participants with respect and seek understanding of the message being conveyed rather than the technical application of the law. Specifically, participants may attempt to utilize terms and requirements from state laws or traditional practices. While those laws may not directly apply, the Office should be respectful of the message conveyed by the participants and consider the information conveyed in the consultation process. Be attentive to participant comments.

## Step 5: Input – Receiving Comments

After information about an Action is provided, a comment period of at least 30 days (when feasible) is highly recommended. All oral and written comments shall be reviewed. Oral comments may be summarized for purposes of including in the Consultation Report for the Action. The Hawaiian language, ‘Ōlelo Hawai‘i, is an official language of the State of Hawai‘i and the Office should anticipate that comments (oral and written) may be received in ‘Ōlelo Hawai‘i. Cultural context is also important and significant to the sharing and understanding of traditional indigenous knowledge. The Office may need to contract services for accurate recordation and subsequent translation and interpretation. While a transcript of meetings may be helpful, it is not required.

When receiving comments, the Office shall:

- Secure appropriate means to record and convert oral comments into written electronic form;
- Secure ‘Ōlelo Hawai‘i translation, if needed;
- Prepare and organize written transcripts or notes;
- Establish a filing system to receive and store written comments; and
- Maintain files for the administrative record.

**Key:** Traditional indigenous knowledge encompasses indigenous knowledge systems, cultural understandings, beliefs, values and philosophies, and traditional practices that respect, preserve and perpetuate the relationship between and among people and the elements, processes and cycles of the natural environment.

## Step 6: Consideration – Review and Deliberation of Input

During a consultation, the Office may receive a flood of comments for the Action. To effectively utilize and consider the comments, the Office must first sort through and organize the comments according to the issues and aspects of the Action they address and sometimes filter out comments that do not pertain to the Action. Whether a comment is expressed by one individual or many organizations, the number of occurrences or people represented by such expressions does not necessarily add weight to how such a comment should factor into decision-making. The basis and rationale within the comment is most instructive. However, when a comment is expressed multiple times and its basis and rationale are not clear, it may be helpful to seek clarification in order to understand the basis and rationale.

**Key:** The Office’s general deliberative process privilege – which considers Departmental priorities and policies, legal authorities, operational and other internal considerations and any other applicable privileges – shall not be limited by the consultation comments review process.

After organizing and reviewing the comments received, and after considering how the comments’ recommendations regarding the Action’s decision-making may inform

the corresponding issues and aspects of the Action, the Office shall prepare a Consultation Report. The Consultation Report should serve to demonstrate both internally and externally how input was considered and processed. For some Actions, the consulting parties may review and comment on a draft of the Consultation Report. However, for other Actions, the Consultation Report is strictly within the purview of the Office.

When engaging in the review and deliberation of input the Office shall:

- Review all comments received during consultation;
- Organize the comments according to the issues and aspects of the Action they address;
- Decide what to do with non-responsive comments, perhaps report as “Other Comments”;
- If necessary, seek clarification of comments received;
- If dealing with potentially sensitive information regarding human remains and associated funerary objects, list only locational information that would be required in a notice which includes the county and State where the human remains and associated funerary objects originated, if known;
- Adhere to regulatory or pre-established timeframes for completing the review of comments and provide justification if a time extension is necessary; and
- Prepare a Consultation Report that, at a minimum, includes the following summaries:
  - Federal action necessitating the consultation,
  - Comments received through consultation, and
  - Interim and preliminary recommendations and decisions made during the consultation process, when applicable.

### **Step 7: Reporting – Notice and Dissemination**

Reporting back to the NHC is one of the most important steps in effective consultation. Regardless of whether the final decision on the Action aligns or conflicts, in whole or in part, with the input provided by the NHC, participating parties should always be afforded the opportunity to see how their input was utilized in the decision-making process. The Consultation Report may be its own stand-alone report, or it may be integrated into another document. Oftentimes when published concurrent with the notice of final decision, the Consultation Report will reference how comments were considered and affected any aspects of the decision-making.

The Office must post the Consultation Report on its website or send it to the participating parties. The Office must also include a copy of the Consultation Report in the Action’s administrative record.

**Key:** While reporting is listed as the seventh and final step in the consultation process, this does not preclude the Office from reporting out at any other time(s) in the process. If the Office concludes that the consultation process will be enhanced by reporting out prior to Step 7, the Office may do so.



## V. DECISION-MAKING – RESOLVE, REFINE AND DOCUMENT

While the Office may retain the ultimate authority to decide whether to proceed with an Action, it is important to support that decision with solid information. To this end, informed and effective decision-making is the ultimate objective of the consultation process. In some situations, the Office makes decisions throughout the consultation process. In others, the Office makes decisions only after the consultation process has concluded. No matter at what step the decisions are reached, it is always beneficial to document how that decision was arrived at and the role the consultation played in that decision. By doing so, the Office supplements its authority with the expertise from the NHC to better inform the Office’s decision-making. Whether the final decision aligns with or differs from the positions of the NHC, documenting and sharing this information is also an important tool in building trust with the NHC and securing their future participation and assistance.

When documenting decision-making, the Office may revise the Consultation Report and administrative record to:

- Update any change in interpretation or understanding of the comments received;
- Connect the comments and rationale to the final decision; and
- Provide supporting documentation relevant to input received from the NHC.

**Value Added:** The notice of final decision and rationale should reflect the value added by the consultation process in order to validate the investment of time, effort and resources by the Office and the Native Hawaiian Community as well as encourage future Federal agency and Native Hawaiian Community engagement.

## VI. CONCLUSION

In the more than 25 years since Congress directed the Secretary to engage in meaningful, regular, and appropriate consultation with the Native Hawaiian people, the Office has made every effort to meet this important responsibility. This SOP incorporates what we have learned about consultation with the NHC. It anticipates the need to expand and adapt our understanding of how to continue the process of reconciliation with the Native Hawaiian people and to honor the special legal relationship they share with the United States. We invite comments and recommendations on how we can better achieve these essential goals.

## APPENDIX A

### FREQUENTLY ASKED QUESTIONS

#### 1. Should the Office use the terms Indian or Tribe when referring to Native Hawaiians or the Native Hawaiian Community?

**Short answer:** It depends on the context in which those terms are used.

**Discussion:** The terms Indian and Tribe as used in the context of the U.S. Constitution and the plenary authority of Congress over Indian affairs are inclusive of Native Hawaiians and the NHC. Thus, use of those terms in reference to federal law is correct, but doing so, in the context of a consultation may undermine efforts to build relationships and trust with the NHC. Like many other tribes, the traditional names and identifiers the NHC has for itself differ from those historically developed and eventually used by the United States.<sup>13</sup> Many indigenous communities self-identify with words meaning “first people,” “real people,” and other variations of “people” in their own languages, while “outsiders” attributed to them names and labels sometimes associated with their linguistic or anthropological grouping or their homelands. Many indigenous communities have adapted to or adopted such historical names while continuing to self-identify using their own traditional terms. For example, the Ute Indian Tribes in Utah and Colorado are associated with the Uto-Aztecan language family and while they have adopted variations on the name “Ute Indian Tribe,” many continue to self-identify as the *núuchi-u* (“the people”). “Navajo” evolved from a Spanish adaptation of a Tewa-puebloan word referring to a “place of large planted fields” and members of the present-day Navajo Nation refer to themselves as *Diné* (“the people”). Early use of the term “Hawaiian” referred to the people of Hawai‘i and “Native Hawaiian” refers to the indigenous people of Hawai‘i, many of whom self-identify as *Kānaka ʻŌiwi* (“native people” or literally “people of the ancestral bone”) or *Kānaka Maoli* (“real people”) or as part of the *Lāhui* (“Nation”).

When engaging in activities and correspondence with other Federal officials it is appropriate and necessary to use those terms provided by statute. However, officials should make every effort to be respectful both in those Federal-to-Federal activities and when engaged with Native American communities by utilizing the traditional names of those communities.

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<sup>13</sup> At the time of the Framers and in the nineteenth century, the terms “Indian,” “Indian affairs,” and “Indian tribes” were used to refer to the indigenous peoples not only of the Americas but also of the Caribbean and areas of the Pacific extending to Australia, New Zealand, and the Philippines. See, e.g., W. Dampier, *A New Voyage Around the World* (1697); Joseph Banks, *The Endeavor Journal of Sir Joseph Banks* (1770); William Bligh, *Narrative of the Mutiny on the Bounty* (1790); A.F. Gardiner, *Friend of Australia* (1830); James Cook, *A Voyage to the Pacific Ocean* (1784) (referring to Native Hawaiians).

## **2. What does it mean in Hawai‘i when the Office is working with a Native Hawaiian Community leader who says they represent the Kingdom of Hawai‘i?**

There are multiple groups that claim they represent the Kingdom of Hawai‘i that was in place prior to the overthrow of the Monarchy. Some base their claim on genealogy, some on ideology, others based upon the need to see a wrong righted.

Much like the secessionist movements in Texas, California, and Alaska, the Kingdom or sovereignty organizations are a small but vocal segment of the NHC. As a Federal Official working with the NHC, every effort should be made to be kind and respectful of their views and to include their comments into the record. However, the Federal Government has made itself clear on multiple occasions that there are pathways to become a State, but none for seceding as a State.<sup>14</sup>

## **3. Why does the Office need to consult with multiple NHOs? It seems easier to consult with just the State of Hawai‘i agencies that represent the NHC – the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands – and a few of the statewide NHOs.**

**Short answer:** Congress requires consultation with the NHOs as the informal representatives of the Native Hawaiian Community which does not currently have a unified formal government.

*A‘ohe pau ka‘ike i ka hālau ho‘okahi. All knowledge is not learned in just one school.  
[One can learn from many sources.]<sup>15</sup>*

**Discussion:** Congress acknowledged or recognized the NHC by establishing a special political and trust relationship through over 150 enactments. This political and trust relationship exists even though there is currently no formal government. To ensure the requirements of the United States’ relationship with the NHC are met, Congress requires that Federal agencies consult with NHOs as the informal representatives of the NHC. Should a formal government-to-government relationship be reestablished with a Native Hawaiian government pursuant to 43 C. F. R. part 50,

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<sup>14</sup> 81 Fed. Reg. 71,294 (Oct. 14, 2016) (*To the extent persons claim that Hawaii is not a State within United States, the Department rejects that claim. Congress admitted Hawaii to the Union as the 50th State. The Admission Act, which was consented to by the State of Hawaii and its citizens through an election held on June 27, 1959, proclaimed that “the State of Hawaii is hereby declared to be a State of the United States of America, [and] is declared admitted into the Union on an equal footing with the other States in all respects whatever.” Act of March 18, 1959, sec. 1, 73 Stat. 4. This express determination by Congress is binding on the Department as an agency of the United States Government that is bound by Congressional enactments concerning the status of Hawaii. Under those enactments and under the United States Constitution, Hawaii is a State of the United States. Agents of the United States were involved in the overthrow of the Kingdom of Hawaii in 1893; and Congress, through a joint resolution, both acknowledged that the overthrow of Hawaii was “illegal” and expressed “its deep regret to the Native Hawaiian people” and its support for reconciliation efforts with Native Hawaiians. Apology Resolution at 1513. This Apology Resolution, however, did not effectuate any changes to existing law. See Hawaii v. Office of Hawaiian Affairs, 556 U.S. 163, 175 (2009). Thus, the Admission Act establishing the current status of the State of Hawai‘i remains the controlling law.*)

<sup>15</sup> Pūku‘i, Mary Kawena, ‘Ōlelo No‘eau: Hawaiian Proverbs and Poetical Sayings. Honolulu: Bishop Museum Press, 1983.

Congress and Federal agencies would evaluate whether consultation could occur under existing consultation policies, or whether such policies would require modification.

While the Department of Hawaiian Home Lands (DHHL) and the Office of Hawaiian Affairs (OHA), which are respectively charged with rehabilitating and improving the conditions of Native Hawaiians, can be effective partners when working with the NHC, and many of their employees and elected/appointed officials are leaders in the NHC, both DHHL and OHA are State agencies. In some situations, these State agencies may hold positions in opposition to those held within the NHC.

#### **4. Is it necessary to hold meetings on each of the main Hawaiian Islands in order to meet our consultation responsibilities?**

**Short answer:** It depends on the scope of the Action and its implications.

**Discussion:** The importance of the SOP assessment stage (Step 1) cannot be overstated. Once step one is complete and the scope of the Action is generally understood, only then can the Office begin consultation planning in Step 2 and determine the number of meetings and where they should be held. A good practical guide is the narrower the scope of the Action, the fewer the meetings and locations that are required.

For example, if there is a stone wall that marks the historical borders of a property in Ka‘ū on the Island of Hawai‘i and only NHOs in Ka‘ū are likely interested in this wall then the best course of action may be to hold a face-to-face meeting in Ka‘ū and to conduct an e-remote meeting with the remainder of the NHC. However, if the wall encloses a sacred site that is important to all Hawai‘i Island but not to the NHC at large, it may be necessary to conduct multiple face-to-face meetings on Hawai‘i Island. Further, if the Action has state-wide implications, such as the establishment of a new regulation governing historic properties, it may be necessary to conduct meetings on all the main Hawaiian Islands.

NHOs and HBAs are predominantly tied to a geographical area. This could be an island, a moku (a region or district of an island), or even an ahupua‘a. When filing with the Office, all NHOs and HBAs are asked to provide information regarding the geographic area their organization represents. Providing this information not only advances an NHO’s or HBA’s self-determination but allows users of the NHO and HBA lists to readily identify appropriate NHOs and HBAs that may be interested in the Action.

For a discussion about the traditional land divisions in Hawai‘i and their implication on NHC decision making and leadership structures the Department of the Interior, Bureau of Ocean Energy Management’s 2017 [Guidance Document for Characterizing Native Hawaiian Cultural Landscapes, appendix 2, sections 4-11](#), pages 33-42, provides a good overview.

**5. Who does the Office listen to when there are multiple NHOs consulting on a Federal action and each has a conflicting recommendation?**

When working with multiple NHOs the Office should consider each NHO's position. In situations where there are conflicting views between NHOs, the Office should, as appropriate, afford an opportunity for the NHOs to consult with each other. However, if the Office finds itself needing to choose one viewpoint, the best course of action is to weigh which NHO has the greatest cultural affiliation with the affected resource or interest.

The closest culturally affiliated NHO, in the following order, is:

- (i) An organization with a familial or kinship relationship to the earlier group connected to the cultural item if a cultural item is the subject of the consultation. If not, then move to (ii).
- (ii) An organization claiming a relationship of shared group identity only to the earlier occupants of the ahupua'a where the cultural item originated or the subject Action is primarily taking place, and not to the earlier occupants of any other ahupua'a.
- (iii) An organization claiming a relationship of shared group identity to the earlier occupants of the ahupua'a where the cultural item originated or the subject Action is primarily taking place, as well as a relationship of shared group identity to the earlier occupants of other ahupua'a on the same island, but not a relationship of shared group identity to all the earlier occupants of that island, or to the earlier occupants of any other island of the Hawaiian archipelago.
- (iv) An organization claiming a relationship of shared group identity to all the earlier occupants of the island where the cultural item originated or the subject Action is primarily taking place, but not a relationship of shared group identity to the earlier occupants of any other island of the Hawaiian archipelago.
- (v) An organization that has been in continuous existence from a date prior to 1893, and claims a relationship of shared group identity with the earlier occupants of more than one island in the Hawaiian archipelago.
- (vi) Any other culturally affiliated NHO.

**6. If the Office consults with the Native Hawaiian Community, does that mean the Office turns over control to them?**

No. Consultation means consideration, not control. The Official proposing to engage in actions with NHC implications is expected to be an expert in that action or a representative of those who are experts. However, if the Office finds itself in a situation where NHC leaders are expressing

opposition to the Office’s action, it is important to understand why and attempt to address the issue. Effective engagement makes for long lasting and effective policy making.

**7. Are there other guidance resources available to the consulting official when consulting with the Native Hawaiian Community actions that trigger consultation under the National Historic Preservation Act?**

Yes. In 2011, the Office worked with the Advisory Council on Historic Preservation (ACHP) to create the [“Consultation with Native Hawaiian Organizations In the Section 106 Review Process: A Handbook.”](#) As the title suggests, the handbook provides tools, requirements, principles, and tips specifically geared toward helping Federal Agencies engage and reach successful outcomes when working with the NHC on actions triggering Section 106.

**8. When conducting a meeting with the general public, an agency typically places a panel of Department representatives along one side of a table at the front of the room and provides a sign-up sheet for people to take their turn to ask questions or make statements at a microphone in front of the panel and those in attendance. Should the Office utilize the same model with the Native Hawaiian Community?**

The meeting model outlined in the question, often called the “open microphone” model, requires limited preparation and resources. This is a valid format and may be used when appropriate. However, before considering the manner or forum in which to conduct the consultation, it is important to determine the type and quality of comments desired as part of the “consultation planning” step described above.

Open microphone or public hearing settings are designed for that purpose – to “hear” or listen to the person speaking. It is not the best forum for engaging in a dialogue or conversation with an individual or an NHO. In these settings, the physical layout of a table with government officials seated on one side and NHC members on the other creates a barrier, a divide, or an “us vs. them” appearance. It could also connote to the NHC participants that the consulting official is merely checking a box and that the consulting official will not take their input seriously.

Keys to productive meetings with the NHC are in preparation and creating the appropriate setting and space. Sometimes, this may require travelling to individual communities for small gatherings instead of requiring the NHC to travel to the agency, or meeting with individuals one-on-one. In other instances, it may be appropriate to have the NHO or other NHC leaders convene and facilitate the meeting(s).

In general, when determining the appropriate form of consultation, the consulting official must seek to meet the consultation needs of the NHC while balancing the needs of the Agency. It is understood that striking a true balance is not always possible because of time or resource constraints. However, when the situation, time, and resources permit, every effort must be made

to create settings that facilitate dialogue instead of a “one-way” hearing. The benefits of doing this include:

- Encouraging a conversation or back and forth dialogue;
- Providing a “safe” environment where NHC input, concerns, or questions are more likely to be heard and responded to;
- Allowing for the building of a personal relationships and mutual respect between the member and the consulting official; and
- Being culturally appropriate to the NHC which conveys that their input is important and will be taken seriously.

### **9. When the Office is preparing for a consultation meeting with the NHC, what kinds of skills or staff capacities are important to have on-hand at the meeting?**

When conducting consultation meetings, especially in-person meetings, there are four important roles: a leader, a facilitator, subject matter expert(s) (SME), and administrative support. It is difficult for one individual to effectively fill all these roles and have a productive meeting. As such, having a team at the meeting allows for more productive dialogues, reduces staff strain, and affords better analysis of comments received.

**Facilitator** – The role of an effective facilitator cannot be over emphasized. This person must be highly skilled at communication, personal interaction/engagement, time management, and emotional restraint. For Actions that are controversial with the NHC, consultation meetings will likely be confrontational or adversarial. The facilitator will be at the center of the dialogue and must have wherewithal to manage participant engagement and while maintaining an inner calm and focused mental state.

**Leader/Policy Maker (leader)** – When a leader is present at the meeting, especially if the Action involves a formal decision by the leader, it is important to manage the leader’s participation and engagement so as not to give the NHC participants the impression that the decision was pre-determined. In such meetings, it may be best to have the leader only make introductory and closing remarks and have a separate facilitator manage the rest of the meeting. If the leader is new to working with the NHC, they should be appraised ahead of time that there is generally a strong feeling of mistrust of any Federal official who comes to the NHC saying they are here to help (see the background section of this consultation SOP for more detail).

**Subject Matter Expert (SME)** – Persons with expertise covering the scope of the substance and administrative process pertaining to the Action should be SMEs and serve to assist the facilitator and leader to either present technical information to, or respond to questions from, the NHC. In consultation meetings where there is a separate facilitator or leader, SMEs need to be mindful of their role and avoid taking over the meeting or speaking for the leader. The most effective SMEs are those who are open and receptive to, rather than threatened by or dismissive of, the knowledge base (including traditional indigenous as well as scholarly knowledge) within the

NHC. A willingness to listen and learn while still teaching is essential for those serving in this role.

**Administrative Support** – The difference between successes and failures and an effective and ineffective consultation meeting most often resides with the performance of the administrative support staff. Their role is to enhance the abilities of the consultation team by ensuring the consultation meeting begins and remains organized and proper recordation of the meeting occurs. Those who have participated in a consultation meeting share that it is difficult to engage in meaningful dialogue when one of the parties must divide their attention between listening and understanding, capturing notes, and greeting and distributing information to other participants. Having a separate person provide administrative support sends a powerful message to the participating parties that what is being discussed and the input provided is important. Their work also helps ensure an accurate administrative record is kept and a defensible decision regarding the Action is reached.

**Key:** When engaged in a consultation where trust is an issue, the Administrative Support can help to build trust by displaying notes on an overhead screen that allows participants to review and correct notes as they are taken.



# APPENDIX B -- PROCEDURE FOR CONSULTATION WITH THE NATIVE HAWAIIAN COMMUNITY

