

## **Oregon Travel Information Council Government to Government Relations Policy Statement**

**Introduction:** The Oregon Travel Information Council will as a matter of policy, ensure compliance with the provisions of ORS 182.162-182.168 (Relationship of State Agencies with Indian Tribes). The agency is committed to maintaining good relations and cooperation with Oregon's federally-recognized American Indian Tribes. The agency and its personnel will notify appropriate representatives and pursue guidance in all programs and projects that touch tribal interests.

**Justification:** All divisions of the agency are engaged in work across the state. Tribal lands and cultural interests are impacted by programs managed by the agency. The interests of the State of Oregon and of the Tribes are best served through communication and cooperation.

### **Definitions:**

1. Legislative Commission on Indian Services (CIS): The representative group established under ORS 172.100 for the purpose of improving services with American Indians in the State of Oregon. CIS has the following statutory responsibilities:
  - a. To compile information about services for American Indians.
  - b. To develop programs to inform American Indians about services available to them.
  - c. To advise public and private agencies about the needs and concerns of the American Indian community.
  - d. To assess programs of state agencies operating for the benefit of American Indians and recommend program improvements.
  - e. To report biennially to the Governor and the Legislative Assembly on all matters of concern to American Indians in Oregon.

The CIS web site is: <http://www.leg.state.or.us/cis>.

2. State Historic Preservation Officer (SHPO): The Oregon State Historic Preservation Office was established in 1967 to manage and administer programs for the protection of the state's historic and cultural resources.
  - a. The office operates within the Oregon Parks and Recreation Department
  - b. Provides archeological information, site permits and oversight.
3. Designated Tribal Representative: Individual identified by the CIS to represent the appropriate Indian Tribe.
4. State Agency: Includes all officers, employees, agencies, boards, committees, and commissions of the legislative, executive, administrative and judicial branches of state government as per ORS 358.635.
5. Tribe: A federally-recognized Indian Tribe in Oregon

**Guidelines:** CIS has broad statutory responsibilities concerning the protection of cultural resources in Oregon. Under ORS 390.235 (Archaeological Sites and Historic Material) CIS is mandated to participate with the State Historic Preservation Office in the archaeological excavation permit process. Under ORS 97.740-97.760 (Indian Graves and Protected Objects) and ORS 358.905-358.961 (Archaeological Sites and Objects) CIS is responsible for providing

consultation and designating the appropriate tribe if an Indian burial or archaeological object is discovered.

In addition CIS provides consultation services to other state agencies when their Administrative Rules require them to discharge duties relating to American Indians or cultural resources.

This is of particular importance when, in the course of operations, human remains are discovered:

- Oregon laws (ORS 146.090 & 146.095) outline the types of deaths that require investigation and the accompanying responsibilities for that investigation. The district medical examiner and the district attorney for the county where the death occurs are responsible for the investigations. Deaths that require investigation include those occurring under suspicious or unknown circumstances.
- If human remains that are inadvertently discovered or discovered through criminal investigations are not clearly modern, then there is high probability that the remains are native Indian and therefore ORS 97.745(4) applies, which requires immediate notification with State Police, State Historic Preservation Office, Commission on Indian Services, and all appropriate Indian Tribes. To determine the “appropriate Indian Tribe” the responsible parties must first contact the Legislative Commission on Indian Services (CIS). To determine whether the human remains are native Indian the responsible parties must then contact the appropriate Indian Tribes at the initial discovery. It should be noted that there may be more than one appropriate Indian Tribe to be contacted.
- If the human remains are possibly native Indian then the area should be secured from further disturbance. The human remains and associated objects must not be disturbed, manipulated, or transported from the original location until a plan is developed in consultation with the above named parties. These actions will help ensure compliance with Oregon state law that prohibits any person willfully removing human remains and/or objects of cultural significance from its original location (ORS 97.745).
- All parties involved and the appropriate Indian Tribes shall implement a culturally sensitive plan for reburial.

In the case of known or suspected archeological sites not involving human remains, agency personnel will coordinate projects, in advance, through its Salem Headquarters with CIS.

**Exception:** None

**Responsibility:**

**Oregon Travel Information Council:** Responsible to provide guidance to the Director/CEO to suggest ways to initiate, improve or expand interactions with tribal governments.

**Director/CEO:** Responsible to establish and enforce policies that effect protection of sites and the relations with the federally recognized American Indian Tribes located in Oregon.

**Deputy Director/COO:** Identify individuals in the agency responsible to implement programs, projects and activities that have the potential to affect tribes. Contact CIS to identify

affected Tribes and the appropriate representative. Contact Tribal representatives, brief them on projects or incidents and coordinate with them regarding process and actions.

Promote substantive communication with tribes through regular and ad hoc meetings and correspondence regarding any program, plan or activity that impacts a sovereign tribe.

Develop a program in conjunction with Program Managers that ensures employees are properly educated about the legal status, legal rights and issues of concern to tribal governments and the methods for establishing effective communication and consultation with tribal groups.

Prepare a report, in conjunction with the Chief Rules and Policy Advisor and Program Managers that outlines the process established to identify programs which might affect tribes, describes the efforts made by the agency to promote communication and government-to-government relations with the tribes, and describes the training provided to agency employees regarding the intent of ORS182.162-182.168 and this policy. Submit the report to the Governor and CIS no later than December 15<sup>th</sup> of each year.

**Managers and Supervisors:** Identify projects, events and incidents defined within this policy. Communicate directly with the Rest Area Program Manager and COO to ensure that proper notification and follow up action is taken. Direct any inquiries from the public or Tribal Members to the Deputy Director/COO.

File reports in support of this policy and ensure that events involving cultural resources are reported through the Cultural Resources Clearance Form attached to this policy.

SHPO Project Number: \_\_\_\_\_

**OTE CULTURAL RESOURCES CLEARANCE FORM**

**REST AREA:** \_\_\_\_\_ **ANTICIPATED PROJECT START DATE:** \_\_\_\_\_

**PROJECT MANAGER:** \_\_\_\_\_  
**PHONE:** \_\_\_\_\_

**E-MAIL:** \_\_\_\_\_

Likelihood of archaeological resources being located in the rest area – (based on Cultural Resource Review on file with RA Program Manager).

\_\_\_ Proceed with **Caution** – If the project is in a Caution zone, the RA Program Manager may give conditional approval to proceed with the project.

\_\_\_ **High Probability** – Additional archaeological research and consultation will be required. The RA Program Manager may give conditional approval to proceed with the project.

\_\_\_ **Known Archaeological Site**- Archaeological investigations will be necessary.

\_\_\_ Historic Building/Structure-project is proposed on or within proximity of a building or structure that is 50 years old or older.

**Detailed Project Description:**

\_\_\_ I have attached a required map and noted the project location.

\_\_\_ I have attached the project information such as, plans, sketches, photos of project area and/or building or structures in the project area.

For projects that need investigating, please submit at least 30 days prior to work through the RA Administrator to the RA Program Manager at 1500 Liberty RD SE, Salem, OR 97302

**ARCHAEOLOGY REVIEW:**

**Approve; No Known Sites;** Project manager is required to halt the project and contact the RA Program Manager immediately in that event that artifacts, cultural materials and/or human remains are found during ground-disturbing activity.

**Approve with Monitoring; Caution Area;** Rest Area Supervisor, or Assistant Supervisor will monitor all ground-breaking activity; or a qualified Archaeologist will be assigned to observe, if needed.

**Culturally Sensitive; Additional Archaeological Work and SHPO Permits Required Prior to Approval;** The RA Program Manager will contact the Project Manager.

**Adverse Effect;** Project is denied at the specified location.

**National Register Listed;** Specific limitations required; Rest Area Program Manager will follow up with the Rest Area Supervisor

OTE Signature: \_\_\_\_\_  
Date \_\_\_\_\_

**Historic Building/Structure Review:**

**Project Effect:**

<input type="checkbox"/> National Register Listed	<input type="checkbox"/> Ineligible	<input type="checkbox"/> No Adverse
<input type="checkbox"/> Eligible	<input type="checkbox"/> None	<input type="checkbox"/> Adverse

OTE Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

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**SHPO Comments:** Township\_\_\_\_\_ Range\_\_\_\_\_ Section\_\_\_\_\_

Concur/Approve  Additional Work Required Prior to Approval  Do not  
Concur/Approve

SHPO Signature:\_\_\_\_\_

Date\_\_\_\_\_

No Signature required; No known sites affected

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**CIS Comments:**

Tribe(s) Affected\_\_\_\_\_ Contact\_\_\_\_\_ E-  
mail\_\_\_\_\_

\_\_\_\_\_ Contact\_\_\_\_\_ E-  
mail\_\_\_\_\_

\_\_\_\_\_ Contact\_\_\_\_\_ E-  
mail\_\_\_\_\_

**CIS Person Contacted:**\_\_\_\_\_

**OTE Representative Making Contact and Request**\_\_\_\_\_

**Date**\_\_\_\_\_

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**Tribal Review**

\_\_\_ Concur/Approve Tribal Representative \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_ Additional Information Required      Description of Information  
Needed \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date Provided \_\_\_\_\_  
By \_\_\_\_\_

\_\_\_ Concur/Approve on Review      Tribal Representative \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_ Do Not Concur/Approve Tribal Representative \_\_\_\_\_  
Date: \_\_\_\_\_

## **INSTRUCTIONS FOR EMERGENCIES AND INADVERTENT DISCOVERIES**

**EMERGENCIES:** Emergencies are unplanned events that can cause death or significant harm or injury to the public, OTE staff or significant damage to rest area resources, rest area property, or neighboring property. We should strive for resources compliance. However, there may be circumstances when activities need to be conducted to protect life or property without the ability to implement all laws, regulations, and policies as they are fully intended. This does not mean that emergencies give license for non-compliance.

Examples of situations that may cause cultural resource emergencies procedures to be taken:

- Earthquakes; Flood; Fire; Storms; Hazardous Materials Spill; Water or Sewer System Failure

In the case of emergency that necessitates work that may impact a cultural resource:

1. Call the OTE Rest Area Program Manager to report the location and nature of the emergency and steps that will be taken in the field to correct the problem. The RA Program Manager will contact SHPO and report the emergency and planned steps to them.
2. If an emergency happens during non-business hours, the call center will contact the Rest Area Program Manager who will contact SHPO the following work day.
3. After the emergency is corrected, submit the OTE Cultural Resources Clearance form and include the details describing the corrective action and what impacts the emergency and its solution had on the cultural resource(s). Provide details on whether any cultural material was discovered during correction of the problem. If the corrective measures were temporary, provide details of the proposed permanent solution for review and comment. If possible, provide photographs showing the emergency situation and the corrective measures taken.

**INADVERTENT DISCOVERIES:** Please be aware that if during excavation activities you, or your staff, encounter any cultural material (e.g. prehistoric stone tools or flaking debris, human remains, historic material caches), all activities must cease and contact the Rest Area Program Manager who will contact the State Archaeologist for procedures to address the discovery.

NOTE: Under state law (ORS 358.905-955) it is a Class B misdemeanor to impact an archaeological site on public and/or private land in Oregon. Impacts to Native American graves and cultural items are considered a Class C felony (ORS 97.740-760).

In the case of emergencies or inadvertent discoveries, the OTE Deputy Director, Operations or the Rest Area Program Manager will handle any consultation requirements with CIS and the Indian Tribes.