



OPRD Policy CUL.020.000:

Tribal Relations Policy

Authorized:
Lisa Sumption, Director

Date:
9/27/2022

Introduction and Overview

Policy summary statement

This policy complies with ORS 182.164, requiring state agencies to develop and implement a policy that establishes and promotes tribal-state collaboration and cooperation with the tribes.

Purpose

Oregon Parks and Recreation Department (OPRD) recognizes and respects the sovereign Indigenous nations of tribes. Honoring their cultural heritage, we are committed to maintaining positive government-to-government relationships with tribes. OPRD also recognizes the opportunity to encourage our partners to engage in meaningful and positive relations with each of the Tribes as they work on programs and/or projects. This policy provides a framework for government-to-government interactions and staff-to-staff coordination and collaboration.

Goals

The goals of this policy are to:

- Promote consistent, meaningful and effective communication between OPRD and the Tribes.
- Facilitate consultation with the Tribes to ensure a productive and positive government-to-government relationship and respectful cooperation with regards to other applicable federal laws and policies affecting tribal rights, resources, culture, religion, subsistence and commerce.
- Facilitate opportunities for cooperative working relationships with the Tribes to promote and protect tribal resources.

OPRD will know it is achieving the goals of this policy if the following results are observed:

- OPRD demonstrates collaborative and consistent communication with the Tribes.
- OPRD attends regular, agreed upon meetings and tribal cluster meetings with the Tribes.
- OPRD provides clear and consistent notice, consultation and coordination with the Tribes before, during and after project and program review and implementation.
- OPRD considers tribal concerns and makes reasonable efforts to resolve such concerns.

Scope

Applicability: This policy applies to all OPRD park properties, programs and services and cultural and historic preservation

Audience: Employees who work for OPRD in a permanent, seasonal or volunteer capacity.

Topics: Tribes, government-to-government, consultation, cultural heritage, archaeology, confidentiality.

Authority

The authority for this policy is established in ORS 182.162 to 182.168, which instructs state agencies to:

- Develop and implement a policy on relationship and cooperation with Tribes;

- Provide training to agency managers and employees whose work has the potential to impact tribes;
- Hold annual meetings between agency representatives and Tribes; and
- Provide annual reports.

Related laws, policies and procedures

In addition, this policy is impacted by the following:

- National Historic Preservation Act (NHPA) of 1966.
- ORS 390.235, which requires permits and conditions for excavation or removal of archaeological or historical material.
- ORS 192.355 (4), which defines public records conditionally exempt from disclosure.
- ORS 358.905-961, which requires the State of Oregon to preserve and protect cultural heritage archaeological discovery.
- ORS 97.740-760, which outlines the handling of Indian graves and protected objects, including what is prohibited and what is permitted.
- ORS 190.110, which allows state agencies to enter into interagency and intergovernmental agreements.
- OAR 736-051-0000-0090, which refers to the archaeological permit process and the dispute resolution and mediation process.
- OAR 736-052-0000-0040, which refers to state agency transfer of historic artifacts.

Policy Provisions

Definitions

Annual Report: The annual report by OPRD to the Governor and to the Legislative Commission on Indian Services on tribal relationships, as required by ORS 182.166.

Consult: To communicate with the appropriate tribal representative, or OPRD staff member, using the preferred means of communication that is a formal, two-way, government-to-government conversation to discuss projects or proposals before the agency makes decisions on them

Coordination: To communicate with the appropriate tribal representative or OPRD staff member, using the preferred means of communication that is an informal, two-way conversation to discuss projects or proposals before the agency makes decisions on them.

Government-to-Government Cluster: Tribal-State workgroups established by Executive Order 96-30 and later Senate Bill 770 (2001). The workgroups consist of key state agency contacts and a representative from each of Tribe.

OPRD: Means collectively the Oregon State Parks and Recreation Commission, the Oregon Parks and Recreation Department, its employees, and other boards and commissions.

OPRD Archaeologist: Serves as a liaison with the Tribes and is responsible for maintaining on-going and meaningful consultation and knowledge of Tribes. Shares information with agency staff on an on-going basis.

OPRD Tribal Relations Coordinator: Liaison within the Director's office and the Government Relations and Policy Unit who coordinates and facilitates communication between tribes and OPRD departments and divisions.

State Historic Preservation Office: Those individuals carrying out duties delegated by the National Park Service to the Oregon State Historic Preservation Office under the authority of the 1966 Historic Preservation Act, as amended.

Tribe: A federally recognized Indian tribe in Oregon, as defined in ORS 182.162(2).

Policy statements

State Historic Preservation Office (SHPO)

1. The National Historic Preservation Act (NHPA) of 1966, as amended, establishes tribal consultation roles and responsibilities and defines SHPOs role. NHPA programs will not be part of this policy, as they are guided by federal laws and program rules.
2. SHPO issues State of Oregon Archaeology permits under ORS 390.235. Refer to OAR 736, Division 51 for additional information on the process for issuing permits.

Identify Programs and Projects that Affect Tribes

3. OPRD staff shall notify and seek tribal engagement guidance from the OPRD Tribal Relations Coordinator when new agency programs or projects are being considered or when there are discussions to update or modify existing programs or projects.
4. OPRD staff shall notify the OPRD Tribal Relations Coordinator with rulemaking changes, legislative proposals or contested cases, when appropriate.
5. The OPRD Tribal Relations Coordinator shall:
 - a. Maintain open communication with the agency as significant programs are being considered for development or updating and prior to implementation of programs, and
 - b. Notify Tribes of potential impacts, including the use of agreements as stated in ORS 190.110. See the *CUL.020.010.PR Tribal Relations Procedure* for guidance.

Communications and Relations

6. OPRD shall promote, engage and encourage communications with Tribes based on each Tribe's preferred method of communication.
7. OPRD shall consult with Tribes in Oregon and communicate with the Legislative Commission on Indian Services (LCIS) to identify and maintain an up-to-date contact list of Oregon Tribal representatives.
8. OPRD's approach to communications and relations with Tribes shall be made at the following levels: government-to-government, general consultation, and staff-level project and program coordination and compliance. Refer to the *Tribal Relations Procedure* for details.
9. Per ORS 192.355 (4), OPRD shall maintain confidentiality of sensitive information provided by Tribes when possible. See *Tribal Confidentiality Procedure* for details.
10. OPRD shall follow the guidance provided by LCIS on land acknowledgement on their agency website. Contact OPRD Tribal Relations Coordinator with any questions.
11. OPRD honors and respects tribal members use of state park properties and natural resources for traditional cultural, religious, medicinal, ceremonial, or other customary cultural heritage use. Day-use parking fees are waived for tribal members accessing park properties for traditional uses. See *Tribal Traditional Use Procedure* for details.

Government-to-Government

12. To promote positive government-to-government relations between the state and Tribes, the OPRD Director shall meet with Tribes to discuss high level priorities and initiatives, communicate issues of mutual interest and to identify possible collaborations.
13. OPRD Director or designee will meet with Tribes within a year after adoption of this policy to review and evaluate its effectiveness. Then they will meet at a minimum of every three years, unless requested sooner by a designated Tribal representative.
14. The OPRD Tribal Relations Coordinator shall facilitate consultation with each Tribe regarding identified programs and work of mutual interest. These consultations shall be used to:
 - a. On a consistent basis, discuss OPRD projects and programs that are new or being updated that may impact the Tribes;
 - b. Provide information about proposed projects;

- c. Provide up-to-date point-of-contact information for OPRD and request Tribes' preferred point-of-contact information;
 - d. Discuss establishment, adjustment or confirmation of preferred communication protocols for program development and routine consultation efforts;
 - e. Discuss general concerns or recommendations from Tribes regarding OPRD programs;
 - f. Solicit recommendations for curricula and instructors to be included in OPRD's Archaeology Awareness training and other applicable trainings;
 - g. Build meaningful relationships with each designated Tribal representative; and
 - h. Provide opportunities to share information and resources to accomplish work protective of tribal rights and resources as well as resources of the State of Oregon, including the use of agreements as authorized by ORS 190.110.
15. OPRD park and program managers, cultural resources staff will develop knowledge of, and maintain positive working relationships with Tribes. See the *Tribal Relations Procedure* for details.
16. OPRD Tribal Relations Coordinator shall:
- a. Serve as primary point of contact for the agency and as a resource to connect staff and Tribes as necessary;
 - b. Communicate agency work with Tribes and facilitate ongoing consultation;
 - c. Identify potential tribal interest in collaborative opportunities with the agency; and
 - d. Provide tribal feedback to the appropriate program staff for consideration.
17. OPRD Tribal Relations Coordinator and cultural resources staff shall represent OPRD at meetings that address tribal concerns.

Project and Program Compliance

18. Notwithstanding any other provisions in this policy, OPRD staff shall make a good faith effort to consult with Tribes through cultural and natural resources staff, OPRD Tribal Relations Coordinator or directly at significant project and program inception, during significant project or program updates, or during the new grant cycles. Refer to the *Tribal Relations Procedure* for details.
19. Any program about tribal history or culture shall be done in collaboration or consultation with affected Tribes. See Tribal Relations procedure for details.
20. Grants and other programs in the Oregon Heritage and the Grants and Community Programs sections shall follow program requirements specified in their guidelines as required by the tribal, federal and funding source laws and regulations.

Education and Training

21. OPRD Tribal Relations Coordinator, cultural resources staff and other designated staff shall attend government-to-government cluster meetings and summits.
22. On a rotating basis, OPRD project and program managers and their employees shall attend OPRD's Archaeology Awareness training and other applicable trainings. OPRD project and program managers are responsible for disseminating information from the training, as appropriate, to other OPRD employees under their supervision.
23. OPRD Tribal Relations Coordinator shall assist in coordinating the Archaeology Awareness training and other applicable trainings related to this policy. Central Park Resource staff and Oregon Heritage staff shall provide supportive information for curriculum development relating to tribal consultation, legal status, legal rights and issues of concern to Tribes. These trainings will be documented in the annual report.
24. The OPRD Tribal Relations Coordinator shall notify all OPRD employees annually, using current methods of training delivery, to educate staff about:
- a. The statutory and policy requirements for tribal consultation;
 - b. How these requirements may affect the performance of their duties; and
 - c. The actions that may be required prior to initiation of a project or program.

25. The OPRD Tribal Relations Coordinator shall make copies of the annual report available to all OPRD program managers for review.

Annual Reporting

26. OPRD Tribal Relations Coordinator shall be responsible for delivering the annual report required under ORS 182.166(3) for SHPO and OPRD activities relating to this policy.

27. The annual report shall be submitted to the Legislative Commission on Indian Services no later than December 15.

28. As part of developing the annual report, the OPRD Tribal Relations Coordinator shall coordinate with agency staff to provide a summary of activities completed during the year within OPRD and an updated list of the individuals responsible for management of OPRD projects or programs that affect Tribes.

29. At least once per year, the OPRD Director shall brief the Oregon State Parks and Recreation Commission on the contents of the annual report and make any recommendations needed to further the purpose of the law and this policy.

Roles and responsibilities

OPRD Tribal Relations Coordinator: Liaison within the Director's office, and the Government Relations and Policy Unit who coordinates and facilitates government-to-government consultation and tribal relations among OPRD departments and divisions. Assists in coordinating the Archaeology Awareness training and development of the annual report to LCIS. Provides updates to agency staff on Tribal Relations policy and procedures. Utilizes feedback on this policy to develop updates and revisions. Consults with managers and cultural resources staff on the implementation of this policy and ensures this policy complies with other policies and rules.

Deputy Directors: Engage in tribal government-to-government consultation and builds meaningful relationship with tribes. Works with OPRD Tribal Relations Coordinator to facilitates coordination and cooperation with tribes. Seek opportunities to promote information sharing and resources to accomplish work protective of tribal rights and resources. Review and provides feedback on this policy and its revisions, consults with other managers on the implications of this policy and its revisions as it pertains to their areas, ensure this policy complies with other policies and rules and is monitored and reviewed and ensures the duties and responsibilities of this policy are fully executed.

Region Directors: Engage in tribal government-to-government consultation and builds meaningful relationships with tribes. Work with OPRD Tribal Relations Coordinator to facilitate coordination and cooperation with tribes. Seek opportunities to promote information sharing and resources to accomplish work protective of tribal rights and resources. Review and provide feedback on this policy and its revisions, consult with other managers on the implications of this policy and its revisions as it pertains to their areas, ensure this policy complies with other policies and rules and is monitored and reviewed and ensure the duties and responsibilities of this policy are fully executed. Follow this policy and associated procedures, ensuring the established process is followed and maintained within their region.

Cultural Resources staff: This includes region archaeologists and cultural resources staff. Develop relationships and communicate with tribal staff and leaders regarding projects, as appropriate. Collaborate with Tribal Relations Coordinator to facilitate communication and coordination within the agency and among tribal nations regarding OPRD programs and projects. Reviews and provides feedback on this policy and its revisions, consults with managers on the implications of this policy and its revisions as it pertains to their areas, and ensures this policy complies with other policies.

Employees and Volunteers: Follow this policy and associated procedures. Defer to their immediate supervisor for clarification as needed.

Supporting Documents

Procedures

- CUL.020.010.PR: Tribal Relations Procedure
- CUL.020.020.PR: Tribal Traditional Use Procedure
- CUL.020.030.PR: Tribal Confidentiality Procedure

Administration

Responsibility

Policy Lead: OPRD Tribal Relations Coordinator

Responsible Executive Team member: Deputy Director for Government Affairs

Questions: OPRD Tribal Relations Coordinator

Dates

First approval date: 02/26/2004

Effective date: 09/27/2022

Revision schedule: Initially one year, then every three years

Next revision date: 09/27/2023

This policy supersedes policy number COM 10-6 *Tribal Relationships Policy and Procedures*, revised and signed effective on Feb. 26, 2004, all preceding versions of that policy, and any other previous policy or procedure pertaining to OPRD tribal relations, and related topics addressed herein.

Feedback

We value your feedback. Email us at policy.feedback@opr.oregon.gov to comment on this or any policy. *Please list the policy number and name in your e-mail's subject line.* We will review your feedback during the policy revision process and your comments may result in policy improvements.