



United States Department of the Interior
OFFICE OF THE SECRETARY
Office of Native Hawaiian Relations
300 Ala Moana Boulevard, Box 50165, Honolulu, Hawai'i 96850



Updated: December 5, 2022

U.S. Department of the Interior
Proposed Policy and Procedures for Consultation with the Native Hawaiian Community

FREQUENTLY ASKED QUESTIONS

1. Who is proposing the consultation policy and procedures and why?

The U.S. Department of the Interior (Department) is proposing the new consultation policy and procedures as an internal DOI document that seeks to improve how the Department consults with the Native Hawaiian Community (NHC; 513 DM 1.4(G)) in ways that strengthen and honor the special political and trust relationship between the United States and the NHC, and ensure there is consistency, coordination, and reporting from across the Department on NHC consultation activities.

2. What is the purpose of the Department's proposed policy and procedures?

The main purpose of the policy (513 DM 1) is to provide detailed guidance to the Department and its bureaus and offices on how to consult with the NHC when its action and decision-making are likely to have a substantial direct effect on NHC lands, waters, resources, rights, or interests.

The procedures (513 DM 2) outline the basic steps Department officials must take when implementing its consultation policy with the NHC. The procedures will also apply when executive branch policies (e.g., Executive Orders, Secretarial Orders, etc.) and federal laws such as NAGPRA (Native American Graves Protection and Repatriation Act), Section 106 (National Historic Preservation Act), and the Hawaiian Home Lands Recovery Act (HHLRA) require the Department to consult with the NHC.

3. What does the term “government-to-sovereign relationship” mean?

The term “government-to-sovereign relationship” describes the special political and trust relationship that exists between the United States and the NHC in the absence of a “government-to-government” relationship. The term also speaks to the NHC's unrelinquished inherent sovereignty. The Department's use of this term in its proposed consultation policy and procedures reflects its respect for the NHC's unique legal relationship with the United States, which Congress has recognized in over 150 statutes.

4. Do the proposed consultation policy and procedures have anything to do with the re-establishment of a formal government-to-government relationship between the United States and the NHC as outlined in 43 CFR part 50?

No. The proposed consultation policy and procedures govern internal Department practices and outline how the Department will exercise its consultation authority and fulfill its responsibilities under Federal law and policies.

The proposed consultation policy and procedures do not implement or amend 43 CFR Part 50. The exercise of self-determination and self-governance by the NHC and the decision to engage (or not) in activities under Part 50 rests solely with the NHC.

5. What is the [U.S. Department of the Interior Departmental Manual](#)?

The Departmental Manual (DM) is essentially the instruction or user manual for those who work at the Department of the Interior. The DM documents and issues instructions, policies, and procedures that apply to all Departmental activities. For more information, please see the [chapter on the DM's Purpose and Structure at 011 DM 1](#).

6. Why are the proposed policy and procedures written and organized this way?

The proposed policy and procedures are written and organized to conform with Departmental formatting requirements and to track, to the extent practicable, the consultation policy and procedures chapters in the DM for American Indians and Alaska Natives.

7. Who will serve as the Department of the Interior's NHC Governance Officer (NHCGO) and NHC Liaison Officers (NLO)?

The Secretary will appoint the NHCGO from the Department's senior staff. Leadership from the Department's bureaus and offices will designate one or more of their staff to serve as NLOs.

8. What is the Secretary's NHC Engagement Sessions (SNES) and who will be invited to these sessions?

The purpose of the proposed SNES is to provide the NHC with access to the Department's senior leadership at least twice a year to provide input on important issues facing the NHC that are of mutual interest to the Department. The Department welcomes the NHC's input and recommendations on the composition and structure of these engagement sessions.

9. Who is designing and delivering the training for DOI’s bureaus and offices?

The Department welcomes the NHC’s input and recommendations regarding training Departmental staff to consult with the NHC. We are interested in your views on developing a standardized training program required of Department employees undertaking NHC consultation on behalf of their bureaus and offices.

10. Who will be responsible for implementing the proposed consultation policy and procedures and how will we know that they are complying?

Each of the Department’s bureaus and offices will be responsible for implementing the consultation policy and procedures, and reporting on any activities undertaken throughout the calendar year. The Department will produce an annual report of consultation activities, compiling information from its bureaus and offices. Proposed reporting formats are included as Appendices 1 and 2 of draft 513 DM Chapter 1. The Department welcomes input on the kinds of information to include or track in these reports.

11. Must a participant be listed on the Department’s [Native Hawaiian Organization \(NHO\)](#) or [Homestead and Beneficiary Associations \(HBA\)](#) Lists to be eligible for consultation?

No. The proposed policy and procedures on consultation with the NHC strive to be inclusive and are not limited to NHOs or HBAs registered with the Department. All members of the NHC, including those who live outside of the State of Hawai‘i, are eligible for consultation. The Department also welcomes input and recommendations regarding maintenance of its NHO and HBA lists and how it can improve communication and consultation across the NHC.

12. When does the Department expect to finalize its consultation policy and procedures?

The Department expects to finalize its consultation policy and procedures in the Spring of 2023, subject to the number and diversity of comments received to its proposed consultation policy and procedures.

13. I am not able to attend or submit all of my comments at the two scheduled consultation sessions, so where should I send my comments and by when?

All comments should be emailed to DOI at: doi_onhr_hhl@ios.doi.gov. To be considered, comments must be received by 6:00 pm Hawai‘i Standard Time on Wednesday, February 1, 2023. Comments may also be mailed to the Office of Native Hawaiian Relations at 300 Ala Moana Blvd., Box 50165, Honolulu, HI 96850 and must be postmarked on or before February 1, 2023.