

Executive Summary USDA Forest Service Tribal Relations Program Implementation Team Report

Making the Vision Reality

We envision a future where the Forest Service and Indian Tribes work collaboratively through government-to-government relationships ~ a future where the Forest Service possesses the organizational structure, skills, and polices to redeem our responsibilities in this partnership

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Prologue

In October 1999, the Chief Operations Officer of the Forest Service (FS) commissioned a National Tribal Relations Program Task Force (Task Force) to address recurring issues that affect our work with Tribes. The objectives established for the Task Force were to:

- Identify key concerns
- Develop a strategic action plan; and
- Recommend long term direction for working with Tribes across Regional boundaries in a consistent manner on land and resource issues.

The findings and recommendations of the Task Force were presented to the National Leadership Team in June 2000, accepted and published in August 2000 in the "Report of the National Tribal Relations Program Task Force: A Vision for the Future".

The Task Force provided a set of recommendations designed to improve the consistency and effectiveness of program delivery and to institutionalize long-term collaborative relationships with tribal governments. The recommendations were focused on pervasive problems and concerns that surfaced repeatedly in different contexts and were symptomatic of underlying problems in working relationships between the FS and Tribes. The recommendations were grouped in three categories designed specifically to improve program delivery: administrative, policy, and legislative.

The Deputy Chief for State and Private Forestry (SPF) established the National Tribal Relations Program Implementation Team (TEAM) in April 2001 to initiate implementation of the Task Force recommendations. The Team developed a report addressing the following key issues raised by the Task Force:

- Office of Tribal Relations Infrastructure
- Tribal Relations Training
- Forest Service National Tribal Leaders Advisory Council
- Programmatic Review, Monitoring & Evaluation
- Forest Service Manual Chapter 1563 and Handbook 1509.13
- Tribal Consultation and Coordination
- Reburial of American Indian and Alaska Native Human Remains on National Forest System Lands
- Occupancy and Use of National Forests System Lands for Tribes Exercising Traditional Cultural Purposes
- Acquisition of Forest Products for Traditional Cultural Uses
- Contracting, Grants, and Agreements
- Research, Development, Collaboration with Tribal Governments
- Cooperative Forestry Assistance Act Forest Stewardship Program

Abbreviations

AD AUTHORITY – Administratively Determined Authority
BAER – Burned Area Emergency Rehabilitation
CFR – Code of Federal Regulation
ESA – Endangered Species Act
FLEP – Forest Land Enhancement Program
FS – Forest Service
FSM – Forest Service Manual
LOA – Landowner Assistance Program
LWCA – Land and Water Conservation Act
MOU – Memorandum of Understanding
NAGPRA – Native American Graves Protection and Repatriation Act
NEPA – National Environmental Protection Act
NFS – National Forest System
NLT – National Leadership Team
NTLAC – National Tribal Leaders Advisory Council
R&D – Research and Development
SPF – State and Private Forestry
TEAM – National Tribal Relations Program Implementation Team
TEK – Traditional Ecological Knowledge
USDA – United States Department of Agriculture
WO – Washington Office

Issue: Office of Tribal Relations Infrastructure

Develop an infrastructure that supports high quality interactions across FS administered programs with Tribes on a government-to-government basis. Ensure effective leadership, consistent performance, and accountability throughout the FS. Strengthen external and internal coordination and communication. *(Update: A new Director Area for Tribal Relations was established in January of 2004 within State and Private Forestry in Washington, DC. As of February 2005, the staff consisted of a Director, two Assistant Directors, Training and Communications Specialist, and a Policy Analyst.)*

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Establish a Director Area for Tribal Government Relations, within the State and Private Forestry Deputy Area in the Washington Office.</p>	<p>The National Leadership Team (NLT) decision of June 2002 established a new director area. The Office of Tribal Relations, in the Washington Office and administered under the SPF Deputy Area. The Director is to report directly to the Deputy Chief State and Private Forestry.</p>
<p>Establish the Director Position at an appropriate grade level (possibly Senior Executive Service) with adequate support to accomplish the broad range of responsibilities.</p>	<p>The NLT established the Director at a GS-15 level and agreed to an initial staff of six full time employees with a possible expansion later based on program monitoring and evaluation.</p>
<p>Complete an organizational review that identifies critical points of integration and communication on tribal relations among FS programs and deputy areas.</p>	<p>The NLT established two assistant director positions to ensure coverage of all deputy areas. One deputy director will concentrate on NFS issues and the other will concentrate on SPF and Research and Development (R&D) Issues.</p>
<p>REGIONAL OFFICES Determine appropriate staffing and resource needs at each Regional Office and Forest to adequately handle this diverse tribal government relations workload.</p>	<p>Each region is to evaluate staffing requirements to support tribal relations activities. The new Forest Service Manual (FSM) Chapter 1563 provides direction to Regional Foresters, Station Directors and the Area Director to review requirements for tribal program managers and provides flexibility to establish appropriate staffing and reporting structures.</p>
<p>It is essential that individuals responsible for tribal relations on a day-to-day basis have ready access to FS officials at appropriate levels commensurate with effective tribal relations.</p>	<p>Tribal Program Managers should serve as the primary source of advice and assistance to the appropriate administrator on matters involving tribal relations and actively participate with members of the Region, Station, or Area leadership team.</p>
<p>Ensure consistency in interpretation and application of FS policy guidance pertaining to tribal relations.</p>	<p>Regional Tribal Relations Program Managers and the Director of the Office of Tribal Relations will meet periodically to ensure consistency and coordination in Forest Service policy direction as members of the National Forest Service Team on Tribal Relations.</p>
<p>Establish standard minimum duties and responsibilities for tribal relations program managers at the Regional and, where appropriate, the Forest level. These standards should accurately reflect the position's diverse responsibilities and associated skills.</p>	<p>The Team established within the new FSM Chapter 1563 direction and key responsibilities for tribal program managers. Input from the program managers was developed by the use of a questionnaire.</p>

Issue: Tribal Relations Training

FS employees are currently not receiving the necessary education and training to work effectively with tribal governments. All FS line officers and staff who regularly interact with Tribes should be required to demonstrate a core competency in tribal relations.

Tribal Relations Task Force Recommendations	Implementation Team Recommendation Actions
<p>Administrative Establish core competency requirements on federal-tribal relations for all Regional Foresters, Station Directors, Area Director, Forest Supervisors, District Rangers, and appropriate staffs across all deputy areas that frequently interact with tribal governments during the course of their responsibilities.</p>	<p>Establish performance measures in tribal relations, particularly for line officers and higher levels of FS personnel on forests with intensive tribal issues. Adopt the tribal relations competencies and training modules for all future national and regular tribal relations trainings. These modules are built from meeting core competency requirements.</p>
<p>Review existing FS and other tribal relations training and develop, as appropriate, core training that responds to competency requirements. Subject matter would include orientation on Federal Indian Law, judicial decisions, regulations, and policies, regarding American Indian and National Forest System (NFS) land management. Supplement core training with materials and courses that are relevant to working with tribal governments at the local or regional levels.</p>	<p>Adopt and integrate the tribal relations competencies and training modules into the national corporate training system of the FS. In addition, charter a Tribal Relations Training Team to continually address, integrate, and refine tribal relations in appropriate training courses throughout the agency. Integration of tribal relations should be given priority to training covering topics such as cultural resources, forest planning, Burned Area Emergency Rehabilitation (BAER), land exchanges, National Environmental Protection Act (NEPA), water law, grants and agreements, etc.</p>
<p>Develop supplement information for specialized training programs for positions that involve interactions with tribal governments e.g. Contracting Officers' Warrant System requirements and the Grants and Agreements Specialists' Certification Program.</p>	<p>Specialized courses should be developed with the oversight of the Tribal Relations Training Team to meet this need. Periodic refresher courses will need to be developed that focus on new legal and regulatory requirements, what impact other new legislation and newly established policy has on FS operations.</p>
<p>Develop core courses, reference materials, and supplements in coordination with Tribes, tribal organizations, and other agencies.</p>	<p>Tribal relations competencies and training modules have been developed. They should be referred for further refinement and integration into the national corporate training system of the FS. Outside review from tribal educators should be sought in the development process. In addition, the FS should offer training to tribal governments, tribal members, tribal business and tribal organizations regarding agency authorities, mission, and policies and federally funded and administered programs.</p>
<p>Review existing (e.g. George Mason University course PRLS-648) and, as appropriate, develop self-study material to supplement line and staff training.</p>	<p>The Tribal Relations Training Team, working with the national corporate training staff, should determine what is appropriate to integrate from existing courses and determine if self-study material is an appropriate supplement to what is finally developed.</p>
<p>Incorporate principles of government-to-government relationships with Tribes into the national collaborative stewardship training program currently under development.</p>	<p>The Tribal Relations Training Team, working with the national corporate training staff, should determine what is appropriate content to be integrated into the collaborative stewardship training program.</p>

Issue: USDA Forest Service National Tribal Leaders Advisory Council

The Forest Service lacks a formal method for the agency to receive advice and guidance on issues relevant to Tribes and the Forest Service directly from American Indian and Alaska Native Tribal Officials.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Under the issue "Strengthening Tribal Relationships Through Monitoring and Evaluation" a recommendation was made by the Task Force to "Establish a formal process or forum involving tribal and FS leadership to regularly assess the status of working relationships between the FS and tribal governments at all levels of the organization". The need for such a forum for exchange of ideas and information between tribal leaders and the FS leadership was a recurring theme throughout the analysis and recommendations of the various workgroups within the Team. The Team recommended the development of a formal method for the Chief and Staff to receive advice and guidance directly from American Indians and Alaskan Natives on issues of mutual interest.</p>	<p>Create a USDA Forest Service National Tribal Leaders Advisory Council (NTLAC) as exempted from the Federal Advisory Committee Act by the Unfunded Mandates Reform Act of 1995 (P.L. 104-4). Use the charter developed by the Team as a discussion draft with tribal leaders in the development of a final charter for the advisory council.</p>

Issue: Programmatic Review, Monitoring & Evaluation

A monitoring program is necessary to evaluate the degree to which the FS has successfully established and maintained government-to-government relationships with Tribes.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative The FS should undertake an internal review of its programs to determine if administrative practices have the de-facto impact of discouraging equitable tribal participation. If problems are found, efforts should be undertaken to involve Tribes in identifying barriers and crafting corrective actions, and a monitoring program should be established to provide periodic information on progress.</p>	<p>The Team reviewed a variety of documents and regulations pertaining to government-to-government relationships between the agency and tribal governments.</p> <p>The Forest Service Manual System (Sections 1410 and 1563) provides general guidance on conducting programmatic reviews and developing external relations with American Indian and Alaska Natives. Adopt the tribal review component developed by the Team and integrate tribal program monitoring into the Chief’s Review “Accounting for Results: A Guideline for Regional Leadership Teams”.</p>
<p>Establish a formal process or forum involving tribal and FS leadership to regularly assess the status of working relationships between the FS and tribal governments at all levels of the organization.</p>	<p>Establish a NTLAC to the Chief of the FS to assist the agency in evaluating working relationships between the FS and Tribes.</p>
<p>Establish a process involving tribal leaders and the Chief of the FS that provides for review and report on progress toward implementing measures to improve government-to-government relations.</p>	<p>Establish a NTLAC to the Chief of the FS to assist the agency in evaluating working relationships between the FS and Tribes.</p>
<p>The Director Area for Tribal Government Relations should be responsible for maintaining and compiling information for monitoring the progress of improvements in tribal relations.</p>	<p>Assign the Director of the Office of Tribal Relations the responsibility to develop a process to review tribal program delivery by the Washington Office and Regional Tribal Relations Programs, utilizing the review module developed by the Team.</p>

Issue: Forest Service Manual Chapter 1563 and Handbook 1509.13

Consolidate and develop new policy direction for the Tribal Relations Program into a new chapter of the FS Manual.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Issue a Chief’s Order to provide clear guidance for FS tribal relationships. Such an order would spell out specific obligations of FS officials and provide guidelines about their conduct of government-to-government relations with Tribes.</p>	<p>Instead of a Chief’s Order, the NLT recommended that the key contents of the draft Chief’s Order developed by the Task Force be consolidated into new policy direction in a single chapter of the FSM. FSM Chapter 1563 has been revised to establish comprehensive policy direction to assist in administration of the Tribal Relations Program. In addition, FS Handbook 1509.13 was revised to complement the policy direction in the manual.</p>

Issue: Tribal Consultation and Coordination

The FS lacks explicit policy and direction that ensures effective consultation between the agency and Tribes on policies and actions that may affect treaty or other federally reserved rights, traditional tribal cultural values or practices, resources, and areas of tribal interest. The National Task Force identified pervasive uncertainty and inconsistency within the FS regarding tribal consultation and coordination.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Revise FS Manual (FSM) 1563 to add “consultation with tribal governments” in keeping with Presidential Memorandum 1994. Supplement other appropriate manuals to recognize and establish policy direction to conduct consultation with tribal governments regarding policy, planning, programs, and projects.</p>	<p>A consultation policy has been drafted and incorporated as agency direction in the new FSM Chapter 1563.</p>
<p>Direct and initiate government-to-government consultation with Tribes as well as other federal agencies, state, and local governments on an ecosystem or ecoprovince basis in the course of developing strategies for threatened and endangered species, water quality, watershed restoration, and other issues.</p>	<p>Complete through revision of forest plans using the consultation policy process as prescribed as agency direction in the new FSM Chapter 1563.</p>
<p>Initiate the development of effective Endangered Species Act (ESA) consultation procedures between National Marine Fisheries Service, Bureau of Land Management, National Park Service, FS, and Tribes to address issues related to ESA.</p>	<p>Complete through revision of forest plans using the consultation policy process as prescribed as agency direction in the new FSM Chapter 1563.</p>
<p>Employ the principles embodied in the General Framework template to guide tribal consultation and coordination.</p>	<p>Incorporated into the consultation direction in the new FSM Chapter 1563.</p>
<p>Revise FSM 1563 by adding reference to other parts of the regulations, which address tribal issues.</p>	<p>Appropriate references have been incorporated into the new FSM Chapter 1563.</p>
<p>Amend other FSM to include cross-references to tribal relations policy. Appropriate sections should include, but not be limited to, FSM 1900 (Planning), 2300 (Recreation), 2360 (Heritage Resources), 2400 (Timber Management), and 2700 (Special Uses).</p>	<p>The new Office of Tribal relations should issue a letter to all WO Directors requesting that they review their policy direction in the FSM to ensure that appropriate cross referencing to the new Office of Tribal Relations and to the tribal relations program is completed in amending language.</p>
<p>Develop a dispute resolution process with ombudsperson responsibilities.</p>	<p>The ombudsperson role is proposed as part of the staffing for the office of Tribal Relations.</p>

Issue: Reburial of American Indians and Alaska Native Human Remains on National Forest System Lands

Reburial of Native American human remains and funerary objects should be permitted on NFS lands when they were originally recovered from these lands. Presently, reburials occurring on NFS lands and the funding associated with the reburials are dealt with individually, forest-by-forest, or region-by-region. Policies and program support are needed to protect reburial sites and ensure that culturally sensitive information is secure.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Develop consistent national policy that clearly: Supports the reburial of human remains and associated funerary objects on NFS lands when originally disinterred from these lands. Re-internment should be as close to where the remains were found while considering other factors (e.g., protection);</p> <p>Outlines the measures for confidentiality and protection of the reburial sites and associated remains and objects;</p> <p>Initiates arrangements with museums and universities who originally excavated and removed the human remains from NFS lands.</p>	<p>National policy supporting reburial of human remains and associated funerary objects on NFS lands has been prepared and incorporated in the new FSM Chapter 1563. Although, the Team believes existing law supports this policy, legislation should be pursued and enacted which gives the agency explicit authority and the necessary appropriations to accomplish reburials on lands administered by the USDA Forest Service. Such legislation is under development</p> <p>Confidentiality has been addressed in the legislative proposal.</p> <p>Repatriation is an on-going action by the FS under the direction of Native American Graves Protection and Repatriation Act (NAGPRA).</p>
<p>Legislative Identify funding in FS out-year budgets to cover the costs of reburials on NFS lands and the costs of compliance with NAGPRA as well as the National Environmental Policy Act and National Historic Preservation Act.</p>	<p>Potential costs for future reburials of more than 6,000 sets of Native American human remains that are waiting to be repatriated is estimated to range from \$8-10 million. Up to this point, the numbers of remains and objects that have been reburied at each individual reburial have been quite small, and the individual forests out of their operating budgets have absorbed the costs of the reburials. Given the number of items that require repatriation and reburials and the magnitude of costs, individual forests and regions cannot be expected to absorb this cost under their operating budgets. A special budget initiative should be pursued by the FS.</p>

Issue: Occupancy and Use of National Forest System Lands for Traditional or Cultural Purposes

There is a need to clarify FS policy and authority to waive required permits and fees for access to and use of NFS lands by Tribes and to close NFS lands temporarily for exclusive use by Tribes. The use of NFS lands addressed in this document refers only to Tribes exercising traditional cultural uses, when such uses are not part of the Tribes’ treaty rights.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Develop a unified national policy to address Tribes’ need to use and occupy national forest lands, addressing treaty and non-treaty issues.</p>	<p>Maximize use of existing authorities for voluntary closure of areas to accommodate tribal traditional uses. Memorandums of understanding (MOU’s) can be used to formalize understandings between Tribes and the FS. MOUs must comply with FSH 1509 (50). Direction on the use of MOU’s for voluntary closures has been developed in the new FSM Chapter 1563.</p>
<p>Policy Revise 36CFR 251 to include tribal governments among the list of entities for which fee waivers may be authorized.</p>	<p>Authority exists to accommodate tribal tradition/cultural uses or treaty rights without fees. Generally, Tribes exercising treaty rights on NFS lands do not need to obtain a permit from or pay fees to the FS.</p>
<p>Clarify with OGC whether under the Land and Water Conservation Act (LWCA) and legislation authorizing the Recreation Fee Demonstration Program, the FS can waive fees to tribal members who are using the recreation sites for non-recreation purposes (i.e., for traditional cultural purposes).</p>	<p>There is no provision for waiver of recreation admission or use fees in the LWCA or in 36 CFR 291.a (a) and (b). If the Recreational Fee Demonstration (Fee Demo) Program authorized by Congress in 1996 (Section 315 of Public Law 104-134) is made permanent, the FS should develop national policy to waive fees for Tribes using fee demo sites for traditional cultural purposes.</p>
<p>Legislative Develop new legislation that would provide the authority for the FS to close lands to the general public for the shortest duration of time necessary to accommodate various tribal and non-tribal uses, including tradition tribal use. Regarding tribal use, such as closures would be based on determination, in consultation with Tribes, that a closure would be necessary.</p>	<p>Such legislation is being developed.</p>

Issue: Acquisition of Forest Products for Traditional Cultural Uses

The FS lacks an explicit free-use policy regarding the availability of culturally important forest products (timber and special forest products) for NFS lands to federally recognized Tribes for traditional and cultural use.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Adopt a national policy that allows acquisition of forest products for traditional cultural uses to tribal governments under a free use permit. Forest Supervisors should work with tribal governments to identify specific forest products that are important for traditional use. The policy will also address how cultural sensitive information can be protected.</p>	<p>For many products (e.g., basket materials, boughs), there is no fee and no permit is required for non-commercial purposes. Generally rights, protected under treaties fall outside the scope of agency permit and fee requirements. The Team examined the existing regulations, laws and policies, and discussed this issue in depth with OGC, with FS timber specialists, and with other knowledgeable FS employees. The Pacific Northwest Region has established a no-fees policy and guidelines based on their interpretation of existing statues. This policy is a step toward implementation of the Task Force's recommendation. However, the legal basis for this policy is uncertain. Subsequently, the Team believes that new legislative authority is needed before a comprehensive policy free of uncertainty can be written. The FS Forest Products policy (FSM 2400) is under revision to accommodate these issues.</p>
<p>Expand national direction and guidance, FSM 2400, as to how materials can be sold and or/ provided in accordance with existing laws and regulations.</p>	<p>The FS Forest Products policy (FSM 2400) is under revision to accommodate these issues.</p>
<p>Determine if there are local needs for certain forest products and design small sales programs that provide an opportunity for individuals or small entities to bid on the project.</p>	<p>Existing authorities currently exist to accommodate this need.</p>
<p>Revise 36 CFR 223.8 to expand the free-use authorities regarding the acquisition of forest products used for traditional cultural purposes to Tribes. Regulations, particularly 36 CFR 223.8, should be revised to delegate authorities to field line officers to provide without charge, forest products for traditional cultural use to federally recognized Tribes at a local level.</p>	<p>The FS has authority to grant free use timber products to individuals that use the materials for domestic purposes, within limits on market value and provided that the harvest meets silvicultural purposes 36 CFR 223.5, 36 CFR 223.8. Regulations at 36 CFR § 223.8 permit forest supervisors to grant free use timber not to exceed \$100 in value, unless authorized by the Regional Forester, who may grant free use timber not to exceed \$5,000 in value. The Chief of the FS will give prior review if the value of the free use timber exceeds \$5,000. These values have been in the</p>

	<p>regulations since 1957, and perhaps since 1948. Update the values in 36 CFR 223.8, <i>Delegations of authority</i> to approve free use by individuals, by rule making. These values should be periodically updated to reflect inflation, and current commercial market resource values. This would assist line officers for granting free use of timber products to individual tribal members and to the general public.</p>
<p>Legislative Amend 38 Stat. 1100, 16 USC 492 to work with tribal governments directly for the purposes of contracting for forest products and provide opportunities for Tribes to obtain Federal forest products for tribal uses.</p>	<p>In order to provide National Forest timber free of charge to individuals, the action must be tied to: existing policy, executive orders, existing MOU's, and/or demonstrated advantage to the Federal Government. FS authority to grant free use to other branches of the Federal Government (36 CFR 223.11) is currently limited to the Departments of the Navy and the Army (16 USC § 492). Receiving agencies additionally need statutory authority to transfer federal property (timber) to tribal governments.</p> <p>The FS can grant free-use timber products to individual residents for domestic purposes. The value of the timber is limited, and the harvest must meet silvicultural purposes (36 CFR 223.5, 36 CFR 223.8).</p> <p>Disposal of timber for administrative use (36 CFR 223.2) authorizes the disposal of trees, portions of trees, or other forest products in any amount, by sale or without charge, as may be most advantageous to the United States to, subject to established policies for management of the national forests. Regions 6 and 10 have successfully utilized this authority for providing western red cedar trees for use as canoe logs or totem poles to tribal governments.</p> <p>The FS has the authority to grant green saw timber to individuals in Alaska under certain circumstances (36 CFR 223.10).</p>
<p>Explore other legislative options for creating authority to provide Tribes free use of forest products.</p>	<p>Legislation is being developed to allow the disposal of timber and other forest products for traditional cultural purposes, free of charge, directly to federally recognized Tribes who have not reserved access to such products through treaty. This would enable the Tribes to control distribution of such products to their members and help the FS ensure that proper control is exercised.</p>

Issue: Contracting, Grants and Agreements

FS has significant unrealized potential through our grants, agreements, acquisition programs to improve relationships, better honor our unique legal responsibilities, and to encourage equal access to Federal programs by American Indian and Alaska Native governments.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Review existing authorities, programs, and direction to determine the need for clarification, interpretation and application, and/or marketing.</p>	<p>The FS Office of Business Operations and State and Private Forestry sent out a letter to the Regional Foresters clarifying existing authorities for contracting and entering into grants and agreements with Tribes and for-profit Native American owned businesses.</p> <p>The FS Office of Civil Rights will develop a reporting requirement for States to show redemption of Title VI responsibilities to diverse populations (including tribal entities).</p> <p>The Deputy Chief, State and Private Forestry, along with the Director, Human Resources will seek USDA approval for Administratively Determined Authority (AD authority) for non-fire emergencies.</p>
<p>Develop and incorporate uniform definitions for the meaning and intention of phrases, such as, "mutual benefit to the government" and "cooperative agreement" in working with Tribes to create guidelines as a supplement to Federal handbooks or manuals. Government-wide consistency is necessary and should be strongly encouraged. However, at a minimum Forest Service-wide consistency is a necessity.</p>	<p>The FS Office of Business Operations and Acquisition Management staffs have addressed this by defining "mutual benefit to the government" and "cooperative agreement" as they relate to participating agreements, which includes tribal entities.</p>
<p>Issue guidance on FS authority under the Cooperative Funds and Deposits Act (P.L. 94-148), Economy Act of June 30, 1932 (31 U.S.C. 1535, Sec. 601).</p>	<p>Regional Foresters will include tribally owned and for-profit Native American businesses on procurement listings, as well as periodically choose to limit competition on some procurement under \$25,000 to two or more Indian owned or controlled businesses.</p> <p>FS will develop a two percent goal for contracting with tribal entities. The two percent goal will begin in FY 2004 with an initial one-half percent culminating in the full two percent in FY 2007.</p> <p>The FS Office of Business Operations and Acquisition Management will amend the FS Acquisition Regulations to incorporate the Partnership Task Force Partnership Guide section</p>

	<p>on working effectively with tribal governments “Contracting with Tribal Entities” and to consolidate the authorities for contracting with tribal entities and Native American for-profit companies. (i.e., authority under 25 U.S.C. 1544)</p>
<p>Policy Establish a multi-agency work group to assess the need for and, as appropriate, create government-wide universal forms/formats, language clauses, and templates for agreements, acquisitions, and other partnership documents that address mutual interests and concerns with Tribes.</p>	<p>The Team has determined that existing FS forms/format, language clauses, and templates for agreements, acquisitions, and other partnership documents, with the exception of tracking percentages, are adequate for working directly with Tribes.</p>
<p>Legislative Aggressively review and evaluate the feasibility of obtaining additional authorities for the FS similar to that other Federal agencies already have in place such as, but not limited to, The Buy Indian Act, Indian Education and Self Determination Act, Indian Self-Governance Act.</p>	<p>The Team determined that no new legislative authority is needed.</p>

Issue: Research, Development, and Collaboration with Tribal Governments

The need to incorporate FS R&D into efforts to improve working relations with tribal governments was identified by the NLT upon review of the Task Force’s recommendations in June 2000. In addition, goals and objectives of the revised USDA Forest Service 2000 Strategic Plan call for expanded service and assistance to and participation with tribal governments and less traditional research groups.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative The Tribal Consultation and Coordination recommendations in the <i>Report of the National Tribal Relations Program Task Force</i> included that the Agency should “supplement other appropriate manuals to recognize and establish policy direction to conduct consultation with tribal governments regarding policy, planning, programs, and projects.” It also suggests amending other sections of the FSM where appropriate and including cross-references to FSM 1563.</p>	<p>A national assessment of current law and R&D consultation and coordination with Tribes was completed. None of the R&D’s existing authorities appear to prohibit the FS from entering into agreements or conducting research with tribal governments. The FS may work with Tribes wherever existing language can be read to include them. Modifying FSM 4000, could improve R&D’s tribal consultation and coordination.</p> <p>Suggested modifications to FSM 4000 – Research and Development to provide guidance and direction to R&D on tribal consultation and coordination have been identified, as well as cross-references to the new FSM Chapter 1563.</p> <p>Suggested modifications to FSM 4000 – Research and Development, Chapter 4080, Section 4086, to incorporate ethics guidelines for scientists and their cooperators working with and/or studying indigenous/native communities have been identified.</p>
<p>Legislative Research scientists within the FS have expressed concerns about protecting the confidentiality of TEK and the proprietary nature of this knowledge.</p>	<p>Pursuing legislative authority to protect the confidentiality of Traditional Ecological Knowledge (TEK) could improve R&D’s tribal consultation and coordination. Legislation to address this issue is under development.</p> <p>Refer to the Office of General Counsel to determine if additional authority is required to adequately protect the confidentiality of TEK shared during research studies conducted jointly by the FS and tribal governments, and /or tribal members. If necessary, refer to FS Legislative Affairs for drafting assistance to prepare a legislative proposal that would correct this concern in law.</p>

Issue: Cooperative Forestry Assistance Act Landowner Assistance Program

Assistance to tribal landowners and small reservations, through the Cooperative Assistance Act (16 U.S.C. 2101) Forest Stewardship Program, is inconsistently delivered. Compounding this inconsistent delivery is insufficient funding of the program to facilitate small reservation tribal planning needs.

Tribal Relations Task Force Recommendations	Implementation Team Recommended Actions
<p>Administrative Cooperate with State Foresters to increase participation of Tribes and tribal landowners in cooperative forestry programs with the long-term goal of tribal participation at a level commensurate with the percentage of applicable tribal lands in the state.</p>	<p>The Deputy Chief of State and Private Forestry (SPF) should facilitate a series of meetings between State Foresters and tribal Leaders to discuss ways to increase the participation of Tribes in cooperative forestry programs.</p>
<p>Upon allocation of stewardship program funds to the state forestry organizations within their administrative region, regional foresters will contact the appropriate tribal governments and American Indian and Alaska Native private landowners regarding potential opportunities to obtain assistance.</p>	<p>In the rule being developed for the Forest Land Enhancement Program (FLEP), identify the need for states to increase participation of Tribes and tribal landowners in the program with the long-term goal of tribal participation at a level commensurate with the percentage of applicable tribal lands in the given state.</p>
<p>Cooperative forestry should incorporate specific questions about Tribes and tribal landowner involvement in the Landowner Assistance (LOA) Programs within performance measurement. Data, collected annually, would be used to measure accessibility of the program to American Indian and Alaska Native landowners.</p>	<p>Developing accountability systems will incorporate measures of tribal participation in LOA programs.</p>
<p>The Deputy Chief of SPF should ensure that needs of federally recognized American Indian Tribes and Alaska Native landowners under the LOA Program are incorporated into the SPF funding request.</p>	<p>The Directors of the Office of Tribal Relations and Cooperative Forestry will need to work together to ensure that Tribes are informed about LOA Program opportunities and that tribal needs are considered when developing out year budgets for LOA/CF.</p>
<p>Appropriate inter-tribal organizations should be provided with information on tribal needs as reflected in agency budget proposals so that Tribes will have the information necessary to provide testimony at appropriation hearings.</p>	<p>It is recommended that the new Director of the Office of Tribal Relations and the Director of Cooperative Forestry develop a communication and outreach plan that keeps tribal governments and intertribal organizations informed of program opportunities and needs.</p>
<p>Legislative The FS should work in coordination with the National Association of State Foresters and the Intertribal Timber Council to pursue expansion of the stewardship program and to ensure that tribal lands are equitably funded in this process. Monitoring the inclusion of tribal lands in the stewardship programs should occur. If equity is not achieved, alternative resolution should be pursued, including amendment of the Cooperative Forestry Assistance Act or the development of funding sources within the Interior Department that would allow direct funding to Tribes.</p>	<p>The SPF Deputy Chief should pursue closer working relationships between Tribes and State Foresters. The goal should be "...to ensure that tribal lands are equitably funded..." through the Cooperative Forestry programs. If this cannot be achieved the Deputy Chief should pursue a legislative alternative.</p>

Summary

The preceding tables summarize actions that the National Tribal Relations Program Implementation Team developed for implementing the recommendations of the Tribal Relations Program Task Force Report. The majority of these actions can be implemented by administrative actions using existing authorities. A full rule making is required to update resource values associated with approval for free use of forest products by individuals (36 CFR 223.8), including tribal members. This updating would reflect inflation and current commercial market resource values.

The Team identified certain recommendations that cannot be fully implemented without legislation to create new or clarify existing authorities. The following issues are included in developing legislation:

Use and Access to National Forest System Lands

- Provide the authority for the FS to close lands to the general public for the shortest duration of time necessary to accommodate various tribal and non-tribal uses, including traditional tribal use. Such closures would be determined in consultation with Tribes.

Forest Products for Traditional & Cultural Purposes

- Allows the disposal of timber and other forest products for traditional cultural purposes, free of charge, directly to federally recognized Tribes who have not reserved access to such products through treaty.

Repatriation & Reburial

- Provides the FS with explicit authority for reburials, maintain the confidentiality of reburial and location information, and authorize the necessary appropriations to accomplish reburials on lands administered by the FS.

Research Development and Collaboration with Tribal Governments

- Protects the confidentiality of information shared during research studies conducted jointly by the Agency and Tribes, tribal governments, and/or tribal members.

Chief and Staff Decision

All actions proposed for implementation and resolution of issues identified in the report of the Task Force were presented to the Chief and accepted.

The Deputy Chief for State and Private Forestry and the Director of the Office of Tribal Relations are assigned the responsibility for timely implementation of the Team and Task Force recommendations. Implementation will require close coordination and cooperation across FS deputy areas.

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