

**USACE ARCHAEOLOGICAL CURATION REGIONALIZATION EFFORT
TRIBAL CONSULTATION PLAN
SOUTH PACIFIC DIVISION**

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INTRODUCTION:

The following consultation plan will guide and govern the U.S. Army Corps of Engineers (USACE), South Pacific Division (SPD) Regionalization Effort (Regionalization) through informal and government-to-government (G2G) tribal consultation for the national Regionalization Effort of archaeological collections within SPD, and related discussions. This consultation plan is designed to: (1) inform and encourage feedback from, and involvement by, tribes interested in USACE collections as part of the Regionalization Effort and (2) ensure that input from tribes will be considered in relevant decision making. The processes and commitments outlined below apply to all interaction between USACE HQ, SPD Division and districts, Mandatory Center of Expertise for the Curation and Management of Archaeological Collections (MCX CMAC), and Indian tribes, to include non-federally recognized California Native American Tribes. Although tribal coordination and G2G tribal consultation is an individual district responsibility, tribal involvement may also occur with division and MCX CMAC counterparts during coordination, webinars, in-person meetings, and potentially formal G2G meetings to ensure consistent messaging.

OVERVIEW:

The MCX CMAC was directed by USACE Headquarters (HQ) to develop, administer, and lead the National Regionalization Effort for USACE archaeological collections (*CECW-CO Memorandum on Regionalization of U.S. Army Corps of Engineers Archaeological Collections to be Managed by the Mandatory Center of Expertise for the Curation and Management of Archaeological Collections, Dated 7 Sep 2017*). The following plan establishes a framework for implementing these efforts to ensure timely strategic communications with affected and interested tribes.

As the program lead, MCX CMAC will work with SPD at both division and district levels to inform and support a Regionalization project delivery team (PDT). SPD consists of four USACE districts: (1) Los Angeles-SPL, (2) Albuquerque-SPA, (3) San Francisco-SPN, and (4) Sacramento-SPK. The MCX CMAC and SPD division and districts form the PDT. The Southern Border District is not part of the regionalization effort. USACE is not the lead federal agency for the Border Wall Project and does not have fee-titled land within the area of potential effect for that project.

SPD districts serve as the primary contact and conduit for information sharing and G2G consultation with tribes for the Regionalization Effort. Each district has identified their tribal main point of contact (Identified POC). The Identified POC is the district tribal liaison or, for districts with no tribal liaison, the district cultural representative. In order to ensure tribes are not inundated with duplicate information, particularly those who consult with more than one district, a lead District will be assigned to each tribe. Tribes will receive information from, provide feedback to, and consult with their lead District's Identified POC.

Team Structure:

Although this effort is coordinated by the MCX CMAC, the tribal consultation process is a hybrid collaborative approach involving all PDT members. MCX CMAC and SPD will be invited to all meetings with tribes and will be consulted when commitments to and/or consultation with tribes occur. A tribe may request a G2G consultation with the Identified POC and leadership at any time throughout the regionalization process. Prior to initiating formal consultation, however, participation in informational

webinars will be encouraged, along with provisions to tribes of an opportunity to review and comment on MCX CMAC report recommendations.

Consultation Policy:

USACE is fully committed to achieve effective and meaningful consultation with both the federally recognized and non-federally recognized tribes that SPD consults. The SPD Regionalization Effort will follow USACE's consultation policy to ensure that we meet our tribal trust responsibilities. The PDT will engage in continuous consultation with tribes throughout the Regionalization Effort in accordance with the following documents and regulations:

- United States Constitution Article VI, Section II on Treaties
- Native American Graves Protection and Repatriation Act (NAGPRA)
- Archaeological Resources Protection Act (ARPA)
- Presidential Executive Order 13175 Government to Government Relationship with Tribal Governments
- Executive Order 5201.1 on Department of Transportation Programs, Policies and Procedures Affecting American Indians, Alaska Native and Tribes.
- USACE Consultation Policy

In 2016, USACE sought guidance from the Advisory Council on Historic Preservation (ACHP) pertaining to the relocation of federal archaeological collections. ACHP provided their opinion on 29 April 2016 in *ACHP Connect Log Number: 009965*, which concluded that the relocation can be subject to Section 106 review if two criteria are met: (1) the project was carried out by or on behalf of a federal agency, and (2) the relocation would cause an effect on a historic property. The relocation of collections from one repository to another does not have an effect on a historic property. Therefore, both criteria are not met and the relocation is not subject to Section 106 review. USACE follows ACHP guidance.

GOALS AND OBJECTIVES

Goals:

- Ensure USACE meets its trust responsibility with tribes.
- Establish and open, transparent, and appropriate framework for all information including tribal communication, general communication, and curation reports.
- Convey accurate information on the SPD Regionalization Effort with consulting tribes.
- Achieve a respectful engagement between the needs of the tribes and management of USACE collections, as supported by USACE Consultation Policy.
- Ensure all tribes and qualified interested parties have access to USACE collections.

Roles & Responsibilities for Tribal Consultation:

USACE HQ oversees the implementation of the National Regionalization Effort and the MCX CMAC. USACE HQ is responsible for:

- Reviewing the SPD Tribal Consultation Plan.
- Providing recommendations and guidance.

MCX CMAC implements the National Regionalization Effort. MCX CMAC is responsible for:

- Communicating with USACE HQ, Division Cultural Resources (CR) Point of Contact (POC), Division Tribal POC, District CR POCs, and District Tribal Liaisons (TLs) via email, in-person meetings, and/or phone conferences.
- Preparing SPD Regionalization talking points in coordination with division and district POCs.
- Drafting, editing, and publishing Regionalization resources, tribal letters, presentations, and reports in consultation with division and district POCs. All written communication will be a collaborative process between the MCX CMAC, division, and districts with the intention that division and districts will provide feedback and modifications. MCX CMAC will sign letters when appropriate. Any concerns regarding who will sign the letters will be addressed when necessary.
- Coordinating SPD Regionalization tribal communication, consultation, webinars, and in-person meetings with SPD District Identified POCs.
- Providing SPD division and district PDT members with funding for travel in addition to providing districts funding for labor to attend the in-person meetings and meeting with Tribal representatives.
- Providing tribes with funding for one tribal representative to travel for an in-person meeting discussing SPD's archaeological collections and the MCX CMAC's report recommendations for consolidation. Where possible, Identified POCs and other members of the PDT should consider traveling to these in-person meetings to meet with Tribal representatives. The in-person meetings are not G2G consultations, but G2G consultation will be honored if a tribe requests at one of these meetings.
- Providing Identified POCs with tribal documents for the Tribal Consultation Packet.
- Attending all SPD Regionalization webinars and in-person meetings.
- Incorporating and providing feedback on the tribal comment matrix.
- Assisting in G2G consultation as needed.

Tribal Nations Technical Center of Expertise (TCX) is responsible for:

- Reviewing the SPD Regional Analysis Report for situational awareness.

SPD Division Cultural Resources POC provides support to MCX CMAC and District CR POCs for the National Regionalization Effort. The SPD CR POC is responsible for:

- Attending all SPD Regionalization webinars and in-person meetings.
- Facilitating communication between MCX CMAC and the lead District's Identified POC.
- Reviewing MCX CMAC drafted tribal documents and providing feedback in accordance with the schedule.

- Determining the lead District for each tribe. The three CA districts are developing a mapping tool to assist the Division TL with identifying and prioritizing tribal coordination efforts between district Area of Responsibility (AoRs).
- Collecting tribal comment matrixes from lead Districts and providing MCX CMAC with a consolidated comment matrix.
- Alerting MCX CMAC to any potential tribal concerns.
- Communicating up their Major Subordinate Command (MSC) chain.

SPD Division Tribal POC provides support to MCX CMAC and assist with establishing tribal consultation protocols for the National Regionalization Effort. SPD Tribal POCs in collaboration with CR POCs are responsible for:

- Attending SPD Regionalization webinars and in-person meetings.
- Alerting MCX CMAC to any potential tribal concerns.
- Consulting and developing tribal consultation protocols for Regionalization in coordination with MCX CMAC.
- Reviewing MCX CMAC drafted tribal documents and providing feedback in accordance with the schedule.
- Determining the lead District for each tribe based on District TL and CR input and other on-going district initiatives with tribes.
- Collecting tribal comment matrixes from lead Districts and providing MCX CMAC with a consolidated comment matrix.
- Distributing MCX CMAC Regionalization documents to District TLs.
- Communicating up their MSC chain.

SPD District Identified POCs provide input in establishing tribal consultation protocols. They consist of either District TLs or CRs. SPD District Identified POCs are responsible for:

- Attending SPD Regionalization webinars and in-person meetings based upon coordination with SPD Division and MCX CMAC.
- Providing MCX CMAC with requested deliverables in accordance with the schedule.
- Reviewing MCX CMAC drafted tribal documents and providing feedback after division-level review in accordance with the schedule.
- Coordinating with other members of PDT to send resources and tribal letters to tribes when requested to assist.
- Alerting SPD Division and MCX CMAC to any potential tribal concerns regarding collections.
- Facilitating G2G consultation between district and tribe.
- Applying the MCX CMAC-produced, HQ and division-reviewed National Regionalization Effort talking points in communication with tribes and other partners.

SPD District Cultural Resource POCs provides support and assists the district's Identified POC in tribal consultation protocols for the National Regional Effort. The District CR POC is responsible for:

- Attending SPD Regionalization webinars and in-person meetings based upon coordination with SPD Division and MCX CMAC.

- Assisting Identified POC with providing the MCX CMAC with requested deliverables in accordance with the schedule.
- Assisting Identified POC with reviewing MCX CMAC drafted tribal documents and providing feedback after division-level review in accordance with the schedule.
- Coordinating with Identified POC to send resources and tribal letters to tribes when requested to assist.
- Reviewing the MCX CMAC-produced, HQ and division-reviewed National Regionalization Effort talking points and other documents for situational awareness.

Desired Outcomes:

The National Regionalization Effort is an enterprise effort affecting USACE archaeological collections nation-wide, and is not specific to one division or district. To effectively achieve an accurate and consistent message for the effort, the MCX CMAC follows several procedures for the dissemination of information. As an important interface with their local tribes and other partners, district and division POCs will likely be faced with questions and concerns regarding Regionalization. This consultation plan provides the necessary structure for the flow of information for the National Regionalization Effort in SPD to effectively fulfill USACE trust responsibilities with consulting tribes and other partners.

Over the course of the SPD Regionalization Effort, the MCX CMAC will continue to produce and provide several reports, presentations, resources, and tribal notification letters. Each Regionalization work product requires a separate review and distribution process. Appendix I lays out and clarifies each separate process after HQ and Division CR and Tribal POC review. Appendix II provides the MCX CMAC’s Regionalization Effort process along with anticipated timelines and work document distributions. Should consulting tribes and other partners have questions or concerns, the MCX CMAC, in coordination with SPD, will honor any request for information, informal meetings, or formal meetings. Regionalization talking points have also been drafted to help answer any overarching questions tribes may have regarding the process.

All communication with tribes and feedback will be coordinated through the lead District’s Identified POCs, then compiled by the Division TL, Cynthia Tejada, to ensure that information is managed internally and integrated into the G2G dialogue with the tribes. All tribal consultation and the results from these efforts will be documented in a Regionalization tribal consultation tracking matrix. The District Identified POCs are available to assist as requested and available. Appendix II provides the MCX CMAC Regionalization Effort Process for work documents and distribution.

CONSULTATION APPROACH

Tribes Involved:

Reference Appendix III for tribal list submitted through SPD to MCX CMAC in FY2018.

How we will consult:

USACE is required to coordinate, collaborate, and seek meaningful pre-decisional consultation with tribes. This will be accomplished through technical-level coordination, webinars, district/regional tribal meetings, and formal G2G consultation. Tribes are able to request technical or G2G meetings at any point during the Regionalization process.

Introductory Letter

SPD division and districts have determined that an introductory letter (MCX CMAC is drafting) with the SPD POC map Enclosure will be utilized to introduce federally recognized and non-federally recognized California Native American tribes to the SPD Regionalization Effort. This letter will introduce the tribes to their Identified POC.

Letters, Webinars, In-person meetings and Formal G2G requests

The PDT will keep the consulting tribes fully informed throughout the regionalization process. In acknowledgement that USACE must afford the interested tribes with more than the opportunity to participate as members of the general public in the regionalization process, USACE will take the following actions to ensure there is effective consultation:

- Seek tribal input regarding Regionalization and the effects of the project on tribal interests. This will be completed through letters, webinars, in-person meetings, and G2G consultation if requested by the tribes.
- Seek tribal comment during all stages of the report process. Tribal comments will be made to the Identified POC who will send them to division. Division will pull all comments into a matrix that will be sent to MCX CMAC.
- Give positive consideration to tribal comments received throughout the project. MCX CMAC will review the comments and respond. The responses will be sent back to division and districts for review. Once reviewed, the matrix will go into the report for final review by SPD commander.

When we will consult:

The project PDT will engage in consultation with tribes when requested. The table at Appendix I identifies major project milestones for which we will seek tribal review and input, and attempt to resolve tribal concerns. The consultation process for these will include document review, webinars, in-person meetings and formal G2G meetings, if requested. Reference Appendix I for additional SPD estimated timelines for Regionalization of South Pacific Division Archaeological Collections.

SPD REGIONALIZATION EFFORT COLLECTIONS TRIBAL CONSULTATION PACKET AND TRIBAL REVIEW

Consultation Packet:

The MCX CMAC will generate a draft report containing information on the SPD's archaeological collections and the MCX CMAC's recommendations for regionalizing those collections following a regional center model. The report would likely be entitled *Archaeological Collections and Repository Data in the South Pacific Division: Regional Analysis Report*. This report along with two letters will be sent to the tribes as a Tribal Consultation Packet. The letters will consist of:

- A letter from the MCX CMAC that will include:
 - a) Invitation to the mid-review tribal informational webinars that will be individualized for tribes that consult with each district. We anticipate the need for three webinars: (1) for the tribes that consult with the Albuquerque District; (2) for CA tribes that consult with Los Angeles, Sacramento, and San Francisco Districts; and (3) for tribes that consult with Los Angeles District in AZ and NV.

- b) Webinar dates, times, meeting number, access codes, and call-in number.
 - c) The letter will be from the Director of the MCX CMAC to all respective tribes (determined by SPD).
- A letter from the lead SPD district that will include:
 - a) A re-introduction and contact information to their Identified POC.
 - b) Information on how to coordinate feedback, including comments, concerns, and questions, to their Identified POC.

All four districts will need to have their comments from reviewing the tribal consultation letters and respective mailing lists to the MCX CMAC prior to the mailing of the consultation packet. The consultation packet will be sent to the tribes that consult with the four SPD districts in the following manner:

- SPD Division will determine the lead District for each tribe using, among other information, a soon-to-be-completed California Map (with layers of project area, AoR boundaries, tribal cultural areas and county boundaries), along with other relevant information coordinated by district TL and CR staff and supplied to the SPD POCs.
- The tribal leader for each tribe will receive a consultation packet via postal mail. Tribal representatives, such as Tribal Historic Preservation Officers, for each tribe will receive their consultation packet via electronic mail (email), if an email address is available.
- Comments, concerns, and questions will be received at the district level by Identified POC, consolidated and sent to division.
- SPD Division CRs and TLs will coordinate the tribal comments, concerns, and questions from all districts, consolidate this information, and send it to the MCX CMAC.

Tribal Report Review and Comment Period:

The tribes will have 90 days to review and comment on the Tribal Consultation Packet. The tribes will submit their comments and/or questions to the Identified POC. The Identified POC will consolidate the tribal feedback into a comment matrix and send to SPD Division. SPD Division CR and TLs will collaborate to consolidate all of the SPD Districts comment matrixes and provide the information to MCX CMAC.

Mid-Review Tribal Informational Webinars

The Mid-Review Tribal Informational Webinars will be conducted after the report has been distributed to tribes. The webinars will be specifically designed to discuss the MCX CMAC’s findings from the SPD report as well as any received comments and concerns from the earlier webinars. These webinars should precede in-person meetings and will take place in the following manner:

- The MCX CMAC will make the three webinar reservations after consulting with district POCs to coordinate dates.
- The MCX CMAC will draft a reminder email and SPD and SPD districts will review.
- Lead Districts’ Identified POC will send a reminder email to tribes 30 days before the initial webinar dates.
- The MCX CMAC will prepare PowerPoint presentation and SPD division and districts will review.

- The MCX CMAC will arrange for the webinars to be recorded and transcribed.
- Lead Districts will provide a transcript of the webinars and slides to tribes at their request.
- The MCX CMAC will note all comments, concerns, and questions during each series of webinars to include in a tribal comment matrix for the SPD report.
- Significant tribal feedback will be incorporated into the MCX CMAC's report after all in-person tribal meetings are held.
- Tribes will receive the comment matrix during in-person meetings or after SPD Command decision point.

In-Person Regional Informational Meetings

SPD and the MCX CMAC will host in-person tribal regional meetings, as requested. Tribal meetings will briefly discuss the findings in the MCX CMAC's SPD report, but are primarily planned to address tribal concerns, comments, and questions received during the 90-day comment period along with any additional concerns, comments, and questions.

- The MCX CMAC and SPD will coordinate the number of in-person tribal regional meetings, dates, and hosting locations.
- The MCX CMAC will coordinate logistics for each meeting location in concert with each district.
- The MCX CMAC will create a meeting packet and SPD division and district will review.
- The meeting packet will include in-person meeting information sent by the MCX CMAC to SPD consulting tribes requesting to meet, after dates and locations have been finalized. Letters will include an invitation to one of the in-person meetings, a registration form, and information on the selected meeting location.
- The MCX CMAC will coordinate in-person meeting registration and tribal travel. The MCX CMAC has been authorized by USACE Headquarters to offer tribal travel funding for one member of each consulting SPD tribes to attend one in-person regional information meeting.
- The MCX CMAC will prepare PowerPoint presentations and SPD division and districts will review.
- Each meeting will allow time for the MCX CMAC to present its findings and recommendations for Regionalization in SPD, and to allow SPD tribes to express their comments and concerns, as well as ask questions.
- Each meeting will allow time between the MCX CMAC's presentation and the open comment and question period for attending SPD tribes to meet in congress if they so choose.
- MCX CMAC staff as well as SPD division staff, or their designees, will attend each meeting. Lead District's Identified POCs will be on hand for their corresponding regional meeting.
- Follow-up requests for additional one-on-one meetings or G2G consultation will be honored accordingly. MCX CMAC and SPD division staff, or their designees, will attend requested meetings pertaining to the SPD Regionalization Effort, if requested by the SPD district.
- Each SPD district will follow their existing protocols for any G2G.
- Tribes will receive the comment matrix during the in-person regional meetings or after the SPD Command decision point.

MCX CMAC will note significant tribal feedback that may alter the draft report. MCX CMAC will provide the tribes with final comment matrix and feedback will be discussed in future consultation and in coordination with HQ.

SPD COMMANDER DECISION POINT:

The MCX CMAC will provide the SPD Commander their final recommendations after all in-person tribal meetings are complete, and after MCX CMAC's SPD report is edited to incorporate significant tribal feedback. The SPD Commander will issue a decision point regarding the implementation of regionalization for SPD, including the number of regional centers and implementation timeframe. The SPD Commander will issue a memorandum to SPD with her/his decision.

- Upon completion of final report, SPD POCs will schedule and host a Command briefing, to include Planning and Operations leadership as appropriate, and the MCX CMAC will be in attendance to assist.
- The MCX CMAC will draft the PowerPoint presentation covering their final recommendations and tribal feedback from webinars and in-person meetings.
- SPD division and districts will review presentation and provide comments.
- The MCX CMAC and SPD division CRs and TLs will draft the SPD Commander's decision memorandum.
- SPD will route the memorandum, via the Chiefs of Planning and Operations, through the appropriate chain of command within SPD.
- The MCX CMAC and SPD will draft a letter to inform the consulting tribes of the SPD Commander's decision.
- SPD Division will send tribal letter to the tribes.

APPENDIX I – Reference Memorandum: CESP-DE Regionalization of South Pacific Division Archaeological Collections, 15 April 2019, for all SPD POCs with titles and contact information.

APPENDIX II – Reference Memorandum: MCX CMAC Communication Strategy for the USACE Archaeological Regionalization Effort – South Pacific Division, June 2019.

APPENDIX III – Reference: San Francisco, Albuquerque, Los Angeles and Sacramento District – Tribal List supplied to MCX from FY2018 and the soon-to-be completed CA Lead District Map.

APPENDIX IV – Reference: Next Steps for Regionalization_24 April 2020