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Tribal and Indigenous Peoples Committee

Agenda

Executive Order 14112: Reforming Federal Funding and Support for Tribal Nations to Better Embrace our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination

Development of a Climate Heritage Office

Please see the following papers in Tab 1 for the Tribal and Indigenous Peoples Committee discussion:

ACHP Policy Statement on Indigenous Knowledge and Historic Preservation

Memorandum of Understanding among Participating Agencies of the Native Hawaiian Federal Interagency Working Group

Attachments: Standard Operating Procedure for Consultation with the Native Hawaiian Community
‘Ōlelo Hawai‘i Policy
Draft Memorandum of Understanding among Participating Agencies of the Native Hawaiian Federal Interagency Working Group



MEETING
TRIBAL AND INDIGENOUS PEOPLES COMMITTEE
Tuesday, March 19, 2024
1 p.m. – 2:30 p.m. EDT

Join ZoomGov Meeting:

<https://achp.zoomgov.com/j/1619235484?pwd=Z2xMMUVlblkvVFJSMU54aE10RVpJdz09>

Meeting ID: 161 923 5484

Passcode: 832729

Dial in: (669) 254-5252

PROVISIONAL AGENDA

- I. Introductions
- II. Native Hawaiian Interagency Memorandum of Understanding: *Staff will discuss the content and purpose of the MOU, the Standard Operating Procedures for Consultation with the Native Hawaiian Community, and the ‘Ōlelo Hawai‘i Policy.*
- III. Executive Order 14112: Reforming Federal Funding and Support for Tribal Nations to Better Embrace our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination: *Staff will review the EO with members and update them on a recently established subcommittee on the White House Council of Native American Affairs meant to advance agency action related to the MOU.*
- IV. ACHP Policy Statement on Indigenous Knowledge and Historic Preservation: *Staff will update members on the final draft version of the policy statement including feedback received during consultation with Indian Tribes and Native Hawaiians, and other comments received.*
- V. Climate Heritage Office: *Chair Sara Bronin will update members on her discussions surrounding the need and intent for a proposed Climate Heritage Office.*
- VI. Adjourn

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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**EXECUTIVE ORDER 14112: REFORMING FEDERAL FUNDING AND SUPPORT FOR
TRIBAL NATIONS TO BETTER EMBRACE OUR TRUST RESPONSIBILITIES AND
PROMOTE THE NEXT ERA OF TRIBAL SELF-DETERMINATION**
Office of Tribal and Indigenous Peoples

Background and Purpose of EO 14112. At the 2023 White House Tribal Nations Summit, President Joe Biden signed Executive Order 14112 (EO) on Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination. The EO's purpose is to 1) align all aspects of federal funding and related policies broadly with the current federal policy of supporting Tribal self-determination and Tribal sovereignty; 2) engage agencies in a coordinated assessment of funding gaps needed to allow the federal government to better meet its trust responsibility to Tribal Nations; and 3) make federal funding for and accessed by Tribes more flexible, equitable, and accessible by systematically assessing and removing access barriers. The EO also reiterates that Indigenous Knowledge is and should be treated as self-supporting, self-certified information and underscores the need for the respectful treatment of Indigenous Knowledge and sensitive information throughout federal processes, policies, and protocols related to the implementation of federal programs.

In January 2024, the White House Office of Intergovernmental Affairs, the White House Domestic Policy Council (DPC), the White House Office of Management and Budget (OMB), and the White House Council on Native American Affairs (WHCNAA) hosted virtual engagement sessions with Tribal leaders and with federal agency contacts on the content and implementation of the EO, which is being highlighted as an Administration priority. The WHCNAA has established an EO 14112 Implementation Committee to coordinate progress and facilitate interagency coordination.

EO Requirements and Timelines: Assessing Unmet Needs. One emphasis of the EO is a White House coordinated effort to assess additional funding needs that each WHCNAA agency may have to better live up to the federal government's trust responsibilities and address the needs of Tribal Nations in each agency's area of responsibility. Within 240 days, the OMB director and the Domestic Policy Advisor (DPA), in consultation with Tribal Nations and the WHCNAA and WHCNAA member agencies, will develop guidance for assessing these funding needs. Within 540 days, WHCNAA member federal agencies will submit a report summarizing their assessment of those needs to the OMB director and the DPA, who will use those reports to develop recommendations identifying any budgetary, statutory, regulatory, or other changes necessary to ensuring federal laws, policies, practices, and programs better support Tribal Nations. These recommendations will both be shared with the President and be considered by agencies and OMB in developing the President's Budget during the next regular budget development cycle. Agencies will report annually to OMB on their progress implementing the EO, and the WHCNAA will annually convene agencies to share best practices, track progress, and evaluate needs on an ongoing basis.

EO Requirements: Agency Action. In addition to coordinating with OMB, the DPA, and WHCNAA on a broader assessment of unmet needs, the EO directs agencies to take action to increase the flexibility, equity, transparency, and efficiency of federal funding for and the administration of programs for Tribal Nations. Agencies are directed to design, redesign, provide waivers for, and otherwise administer federal funding and support programs in a way that prioritizes co-management and contracting partnerships with Tribal Nations. They are also directed to review and revise programs to ensure they are providing and

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improving technical assistance offered to Tribal Nations throughout the federal funding lifecycle, treating Indigenous Knowledge as valid and self-certified, removing the need for Tribes to apply to or obtain permission from other entities to apply for funding, and to address data sovereignty concerns. To support these efforts, agencies are directed to consult with Tribes on an ongoing basis about their experiences with funding programs, pursue avenues that may not be discussed in the EO to remove undue barriers, and gather and track data about funding applications and success rates to enable continued improvement. Agencies are also required to identify opportunities to modify regulations, guidance, policy, and internal budget processes and to issue internal guidance or directives, training requirements, or other measures to meet the goals of the EO.

Implementation at the ACHP. The EO presents three key directives and opportunities to the ACHP. The first is a directive to review and assess any unmet needs that the ACHP may be able to address by strengthening and expanding its trust responsibility to Tribal Nations through increased staffing and capacity to provide training and technical assistance to Tribal Nations, as well as seeking government-wide support on the implementation of requirements under the NHPA where those concern Tribal Nations. The second is to support broader efforts to assess and address unmet needs and barriers to accessing federal funding and program support in the broader historic preservation arena, including those that impact Tribal Nations and their ability to engage fully in the rights and responsibilities outlined in the NHPA. Finally, as a WHCNA member agency, the ACHP will have the opportunity to support efforts to reduce barriers to accessing funding as they relate to historic preservation and cultural resources more broadly as the EO is implemented. The EO aligns with several current initiatives already underway at the ACHP, including the agency's Policy Statement on Indigenous Knowledge and Historic Preservation and the agency's efforts related to the acquisition and treatment of sensitive information.

Action Needed. No action is needed from members at this time.

March 8, 2024



DEVELOPMENT OF A CLIMATE HERITAGE OFFICE Office of Tribal and Indigenous Peoples

Background. The ACHP Climate Change and Historic Preservation Policy Statement adopted in June 2023 outlined key strategies requiring federal coordination, action, and research. Chair Sara Bronin has assessed federal government capacity to address the issues raised in the Policy Statement and determined that current efforts are scattered across many agencies, with no single agency devoting the resources to, or tasked with leading, the federal policy and research response.

In consultation with ACHP members, outside experts, staff, and others, she has begun to discuss the idea of a Climate Heritage Office. In November, she proposed the idea at the *Strengthening Historic and Cultural Preservation Roundtable*. This month, *The Hill* published an [op-ed](#) from Chair Bronin repeating her comments from the Roundtable. Members of Congress and their staffs, as well people in the Administration, have expressed interest in understanding a more complete vision for the scope and structure of this office.

Potential Scope of the Office. A Climate Heritage Office could provide the structure through which some of the goals embedded in the ACHP Policy Statement on Climate Change and Historic Preservation might be realized. It could be tasked with covering a wide range of policy and research matters mentioned in that Policy Statement including locating at-risk historic resources, climate disaster response, emissions mitigation, climate adaptation, renewable energy installation, and examining building and energy codes.

Congress has already given the ACHP certain powers and responsibilities relevant to the creation of a Climate Heritage Office, including the following:

- Advising the President, Congress, state governments, and local governments about all aspects of historic preservation policy
- Providing information about historic preservation to the public and evaluating federal agency actions relevant to historic preservation
- Developing strong relationships with Tribal Nations, both through consultation and through representation on the ACHP itself.

Within those existing powers and responsibilities, an ACHP Climate Heritage Office could have three key elements:

- **Statutory, Regulatory, and Policy Recommendations and Development.** A Climate Heritage Office could devote more resources to addressing the climate heritage question across all of the actions the ACHP already takes, including commenting on legislation and regulation, developing policies, and creating guidance. The office could also assemble best practices for, and help to foster exchange between, state and local governments.
- **Funding and Conducting Research.** A Climate Heritage Office could help identify and coordinate needed research and importantly have a source of funds to undertake that which is most critical. Staff could assess the potential of all types of climate risks—sea level rise, drought, wildfire, and extreme precipitation among them—to damage or destroy historic and cultural resources. They could identify the best materials, methods, and structures to adapt these resources to fire, flood, and other threats. And they could analyze which financial incentives and

investments would maximize retention of historic places at risk. This research, as well as analysis of current federal government practices, could ground the recommendations and guidance produced by the office.

- ***Facilitating Collaboration with Indian Tribes and Indigenous Peoples.*** Tribal and Indigenous Peoples are at some of the highest risks from climate change-related threats to heritage. Federal government collaboration with Tribal and Indigenous Peoples is essential, both to inform effective climate resilience strategies and support potential community relocation efforts. Understanding traditional cultural practices related to forest management, shoreline preservation, sustainable construction, and nature-centered solutions would benefit federal, state, and local policymakers, expanding the set of tools necessary to tackle this increasingly complex problem. Additionally, relocation efforts require a coordinated response that centers Tribal needs in its decision making.

Action Needed. Given the broader interest in this topic, ACHP members are invited to provide feedback about this idea and to engage in discussion at the Tribal and Indigenous Peoples Committee meeting. Some brief notes about the potential scope of the office follow, along with relevant questions to be considered by the committee.

Questions for Discussion

- What are the issues related to Tribal cultural resources that need to be kept in mind when developing a framework for such an office?
- What existing efforts from the federal government involve Tribal and Indigenous Peoples in climate change response or research? Should any of these efforts be proposed to be moved into a Climate Heritage Office or cited as potential collaborations?
- How should a Climate Heritage Office be involved with international efforts?
- What percentage of the staff in this office should be devoted to topics relevant to Tribal and Indigenous Peoples?

Chair Bronin intends to convene a conference on U.S. historic preservation law in the international context in fall 2024 and believes that the question of a Climate Heritage Office is an important one that should be discussed at that conference.

March 8, 2024