

Department of the Interior  
**Departmental Manual**

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**Effective Date:****Series:** Intergovernmental Relations**Part 512:** American Indian and Alaska Native Programs**Chapter 6:** Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act Corporations**Originating Office:** Office of the Secretary

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**512 DM 6**

6.1 **Purpose.** This chapter provides the requirements for Department of the Interior (DOI or the Department) ~~government to government~~ consultation between appropriate Alaska Native Claims Settlement Act Corporation (ANCSA Corporation) officials and DOI officials. It expands and clarifies DOI's policy on consultation with ANCSA Corporations and acknowledges the provisions for conducting consultation in compliance with applicable statutes, and administrative actions. Please see 512 DM 4 for Department of the Interior Consultation Policy with Federally Recognized Tribe including Alaska Native Villages.

6.2 **Scope.** The policy and requirements in this chapter apply to all DOI bureaus and offices. It complements, but does not supersede, any existing Federal laws, rules, statutes, or regulations that guide consultation processes with ANCSA Corporations. The Department recognizes and respects the distinct, unique, and individual cultural traditions and values of Alaska Native peoples and the statutory relationship between ANCSA Corporations and the Federal Government. To the extent that concerns expressed by Indian Tribes and ANCSA Corporations substantively differ, Departmental officials shall give due consideration to the rights of sovereignty and self-government of federally recognized Indian Tribes.

**6.3 Definitions.**

A. ANCSA Corporation. Any Alaska Native village corporation, urban corporation, or regional corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act.<sup>1</sup>

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<sup>1</sup> 43 U.S.C. 1601 et seq.

[11/09/15 #4031XX/XX/XX #XXXX](#)

Replaces [11/09/1512/02/14 #40313993](#)

B. ANCSA Corporation Official or Designee. An official or ANCSA member designated in writing by an ANCSA Corporation.

C. Departmental Action with ANCSA Corporation Implications. Any Departmental regulation, rulemaking, policy, guidance, legislative proposal, grant funding formula changes, or operational activity that may have a substantial direct effect on an ANCSA Corporation, including:

1. Any activity that may substantially affect ANCSA Corporation land, water areas, or resources; or
2. Any activity that may impact the ability of an ANCSA Corporation to participate in Departmental programs for which it qualifies.

This term, however, does not include matters that are in litigation or settlement negotiations, or matters for which a court order limits the Department's discretion to engage in consultation<sup>2</sup>.

D. Formal Consultation. A formal consultation is defined as having both DOI and ANCSA Corporation officials<sup>s</sup> with decision-making authorities present at the ~~government to government~~ consultation session/meeting regarding the proposed plan or Departmental Action with ANCSA Corporation implications.

6.4 **Policy.** It is the policy of DOI to recognize and fulfill its legal obligations to consult with Alaska Native corporations on the same basis as Indian Tribes under Executive Order 13175.<sup>3</sup> All bureaus and offices shall make good-faith efforts to invite ANCSA Corporations to consult early in the planning process and throughout the decision-making process and engage in robust, interactive, pre-decisional, informative, and transparent consultation when planning actions with ANCSA Corporation implications (see 512 DM ~~75~~ for consultation process). It is the policy of DOI to seek consensus throughout the consultation process.

<sup>2</sup> Advice from the Office of the Solicitor is not a regulation, rulemaking, policy, guidance, legislative proposal, grant funding formula change, or operational activity with any direct effect on a party outside the Department, but rather an internal legal opinion. *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgt.*, CV 17-8587-GW(ASX), 2019 WL 2635587, at \*12 (C.D. Cal. June 20, 2019). Such advice is also protected from disclosure under the attorney-client privilege, ~~even as to the beneficiary of the trust.~~ *United States v. Jicarilla Apache Nation*, 131 S. Ct. 2313 (2011). Any such advice, therefore, is not within the scope of this Chapter. Furthermore, matters that are in litigation or in settlement negotiations, or matters for which a court order limits the Department's discretion to engage in consultation are also outside the scope of this Chapter.

<sup>3</sup> Consolidated Appropriations 2004, Pub. L. No. 108-199, Div. H. 161, 1 18 stat. 3, 452 (2004) as amended by Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, Div. LL., Title V. §18, 118 stat. 2809, 3267 (2004).

## 6.5 Responsibilities.

A. Assistant Secretaries. Assistant Secretaries are responsible for ensuring that all bureaus and offices within their reporting chain comply with the requirements of this chapter.

B. Heads of Bureaus and Offices. Heads of bureaus and offices are responsible for:

- (1) Ensuring that procedures are established to carry out the consultation activities of their organizations and ensuring compliance with those procedures.
- (2) Ensuring compliance with the requirements in this chapter.

D. Tribal Liaison Officers (TLOs). The TLOs are responsible for:

- (1) Serving as the bureau/office principal point of contact for consultation matters.
- (2) Promoting and facilitating consultation and collaboration between ANCSA Corporations and their bureau/office.
- (3) Reporting to the Tribal Governance Officer annually in the Tribal Consultation Annual Report (See 512 DM [6.74](#)) of regional consultations with ANCSA Corporations and any updates to bureau/office consultation procedures or processes.

E. DOI Staff. Any DOI staff who will represent the Department or a bureau or office in consultation (other than note-takers) must complete training to promote positive relations with ANCSA Corporations, including training on implementation of this policy and a review of:

- (1) The general history of the relationship between the Federal Government and ANCSA Corporations;
- (2) The culture and history of Alaska Natives; and
- (3) Existing consultation policies of the ANCSA Corporations, as well as Tribal government/corporate structures, and decision-making processes; and

F. Department of the Interior University (DOIU). The DOIU in collaboration with bureaus/offices, ~~tribal colleges and universities~~, and ~~other~~ entities with ANCSA Corporation expertise is responsible for developing and delivering training to facilitate implementation of this policy.

G. Office of Collaborative Action and Dispute Resolution (CADR). Upon request, the CADR may assist in planning and facilitating an effective consultation process, negotiated rulemaking, or other collaborative approaches to decision making.

6.6 **Departmental Database.** A single DOI database will be maintained to manage the contact list for leadership of all ANCSA Corporations. The database should be an electronic and interactive system that allows real-time updating of contacts and allows all bureau/office access. This database shall be maintained by the Bureau of Indian Affairs, Office of Indian Services.

6.7 **ANCSA Corporation Consultation Annual Report.** On an annual basis, bureaus/offices shall develop a report of the results of their efforts to promote consultation with ANCSA Corporations. The report is due to the TGO by December 31 of each year and can be included with the bureau/office Tribal consultation report (See 512 DM 4). Reporting is intended to be a comprehensive list of all regional consultation efforts undertaken that year and may include, but is not limited to, the scope, cost, and activities of the consultation efforts. The bureau/office may also include consultation efforts conducted one-on-one with ANCSA ~~Corporationss~~ Corporations to highlight successes, challenges, or best practices. The report should also include proposed plans and recommendations.