



CECW-AG

18 Feb 1998

MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS AND
DISTRICT COMMANDS

SUBJECT: Policy Guidance Letter No. 57, Indian Sovereignty and Government-to-Government Relations
With Indian Tribes

1. Our Nation has long recognized the sovereign status of Indian tribes. The United States Constitution specifically addresses Indian sovereignty by classing Indian treaties among the “supreme Law of the land,” and establishes Indian affairs as a unique focus of Federal concern. Principles outlined in the Constitution and treaties, as well as those established by Federal laws, regulations and Executive Orders, continue to guide our national policy towards Indian Nations.
2. On 29 April 1994, President Clinton reaffirmed the United States’ “unique legal relationship with Native American tribal governments.” In recognition of the special considerations due to tribal interests, the President directed Federal agencies to operate within a government-to-government relationship with federally recognized Indian tribes; consult, to the greatest extent practicable and permitted by law, with Indian tribal governments; assess the impact of agency activities on tribal trust resources and assure that tribal interests are considered before the activities are undertaken; and remove procedural impediments to working directly with tribal governments on activities that affect trust property or governmental rights of the tribes. The full text of the President’s directive is found in enclosure 1.
3. The U.S. Army Corps of Engineers has lasting and positive relations with many Indian tribal governments. Since 1990, Indian tribes have been local partners in the development and construction of over 200 water resources development projects and each year, tribes apply for hundreds of permits under the Corps Clean Water Act permitting responsibilities. Still, I want to ensure that all Corps Commands adhere to principles of respect for Indian tribal governments and honor our Nation’s trust responsibility. To this end I have enclosed U.S. Army Corps of Engineers Tribal Policy Principles, for use as interim guidance until more detailed statements are developed. These Principles have been developed with the Office of the Assistant Secretary of the Army (Civil Works) and are consistent with the President’s goals and objectives.

Encls

1. On view in Library of Congress
or GPO archives
2. Principles

/s/

JOE N. BALLARD
Lieutenant General, USA
Commanding

U.S. ARMY CORPS OF ENGINEERS TRIBAL POLICY PRINCIPLES

TRIBAL SOVEREIGNTY - The U.S. Army Corps of Engineers recognizes that Tribal governments are sovereign entities, with rights to set their own priorities, develop and manage Tribal and trust resources, and be involved in Federal decisions or activities which have the potential to affect these rights. Tribes retain inherent powers of self-government.

TRUST RESPONSIBILITY - The U.S. Army Corps of Engineers will work to meet trust obligations, protect trust resources, and obtain Tribal views of trust and treaty responsibilities or actions related to the Corps, in accordance with provisions of treaties, laws and Executive Orders as well as principles lodged in the Constitution of the United States.

GOVERNMENT-TO-GOVERNMENT RELATIONS - The U.S. Army Corps of Engineers will ensure that Tribal Chairs/Leaders meet with Corps Commanders/Leaders and recognize that, as governments, Tribes have the right to be treated with appropriate respect and dignity, in accordance with principles of self-determination.

PRE-DECISIONAL AND HONEST CONSULTATION - The U.S. Army Corps of Engineers will reach out, through designated points of contact, to involve Tribes in collaborative processes designed to ensure information exchange, consideration of disparate viewpoints before and during decision making, and utilize fair and impartial dispute resolution mechanisms.

SELF RELIANCE, CAPACITY BUILDING, AND GROWTH - The U.S. Army Corps of Engineers will search for ways to involve Tribes in programs, projects and other activities that build economic capacity and foster abilities to manage Tribal resources while preserving cultural identities.

NATURAL AND CULTURAL RESOURCES - The U.S. Army Corps of Engineers will act to fulfill obligations to preserve and protect trust resources, comply with the Native American Graves Protection and Repatriation Act, and ensure reasonable access to sacred sites in accordance with published and easily accessible guidance.