

# Madera County Transportation Commission

*Policy for Government to Government Consultation  
With Federal Land Management Agencies and  
Federally Recognized Native American Tribal Governments*

**Adopted  
April 20, 2016**



**Madera County Transportation Commission  
2001 Howard Road, Suite 201  
Madera, CA 93637**

**[www.maderactc.org](http://www.maderactc.org)**

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## Policy for Government to Government Consultation with Federal Land Management Agencies and Federally Recognized Native American Tribal Governments

### Introduction

The U.S. DOT defines consultation as when: *“one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken.”* Some areas of consultation could include transportation, land use, employment, economic development, housing, community development and environmental issues.

### Requirement to Consult

#### Consultation with Resource Agencies

23 CFR part 450 requires that the MPO shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

#### Native American Tribal Government Consultation and Coordination

23 CFR part 450.316(c) requires that when the MPO includes Tribal lands, the MPO shall appropriately involve the Indian Tribal government(s) in the development of the Metropolitan Transportation Plan and Federal Transportation Improvement Program.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments (November 6, 2000), establishes regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies with tribal implications. The goals of this order are to strengthen government to government relationships with Indian tribes and to reduce the imposition of unfunded mandates upon local tribes.

### Federally Recognized Tribes

A contact list of California Native American Tribes that are both federally and non-federally recognized is maintained by the Native American Heritage Commission. Although consultation is not mandated for non-federally recognized tribes, this does not preclude the Madera County Transportation Commission (MCTC) from consulting with local non-federally recognized tribes when plans or activities might impact cultural values or the community.

Federal recognition is a legal distinction that applies to a tribe's right to a government-to-government relationship with the federal government and eligibility for federal programs.

All California Native American Tribes are distinct and independent governmental entities with specific cultural beliefs and traditions and unique connections to areas of California that are their ancestral homelands.

Federal and state law require local agencies to consult with federally recognized tribal governments prior to making transportation decisions, taking actions or implementing programs that may impact their communities. This activity is separate from, and precedes, the public participation process. Protocol should be flexible and dynamic with respect to initiation of communication and discussion format. More than one tribe may have an affiliation with the area of consideration. Individual consultation may be necessary if a combined consultation format is not preferred by the tribal government. Determining the degree and adequacy of consultation will vary depending on a number of factors including the scope of proposed activities, whether the activity is short-term or long-term, the cultural or political sensitivity of the issue at hand, and the number of potential stakeholders.

The MCTC intends to continue consulting with Native American Tribal Governments on activities that may impact their communities.

## Consultation

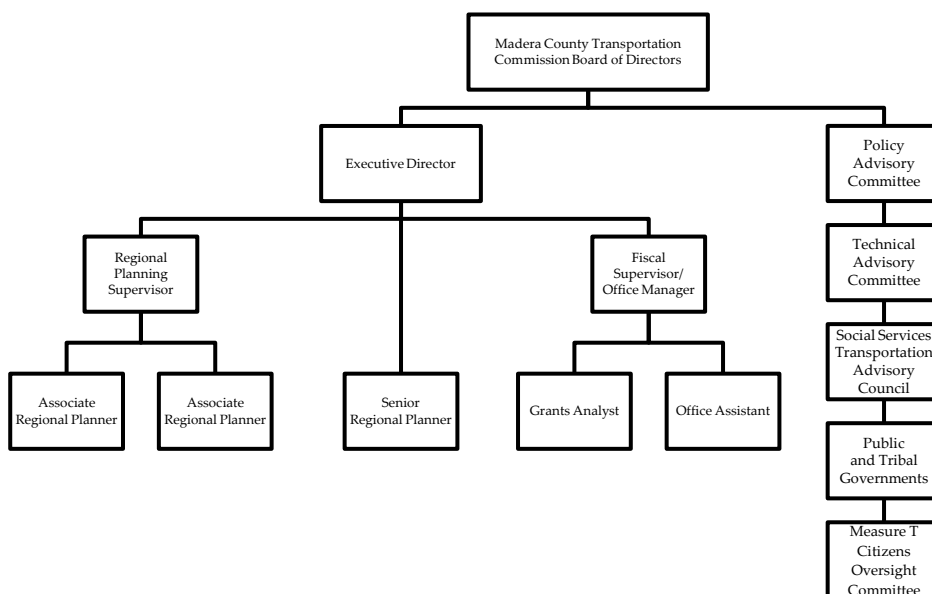
The Executive Director or his/her designee is the designated MCTC official with principal responsibility for the commission's implementation of consultation requirements. At the appropriate time in the planning phase, contact shall be initiated directly with the tribal chairpersons to inquire as to protocols in place, such as cultural resource contacts, procedures, time limits and restrictions affecting communication. Development of mutually agreed-upon protocols may result in more effective consultation efforts with Federal Land Management Agencies and individual tribes.

Consultation is a process, not a single event, and communication should continue until the project or plan is complete. Consultation requests should include a clear statement of purpose, explaining the reason for the request and declaring the importance of participation in the planning process. The request should specify the location of the area of potential effect addressed in the proposal. All aspects of the consultation process should be documented, including how the lead agency reaches a final decision.

### MCTC Organizational Structure

The Commission is organized into a Board of Directors supported by the Policy Advisory Committee and the Technical Advisory Committee. The Commission staff includes an Executive Director; a Fiscal Supervisor; a Planning Supervisor; three Regional Planners; a Grants Analyst; and an Office Assistant. There is currently one standing committee - the Social Services Transportation Advisory Council (SSTAC) which reports through the Technical Advisory Committee. The relationship between the Board, its staff and the committees is illustrated in Figure 1 and discussed in more detail below.

The Technical Advisory Committee (TAC) includes the Madera County Road Commissioner, Madera County Planning Director, City of Madera Engineer, City of Madera Planning Director, City of Chowchilla Administrator, and one representative from Caltrans District 06. The North Fork Rancheria of Mono Indians of California and the Picayune Rancheria of Chukchansi Indians of California, and other tribal governments are also invited to participate in the monthly TAC meetings. The TAC reviews staff work conducted pursuant to the Overall Work Program; advises the Commission and PAC on transportation issues; and makes recommendations on planning and programming actions to be taken by the Commission. TAC review is generally focused upon the technical merits of various transportation issues coming before the Commission. Staff consults with tribal governments as it relates to transportation planning issues and initiates consultation with the tribal governments at the government to government level.



### Planning Documents

Planning studies, Transportation Improvement Programs (FTIP, STIP, RTIP), Regional Transportation Plan (RTP) and Overall Work Program (OWP)

Consult with Federal Land Management Agencies and Federally Recognized Native American Tribal Governments in preparation of planning studies and programs affecting the agency and tribe:

- Initiate consultation by letter from the executive director or his/her designee to the agency and tribal chairperson.
- Offer to meet to discuss the agency and tribal needs and concerns regarding impacts within their jurisdiction prior to the beginning of preparation of documents. If the agency, tribal chairperson and/or their representatives elect not to meet, send a copy of the draft report for their review.

- Consult with agency and tribal governments while developing the RTP, addressing agency and tribal concerns regarding impacts within their jurisdiction and again prior to adoption of the RTP.
- Invite representatives of the agency and tribe to public meetings.

Transit studies, unmet transit needs hearing, transit needs assessment

Consult with the tribal governments on transit needs in their area:

- Initiate consultation and invitation to the unmet transit needs hearing by letter from the executive director or his/her designee to tribal chairperson with copies to the CEO, Administrator, and Cultural Department representatives.
- Offer to meet to discuss the tribe's transit needs and concerns.
- Outreach to members of the tribe through local newspapers, Native American newsletters, or trust lands meeting places.

Grant Programs: Federal Transit Administration Transit Grant Programs, etc.

Coordinate with the tribal governments to provide information and technical assistance on grant programs administered by the RTPA or other agencies:

- Initiate consultation by letter from the executive director or his/her designee to the tribal chairperson with copies to the CEO, Administrator, and Cultural Department representatives.
- Provide notice of each grant and its application deadlines.
- Invite representatives of the tribe to training or public meetings regarding the grants.
- Coordinate between the tribe and RTPA member agencies.
- Consult with and consider the interests of the tribal government.

Tribal Transportation Program (TTP) – Highway Trust Fund Planning and Programming

Coordinate amongst planners and engineers in local agencies and tribes:

- Offer to meet to discuss the tribe's needs and concerns when contacted by the tribal representatives.
- Provide assistance in TTP planning.
- Coordinate with federal entities as requested by the tribe.

Madera County Transportation Commission Contact Information

Please refer to MCTC's website for the current MCTC Staff contact regarding Federal Land Management Agencies and Federally Recognized Native American Tribal Governments consultation: <http://www.maderactc.org/projects/consultation-with-federal-land-management-agencies-and-federally-recognized-native-american-tribal-governments/>

1  
2 BEFORE  
3 THE COMMISSIONERS OF THE MADERA COUNTY TRANSPORTATION COMMISSION  
4 COUNTY OF MADERA, STATE OF CALIFORNIA  
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7 In the matter of )  
8 **ADOPT POLICY FOR GOVERNMENT )**  
9 **TO GOVERNMENT CONSULTATION )**  
10 **WITH FEDERAL LAND )**  
11 **MANAGEMENT AGENCIES AND )**  
12 **FEDERALLY RECOGNIZED NATIVE )**  
13 **AMERICAN TRIBAL GOVERNMENTS)**  
14

**Resolution No. 16-05**

15  
16 **WHEREAS**, 23 U.S. Code § 135(e)(f), and 23 CFR 450.316(c) specifies that Metropolitan  
17 Planning Organizations involve Federal Land Management Agencies and Federally Recognized Native American  
18 Tribal Governments in the development of the Regional Transportation Plan (RTP) and Federal Transportation  
19 Improvement Program (FTIP); and  
20

21 **WHEREAS**, the Madera County Transportation Commission (MCTC) is a Regional  
22 Transportation Planning Agency and a Metropolitan Planning Organization, pursuant to State and Federal  
23 designation; and  
24


25 **WHEREAS**, a draft Policy for Government to Government Consultation With Federal Land  
26 Management Agencies and Federally Recognized Native American Tribal Governments was prepared that  
27 describes the agreed upon consultation requirements, protocol and responsibilities in the planning process; and  
28

29 **NOW, THEREFORE, BE IT RESOLVED**, that MCTC hereby approves the Policy for  
30 Government to Government Consultation With Federal Land Agencies and Federally Recognized Native American  
31 Tribal Governments and authorizes the MCTC Executive Director to approve additional updates, as necessary.  
32

33 The foregoing resolution was adopted by the MCTC Policy Board this 20th day of April, 2016 by the following  
34 vote:  
35

36 Commissioner Poythress voted: Yes  
37 Commissioner Wheeler voted: Absent  
38 Commissioner Medellin voted: Yes  
39 Commissioner Frazier voted: Yes  
40 Commissioner Rodriguez voted: Yes  
41 Commissioner Ahmed voted: Yes  
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48 Chairman, Madera County Transportation Commission  
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Executive Director, Madera County Transportation Commission