

**National Endowment for the Arts  
August 10, 2021 Tribal Consultation Session  
Summary  
September 7, 2021**

**I. BACKGROUND ON THE TRIBAL CONSULTATION SESSION**

On August 10, 2021, the National Endowment for the Arts (NEA) virtually held its second formal Tribal Consultation session. The purpose of this session was for the NEA to receive feedback on the draft NEA Tribal Consultation policy, drafted after the NEA's first Tribal Consultation session held April 7, 2021. Additionally, the NEA solicited recommendations on how the agency may best support Tribal communities across the U.S. Specifically, the agenda included two items:

- 1) Input on the NEA's draft Tribal Consultation Policy, and
- 2) Barriers for tribal communities to access the NEA resources.

Tribal nations were provided thirty (30) days notice of the consultation session, via the Federal Register, and included in the notice were links to the draft policy<sup>1</sup> and to the NEA framing paper<sup>2</sup> for Tribal representatives review in advance of the session. The consultation session had eighty-three (83) non-federal participants registered for the event, of which thirteen (13) were elected tribal officials.

The virtual consultation session opened with a prayer from elder Rico Newman, Choptico Band of Piscataway- Conoy Indians, and was followed by welcome remarks from Ann Eilers, Acting Chairman of the NEA. Clifford Murphy, Director of Folk & Traditional Arts, provided a brief summary of the April 10<sup>th</sup> Tribal consultation session and steps the agency has taken since the last session. PaaWee Rivera, White House Director of Tribal Affairs also provided brief remarks on the administration's commitment to strengthening the nation-to-nation relationship across the federal government. Following the presentations, the session's facilitator, Lillian Sparks Robinson, provided an overview of each section of the policy and elected and appointed tribal officials were invited to provide their input and additional comments.

**II. SUMMARY OF COMMENTS**

***Summary of Comments Received***

During the Tribal Consultation session, several tribal officials, representatives, and community members<sup>3</sup> provided testimony. In addition to the oral comments, one tribe submitted written comments after the session<sup>4</sup>. The following comments and recommendations to the consultation policy were presented during the session.

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<sup>1</sup> <https://www.arts.gov/sites/default/files/Tribal-Consultation-Policy-DRAFT-7.9.21.pdf>

<sup>2</sup> <https://www.arts.gov/sites/default/files/NEA-August-2021-Framing-Document.pdf>

<sup>3</sup> The White House representative advised NEA that the dialogue may be opened to others for general comments when/if there was not a tribal leader waiting to make a comment.

<sup>4</sup> As listed in the Federal Register, the deadline to provide comments was August 24, 2021. Tribal nations were advised to send all testimony and comments to [nativearts@arts.gov](mailto:nativearts@arts.gov).

- *Section IV. Consultation Process*
  - Provide at least sixty (60) days notice of the scheduled consultation.
    - Currently the draft policy provides for thirty (30) days notice of the consultation session and tribal leaders noted that thirty days is not a sufficient amount of time for tribes to review the materials provided and prepare for the consultation session.
  - Coordinate with other federal government agencies to ensure that all tribal leaders are receiving the notifications.
    - Concerns were raised that federal agencies were using different, and sometimes outdated, lists to provide notice to all tribal leaders.
  - Work with tribes on the consultation dates to ensure that consultation sessions are not scheduled during culturally significant or sensitive times.
    - Tribal leaders raised the importance of making sure consultations are not scheduled during times of traditional activities or leadership transitions.
  - Do not use the Federal Register as a sole means for consultation.
    - Tribal representatives expressed frustration with using the Federal Register as an acceptable format for consultation since this format did not provide for a dialogue or exchange of ideas. While participants understood the time constraints that are sometimes placed on federal agencies to hold tribal consultations within a short timeframe, it was recommended that when the Federal Register format is used, that the process not be considered tribal consultation.
  - Coordinate with similar federal agencies, like the National Endowment for the Humanities (NEH), when conducting tribal consultations.
  
- *Section VI. Role of Internal Workgroup*
  - Establish a Native Arts Office within the NEA, under this section of the policy.
    - There were several comments supporting the creation of a specific Native Arts Office to implement the responsibilities and activities outlined in Section VI. There was some concern expressed about the capacity of the NEA to implement the Tribal Consultation Policy correctly absent this office.
  - Identify a point of contact withing the NEA for tribes to contact.
  - Include non-recognized tribes as parties to the consultation policy.
    - Several commenters, representing non-federally recognized tribes, requested language to “uplift the designation for non-recognized tribes” and include non-recognized tribes as parties to the consultation policy. The draft policy states that the internal workgroup, established in this section, will convene forums outside of tribal consultation, “to provide opportunities for input and dialogue for state-recognized tribes, Native American organizations, Native Hawaiians and Pacific Islanders, urban Indian centers, tribal colleges and universities (TCUs), and others as identified by the internal workgroup.”

- *Section VII. Convenings*
  - Consider existing convenings for consultation sessions and annual meetings.
    - Tribal leaders requested for the NEA to consider and collaborate with organizations, such as the Association for Tribal Archives, Libraries and Museums (ATALM), when planning gatherings and consultations. Participants highlighted that these organizations have established conferences within Indian Country and aligned interests with the NEA.

Participants were invited and encouraged to provide comments related to accessing resources within the NEA, and other areas of importance to tribal nations. Additional comments include:

- Create a dedicated grant program to Native arts.
- Remove the matching funds requirement in grant applications.
- Require all art agencies funded by the NEA to consult with tribal nations.
- Require all art agencies funded by the NEA to have tribal representatives on their boards/councils.
- Establish a national Native arts agency.
- Develop a museum mentorship program for tribal museums to learn and share best practices with non-native museums.
- Create a grant specifically for non-recognized tribes<sup>5</sup>.

### **III. NEXT STEPS**

#### **1. Review and consider comments received**

The NEA was grateful to receive the above-mentioned comments from tribal officials and participants. The agency will continue to evaluate these comments during the final development of the consultation policy, taking into account potential legal and regulatory limits. The NEA will continue to take collaborative approach to ensure that the agency continues to expand its engagement with tribal communities.

#### **2. Share the revised draft**

The NEA will revise the draft Tribal Consultation Policy based on feedback received during the August Tribal Consultation session. The updated draft will be shared with Tribal nations no later than 30 days after the August consultation session in the Federal Register. Tribal nations will have two weeks to provide comments to the updated draft published in the Federal Register.

#### **3. Final Policy Published**

The NEA will submit the final policy to OMB after all comments have been reviewed and incorporated, where appropriate. Additionally, the NEA will publish the final Tribal Consultation policy in the Federal Register. Both submissions will occur prior to the October 23, 2021 deadline.

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<sup>5</sup> Some Tribal leaders expressed in the chat feature that they did not support the creation grant programs specifically for non-federally recognized tribes.

#### **IV. CONCLUSION**

The NEA is grateful for the valuable feedback received from Tribal nations on the NEA draft Tribal Consultation Policy during both consultation sessions. The XXXNEA will continue to solicit input from tribes as outlined in the consultation policy and looks forward to strengthening the nation- to-nation relationship through a continued and meaningful dialogue with Tribal nations.