

**NATIVE AMERICAN HERITAGE COMMISSION**

August 6, 2021

**REQUEST FOR TRIBAL CONSULTATION**

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[NAHC.ca.gov](http://NAHC.ca.gov)

To: California Native American tribes

Re: Native American Heritage Commission Contact List Regulations

Deadline: November 15, 2021

Contact: Armando Campos; [Armando.campos@nahc.ca.gov](mailto:Armando.campos@nahc.ca.gov)

The California Native American Heritage Commission (NAHC) seeks the input of California Native American tribes on the development of regulations concerning the qualifications and process for placement on the NAHC Contact List. The NAHC Contact List is used to determine which tribes meet the statutory definition of a "California Native American Tribe" and are eligible to engage in consultation for purposes of SB-18 (tribal consultation in land use planning) and AB-52 (CEQA tribal consultation); and which tribes meet the definition of "California Indian Tribe" for the purposes AB-275 (CalNAGPRA).

The NAHC is seeking early tribal input so that the NAHC can fully consider the several and diverse tribal viewpoints, expertise and values relative to the NAHC Contact List. Tribal input is critical to ensure that the NAHC meaningfully considers the unique circumstances of each California Native American Tribe in planning, drafting, and implementing these regulations.

To review the current criteria for inclusion on the NAHC Contact List, please see ATTACHMENT 1, which follows this letter. Over the next several months, the NAHC seeks to:

- Develop and issue regulations formalizing the criteria for inclusion on the Contact List, and any required documentation to prove that criteria; and
- Identify processes for reviewing applications; determination and appeal procedures; and procedures for removal from the Contact List.

The NAHC anticipates that the tribal consultation process will take place throughout the remainder of 2021 and include listening sessions conducted via Teams and conference call. The listening sessions are intended to be public forums where tribes and the NAHC can collaborate openly and share ideas. These listening sessions will not take the place of government-to-government tribal consultation, if requested.

To assist you in developing recommendations responsive to this request for consultation, below is a (non-exclusive) list of questions:

1. What criteria should the NAHC use to determine whether a group meets the criteria for inclusion as a tribe on the Contact List? (see Attachment 1 for current criteria)
  - o Are there elements of the existing criteria that should or should not be included?
2. Should tribes that are currently on the NAHC Contact List be grandfathered into the new Contact List once the regulations are finalized, or should all tribes be required to meet the new criteria once formalized in the regulations and reapply for inclusion on the Contact List?
3. Should an appeal process exist when a tribe fails to meet the criteria for inclusion? If so, what should that look like?
  - o Would tribes want a neutral arbitrator to hear appeals, such as an administrative law judge from the California Office of Administrative Hearings, or would they prefer a more informal process whereby they work continuously with staff of the NAHC until such time as they meet the criteria for inclusion?

Consultation submissions should be sent via email to Armando Campos at [armando.campos@nahc.ca.gov](mailto:armando.campos@nahc.ca.gov) with the subject line "**Proposed Contact List Regulations: [Tribe Name] Tribal Consultation Response**" or via mail to:

Native American Heritage Commission  
Attn: Armando Campos  
1550 Harbor Boulevard, Suite 100  
West Sacramento, CA 95691

The Commission is hosting a **virtual listening session via Teams on October 1, 2021**, from **9:30-11:00am**. Participation information can be accessed via the following link: <https://tinyurl.com/NAHC-Session> or via conference call at **(916) 573-2034; phone conference ID: 811-615-197#**.

The Commission is also facilitating web-based, or conference call tribal consultations should your Tribe seek to engage in direct government-to-government consultation in addition to submitting written comments and/or participating in the Teams listening session. If your Tribe would like to engage in this type of consultation, please contact

Armando Campos at [armando.campos@nahc.ca.gov](mailto:armando.campos@nahc.ca.gov) or via phone at (916) 373-3716 to set up a web-based or conference call consultation with the NAHC.

Thank you for your patience during this time and please do not hesitate to contact Armando Campos with any follow up questions or concerns.

Respectfully,



Christina E. Snider  
Executive Secretary

# ATTACHMENT 1

## **Documentation for Inclusion of Non-Federally Recognized California Native American Tribes On the Native American Heritage Commission Tribal Consultation List**

The Native American Heritage Commission (NAHC) is responsible for providing Tribal Consultation Lists pursuant to Chapter 905 of the 2004 Statutes of California and Public Resources Code Sections 5097.94(m) and 21080.3.1 for the purposes of mitigating adverse impacts to tribal cultural resources.

In order to be listed on the NAHC Tribal Consultation List, a tribe must provide documentation that their members are descended from a historical California tribe and currently operate as a tribal governmental body that carries out general governmental functions for its members.

Documentation must be provided for both criterion A and B below. All information submitted must be under the tribe's seal or letterhead.

A. Evidence to prove that tribal members are descended from a historical California Native American tribe. This is best done using certified birth or death certificates issued by the State of California or the county in which they were born. Evidence may include:

- Proof that tribal members are either listed on or direct relatives of an individual on the California Indian Census Rolls of 1928 or 1933, or on the California Judgment Fund Rolls (CJFR) of 1953 or 1972. Individuals on the CJFR rolls were issued Certificates of Degree of Indian Blood (CDIB) by the Bureau of Indian Affairs (BIA).
- Proof that tribal members can trace their ancestry to an individual on California Mission rolls.
- Proof that tribal members are descendant(s) from one or more individuals who received allotted land held in trust by the Federal government.
- Evidence that the tribe is or was formerly recognized by the Federal government.
- Evidence that the tribe has continually resided on land previously held in trust by the Federal Government.
- Documentation that the tribe is descended from a tribe that was a signatory of one of the eighteen California unratified treaties of 1852.

B. Evidence to prove that your tribe operates as a tribal government, as follows:

- The basis of your tribal government organization, such as a Constitution and Bylaws, Tribal Ordinance, or Articles of Association. The evidence submitted must be duly adopted, ratified, dated, and signed by the entity officially authorized to act on behalf of the tribal membership, such as the Tribal Council, Chief, Chairperson, President, or Captain, as appropriate.
  - The NAHC also recognizes that there may be many variations in the ways tribes are organized and operate, such as custom and tradition. If that is the case, please provide a written description of how your tribe is organized and carries out its governmental functions.
- Evidence of a tribal roll and a description of the requirements to be a tribal member.
- Certified election results for current tribal council members and their terms of office.

# ATTACHMENT 1

- Evidence of tribal government activities, such as certified, signed, and dated meeting minutes, signed and dated council resolutions, or any government actions or decisions made by the tribe.
- A completed petition package submitted for recognition by the Federal Government. A letter of intent to petition for federal recognition alone is not sufficient.
- Evidence that your tribe is eligible to receive federal services as an Indian tribe.
- Evidence of a non-profit organization dedicated to general tribal community sustainability.
- Evidence that your tribe is recognized as a Native American tribe by the surrounding community, including other tribes.
- Evidence that your tribe is recognized by Federal, State, and local government agencies, documented through such things as letters, tribal resolutions, references in environmental documents, consultation agreements, legislative resolutions, etc.
- Evidence of community activities undertaken by the tribe.

Please include a map describing the tribe's traditional and culturally affiliated territory, including the California counties by which the tribe would like to be contacted for the purposes of formal consultation.

Rev. January 16, 2018