

APPENDIX I: NATIVE AMERICANS

In Fiscal Year (FY) 2006, the Department of Defense (DoD) continued to build collaborative relationships with Native Americans. The cooperation and partnerships between DoD and Native Americans, which includes American Indians, Alaska Natives, and Native Hawaiian Organizations (NHOs), helps ensure the success of the Department's mission and the protection of natural and cultural resources on Native American lands.

At the heart of DoD's relationship with tribes is its commitment to the Department's American Indian and Alaska Native Policy. DoD developed the policy, which went into effect on October 20, 1998, in close consultation with tribal governments. The policy acknowledges DoD's trust responsibilities to tribes; directs the Department to build stable and enduring relationships with tribes; establishes consultation as the key component to successful, meaningful government-to-government dialog; and requires DoD to recognize and respect the significance tribes attribute to natural and cultural resources.

The Components—the Military Services and the Defense Agencies—rely on the American Indian and Alaska Native Policy for guidance on how to address tribal interests while ensuring the success of the Department's mission. To further this direction, in FY2006, DoD strengthened its commitment to cooperating and consulting with tribes by publishing *Department of Defense Instruction (DoDI) 4710.02: DoD Interactions with Federally-Recognized Tribes*.

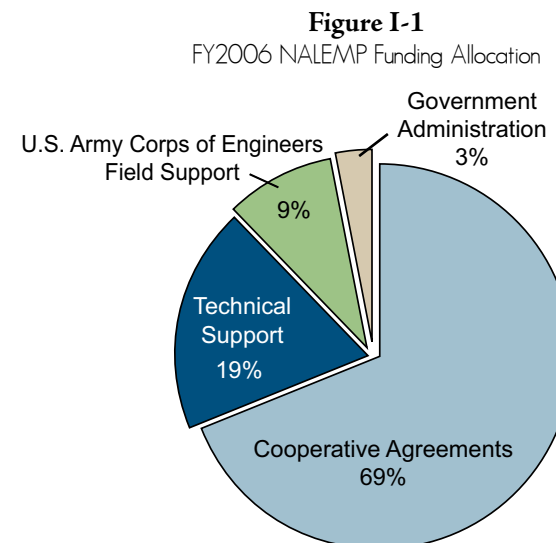
Mitigating Environmental Impacts on Indian Lands

Environmental impacts may remain on American Indian lands and Alaska Native Claims Settlement Act—conveyed properties from DoD's operational and training activities. These impacts include hazardous materials, ordnance, old equipment, unsafe buildings, and debris. DoD is committed to addressing

these environmental concerns through site investigations and environmental remediation efforts.

Since 1993, Congress has included a provision in the DoD Appropriations Act directing the Department to devote funds to gather, document, and mitigate environmental impacts on American Indian and Alaska Native lands. In response to this Congressional mandate, DoD developed the Native American Lands Environmental Mitigation Program (NALEMP). Through NALEMP, DoD has identified approximately 851 potential impacts affecting more than 175 tribes.

In FY2006, Congress appropriated \$10 million for NALEMP, of which 69 percent was provided directly to the tribes for mitigation costs through cooperative agreements (CAs), as shown in Figure I-1. This percentage was



the largest share of direct funding to the tribes in the history of the program. The remaining NALEMP funds were used to:

- Implement DoD's American Indian and Alaska Native Policy
- Sponsor cultural communication courses for DoD personnel to assist in effectively consulting with tribes
- Design and maintain the Native American Environmental Tracking System (NAETS)
- Conduct 17 site assessments to validate reported DoD impacts to Indian lands.

Native American Environmental Tracking System

During FY2006, DoD made improvements to NAETS, DoD's online database used to report, track, and maintain information on potential impacts to Native American lands. NAETS provides information on reported environmental impacts on native land resources resulting from DoD activities. NAETS allows DoD, tribal representatives, and the public to access and share information on DoD-related issues of concern on tribal lands. NAETS also provides a historical record of site assessment results, presents a forum for reporting new suspected impacts, and receives online comments about assessments and project status updates. DoD uses the system to track progress on addressing impacts on tribal lands under NALEMP. Additionally, the system supports program planning and funding decisions related to NALEMP.

Cooperative Agreements

Under NALEMP, DoD uses CAs with tribal governments to address environmental problems attributable to past DoD activities. CAs incorporate traditional ecological knowledge into remedial design, directly involve the tribe in project decision making, develop tribal capacity regarding environmental services, and allow DoD to assist tribes in acquiring technical remediation skills.

In FY2006, DoD entered into four new CAs with tribes to mitigate impacts on American Indian and Alaska Native lands. In addition, DoD entered into 11 CAs to continue mitigation projects with previously funded tribes (Figure

Figure I-2
Cooperative Agreements



I-2). Since its inception, DoD has executed over 116 new or continuing NALEMP CAs to partner with tribal governments to address environmental concerns. CAs are both DoD's and the tribes' preferred method to undertake environmental cleanup because CAs maximize the use of both federal and tribal resources to mitigate impacts.

DoD American Indian Cultural Communication Training Course

Effective communication and consultation is critical to working with Native Americans. To facilitate greater understanding of tribal culture and federal policies for working with tribes, DoD offers a course that highlights

the requirements of DoD's American Indian and Alaska Native Policy and other relevant laws impacting the Department's relationships with tribes. The course provides DoD military and civilian staff with a greater understanding of diverse tribal cultures and the communication requirements that are essential to successful consultation with tribes. The course includes information on:

- Indian laws and the legal basis for DoD policy
- Federal laws and policies impacting DoD's relationships with tribes
- Tribal concepts and culture
- Cross-cultural communication
- Practical guidance for consulting with tribes.

In FY2006, approximately 69 participants from all Components attended this course, which was held in two locations: Albuquerque, NM and Seattle, WA. American Indian presenters and DoD staff facilitated the courses that included participation in local tribal cultural events, presentations by tribal speakers, and field visits to nearby tribal communities.

Highlights from FY2006

DoD and numerous Native American tribes collaborated on a variety of projects in FY2006. The major efforts are described below.

DoDI 4710.02: DoD Interactions with Federally Recognized Tribes

DoD completed a significant policy initiative concerning federally recognized tribal governments by signing DoDI 4710.02 on September 14, 2006. This Instruction further implements DoD's October 1998 American Indian and Alaska Native Policy and provides additional details on statutory and regulatory requirements relative to tribal governments. The Department published the Instruction to ensure that DoD policy is implemented by assigning responsibilities and providing procedures for DoD interactions with federally recognized tribes in accordance with Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" and the Presidential Memorandum on "Government-to-Government Relationship with Tribal Governments."

NALEMP

In April 2006, the Sitka Tribe of Alaska hosted the NALEMP Annual Meeting. More than 50 tribal representatives and more than 30 federal and contractor personnel attended.

The meeting highlighted 10 years of NALEMP CA project success through collaboration between the tribes, the U.S. Army Corps of Engineers (USACE), DoD personnel, and program consultants. The meeting celebrated the Pyramid Lake Paiute Tribe's ordnance removal project at Pyramid Lake, NV, which was awarded the 2005 Secretary of Defense Environmental Award for Environmental Restoration. The annual meeting also recognized other projects conducted over the year, including the efforts of the Native Village of Barrow, AK, for the removal of over 162 tons of military debris, tractors, and metal drums from Elson Lagoon, and the Pueblos of Laguna and Isleta for the collection and disposal of unexploded ordnance on their lands near Albuquerque, NM. Two new NALEMP partners were officially welcomed at the meeting—the Native Village of Eklutna and the Native Village of Point Hope.

Another significant achievement for NALEMP was the formal adoption of the program's goals, objectives, and performance measures. The goals of the program are driven by the annual Congressional appropriation language for NALEMP, the Departments for American Indians and Alaska Natives Policy, and other existing DoD goals. Significant input for the goals was gathered from NALEMP's tribal partners and USACE. The goals were designed to capture NALEMP's wide effects on human lives and the environment, and to demonstrate the program's progress, accountability, and efficiency. The four goals of the NALEMP program are to:

- Complete DoD's mitigation responsibility on Indian lands
- Implement NALEMP within DoD's trust responsibility
- Execute NALEMP efficiently and with accountability
- Conduct outreach activities, as appropriate, for program execution.

NALEMP Policy Implementation Demonstration Project: Southeast Regional Consultation

In 2002, NALEMP funding was made available for Component-sponsored projects with the goal of addressing the unique challenges associated with implementing the DoD American Indian and Alaska Native Policy. The Department of the Navy, Naval Facilities Engineering Command, created a project entitled "Regional Consultation with Native American Tribes." The goal of this project was to develop standards for consultation between the military installations and tribes in the southeast United States, through a series of three regional meetings. In June 2006, the third and final project meeting took place with approximately 25 tribal representatives and an equal number of military representatives. This series of meetings resulted in a draft Guidelines for Consultation document that included a generic Memorandum of Understanding (MOU) that can be used as a template by the participant tribes and DoD. The final comment period for both documents was ongoing as of September 30, 2006. An important benefit from this project is the enhanced relationship between DoD and the tribes in the southeastern United States.

DoD Native Hawaiian Consultation

In June 2006, DoD initiated a project to develop a consultation protocol to assist Components operating in Hawaii to meet DoD's consultation responsibilities with NHOs. As DoD increases its military training activities in Hawaii, the Department must continue to find ways to efficiently comply with applicable environmental and cultural resource protection laws and regulations that affect DoD's mission in Hawaii. Consultation plays a key role in compliance with the National Historic Preservation Act, the Native American Graves Protection and Repatriation Act, and the American Indian Religious Freedom Act. The consultation protocol will assist DoD in meeting its legal consultation obligations to NHOs in a manner that is complementary to the military mission in Hawaii. DoD will benefit from a consultation protocol that establishes consistent consultation responsibilities across the military departments.

A highlight of the consultation protocol development process included a DoD and NHO Consultation Protocol Workshop held August 28-31, 2006. DoD representatives participated in cultural site visits and three days of intensive discussions with NHOs concerning the contents of a proposed

protocol document. The August workshop served as the foundation for future discussions and building relationships.

Tribal Solid Waste Interagency Workgroup

The Tribal Solid Waste Interagency Workgroup formed in April 1998 and was formally established in April 2000 with an MOU between the U.S. Environmental Protection Agency (EPA), the Bureau of Indian Affairs (BIA), the Indian Health Service, the U.S. Department of Agriculture's (USDA's) Rural Utilities Service, and DoD. The purpose of the project is to assist tribes by cleaning up closed, high-threat open dumps; developing alternative disposal options; and integrating solid waste management plans. Since FY1999, the Workgroup has funded approximately \$20 million in projects to over 100 tribes.

The DoD Senior Tribal Liaison has been an active participant in this Workgroup since its inception. Although DoD does not directly contribute monetary funding, the Department participates by contributing to the development of the yearly solicitation, meeting with the Workgroup throughout the review and final selection process, reviewing and scoring each tribal proposal according to the Interagency Workgroup's approved criteria, and reviewing NALEMP CAs for commonalities in tribal projects. Through its dedicated participation in the Workgroup, the Department has demonstrated its commitment to the cleanup of American Indian lands. DoD's participation fosters a relationship not only with key federal agencies, but also with tribal governments. NALEMP, combined with the Department's active participation in the Workgroup, reinforces DoD's role as a proactive federal agency with a solid understanding of its responsibility to tribes and the government-to-government relationship.

Outreach

DoD has developed relationships with the Veterans Administration, EPA, BIA, and USDA. In FY2006, under the auspices of the White House Office of Intergovernmental Affairs, DoD participated in the Indian Affairs Executive Task Force. This task force was formed to improve communications, foster collaborative efforts, and identify opportunities for improvement within the federal government in its efforts to address Native American issues.

Annual programmatic outreach is also an integral part of the DoD's responsibilities and involves frequent travel to tribal lands to discuss issues of concern to Native Americans. To access nationwide tribal constituents, DoD attends annual and mid-year conferences hosted by more than six major tribal organizations, such as the National Congress of American Indians, the National Association of Tribal Historic Preservation Officers, and the Alaska Inter-Tribal Council. These presentations and the NALEMP both exhibit opportunities for information sharing and gathering.