



# ARIZONA DEPARTMENT OF TRANSPORTATION POLICIES AND PROCEDURES

## MGT-16.01 DEPARTMENT-WIDE NATIVE NATION/ TRIBAL GOVERNMENT CONSULTATION POLICY

**Effective: November 19, 2008**

Supersedes: MGT-16.01 (9/1/2006)

Responsible Office: Director's Office (602) 712-7227

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### 1.01 PURPOSE

This policy establishes the basic principles guiding the Arizona Department of Transportation (ADOT) and its relationships with Native Nation/Tribal Governments in the State of Arizona.

### 1.02 SCOPE

Since its inception, ADOT has continually implemented intergovernmental relations processes to carry out its responsibilities. This policy is intended to provide additional guidance to ADOT personnel when working with the Native Nations/Tribal Governments in Arizona. It is understood that consultation procedures identified by ADOT and the Nations/Tribes may already be in existence or will need to be identified through individualized agreements. Therefore, these consultation procedures will provide ADOT and the Nations/Tribes a basis for mutual understanding as appropriate agreements are carried out to address State and Tribal Transportation issues, needs and concerns.

### 1.03 BACKGROUND

ADOT was established in 1974 and is responsible for planning, developing, maintaining, and operating transportation facilities for the efficient movement of people and products by surface and air throughout Arizona. Within the State, multi-modal transportation systems cross numerous jurisdictional boundaries. In particular, approximately 1,350 miles of the state highway system traverse Native Nation/Tribal lands along with 20 airports maintained by the Native Nation/Tribal Governments. Additionally, there are 22 Native Nation/Tribal Governments that have jurisdiction over approximately 28% of the land base within Arizona. Thus, the State and Nations/Tribes share a mutual desire to work together for the common purpose of protecting the health, safety and welfare of the traveling public in Arizona through a continuously improving working relationship.

Furthermore, Federal legislation requires state departments of transportation to coordinate, cooperate and consult with Native Nation/Tribal Governments in statewide and metropolitan transportation planning processes. This is in addition to addressing environmental, cultural, historic, natural and human resource issues during the implementation of transportation programs and construction projects impacting Native Nation/Tribal reservations and aboriginal lands within the State boundaries. Consequently, both the State and the Native Nation/Tribal Governments share the mutual desire to coordinate the implementation of their respective multi-modal transportation mission and goals.

### 1.04 DEFINITIONS

IGA – Intergovernmental Agreement      An agreement between political subdivisions including cities, counties, tribes or any other governmental agency or political subdivision. Includes interagency agreements, i.e., agreements between agencies or

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	departments of the State. The distinguishing features of an IGA are that the legal officers for the state and the other government must sign it, and file it with the Office of the Secretary of State before it becomes a legal contract.
JPA – Joint Project Agreement	An agreement between parties for the joint exercise of powers to accomplish a task. A Joint Project Agreement is any intergovernmental agreement (IGA).
MOA / MOU	Memorandum of Agreement / Memorandum of Understanding.
Native Nations/Tribal Governments	The 22 Federally recognized Native Nations, Tribal Governments, and Tribal Communities that have jurisdiction over lands located within the boundaries of the State of Arizona. Also abbreviated as Nations/Tribes.
Values	For the purpose of this policy, the term “values” denotes a high degree of importance ADOT places upon a Native Nation/Tribal Government’s concerns, needs and/or willingness to build working relationships.

## 1.05 POLICY

ADOT recognizes the sovereign status of Native Nation/Tribal Governments and their jurisdiction over lands within reservation boundaries as defined by federal law [18 U.S.C. §1151]. In recognition of Nation/Tribal sovereignty, ADOT respects the unique and continuous existence of each Nation’s/Tribe’s government, values, culture, codes, laws, and as such will work to address the following:

- A. ADOT supports the strengthening of Nation/Tribal capacity for planning, development, construction, maintenance, and operation of transportation facilities under Nation/Tribal jurisdiction. ADOT’s support to Nations/Tribes will be provided in the interest of the State and will not be used as the basis for assertion of State authority within Indian Country.
- B. ADOT is committed to developing cooperative relationships with the Nation/Tribes in Arizona, and will respect and consider their transportation concerns. ADOT values the Nation’s/Tribal Government’s respect for the transportation concerns of the State of Arizona.
- C. ADOT will not solicit and asserts no claim to Federal resources that would otherwise be provided directly to Nations/Tribes, unless an impacted Nation/Tribe gives consent.
- D. ADOT will maintain and operate State owned transportation infrastructure within Native Nation/Tribal lands in the best interest of the State while respecting Native Nation/Tribal Governments and local communities.
- E. ADOT management including the director, assistant directors, district engineers, and other designated staff will maintain the appropriate working relationships with Native Nation/Tribal Government elected officials and staff to assure the continuous operation of their respective transportation systems.

- F. ADOT will consult with Native Nation/Tribal Governments during the transportation planning processes and implementation of the statewide transportation improvement plan in accordance with Federal Highway Administration, Federal Transit Administration, and Federal Aviation Administration policies and this policy.
- G. ADOT will assist Native Nation/Tribal Governments to implement transportation programs by providing technical assistance, sharing data, conducting joint Native Nation/Tribal Government and State projects, and cooperatively resolving transportation issues to the extent resources allow.
- H. ADOT will enter into Intergovernmental Agreements, Joint Project Agreements, Memoranda of Agreement, or Memoranda of Understanding when considered mutually appropriate by ADOT and an interested Native Nation/Tribal Government.
- I. ADOT, while acknowledging funding and jurisdictional limitations, will coordinate with Native Nation/Tribal Governments in Arizona to identify available resources to jointly or individually fund projects to benefit the State and Native Nation/Tribal communities.
- J. ADOT will conduct training and partnering efforts, when appropriate and as resources allow, encouraging and improving State Departmental/Native Nation/Tribal Government understanding and communication. ADOT values reciprocity by Native Nations/Tribal Governments, particularly in the area of understanding Nation/Tribal cultural differences and unique business cultures.
- K. ADOT will provide early notification to Native Nations/Tribal Governments about decisions that may affect them. ADOT values reciprocity by Native Nations/Tribal Governments in early notification on matters that may affect the State.
- L. ADOT will share appropriate technical information and data with Native Nations/Tribal Governments in accordance with established ADOT policy. ADOT values reciprocity by Native Nations/Tribal Governments to share appropriate technical data as well with the State in accordance with established Native Nation/Tribal Government policy.

#### **1.06 RESPONSIBILITY**

In good faith, the Director of ADOT, in his/her official capacity, or through his/her designee(s), including the Aeronautics Division, the Communication and Community Partnerships Division, the Intermodal Transportation Division and its Engineering Districts, the Motor Vehicle Division, the Multimodal Planning Division, and the Transportation Services Group shall endeavor to implement the terms of this policy.

Responsibility for the enforcement of this policy lies with the Director's Office; State Engineer's Office; division directors and district engineers; and, section, group and team managers.