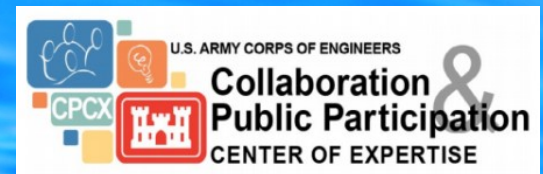


September 2020

## Strengthening USACE Collaboration with Tribal Nations for Water Resources Management



2020-R-06

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The logo for the Institute for Water Resources (IWR) features the letters 'IWR' in a stylized, serif font. The 'I' and 'W' are connected at the top, and the 'R' is positioned to the right. The letters are dark with a subtle shadow effect.

# Institute for Water Resources

The Institute for Water Resources (IWR) is a U.S. Army Corps of Engineers (USACE) Field Operating Activity located within the Washington DC National Capital Region. The IWR includes its Water Resources Center (WRC) in Alexandria, Virginia along with satellite centers in Davis, CA; New Orleans, LA; Lakewood, CO; and Pittsburgh, PA.

IWR was created in 1969 to analyze and anticipate changing water resources management conditions, and to develop planning methods and analytical tools to address economic, social, institutional, and environmental needs in water resources planning and policy. Since its inception, IWR has been a leader in the development of strategies and tools for planning and executing the USACE water resources planning and water management programs.

IWR strives to improve performance of the USACE Civil Works water resources program by examining water resources problems and offering practical solutions through a wide variety of technology transfer mechanisms. In addition to hosting and leading USACE participation in national forums, these mechanisms include: production of white papers, technical reports, workshops, training courses, guidance, and manuals of practice; development of new planning, socio-economic, and risk-based decision support methodologies, improved hydrologic engineering methods, and software tools; and management of national waterborne commerce statistics and other Civil Works information systems. IWR serves as the USACE expertise center for: integrated water resources planning and program management; hydrologic engineering; collaborative planning and conflict resolution; waterborne commerce data; and marine transportation systems.

The Institute's Hydrologic Engineering Center (HEC), located in Davis, CA, specializes in development, documentation, training, and application of hydrologic engineering and hydrologic models. IWR's Navigation and Civil Works Decision Support Center (NDC), located in Alexandria, VA, and its Waterborne Commerce Statistical Center (WCSC) in New Orleans, LA, are Civil Works data collection organizations for waterborne commerce, vessel characteristics, port facilities, dredging information, and information on navigation locks. IWR's Risk Management Center (RMC), co-located in Lakewood, CO and Pittsburgh, PA, assesses and manages risks for dams and levee systems across USACE. The RMC supports dam and levee safety activities throughout USACE, as well as developing policies, methods, tools, and systems to enhance those activities.

Other enterprise centers at the Institute's WRC office include: the International Center for Integrated Water Resources Management (ICIWaRM), under the auspices of the United Nations Educational, Scientific, and Cultural Organizations (UNESCO), which is a distributed, intergovernmental center established in partnership with various universities and non-governmental organizations; and the Conflict Resolution and Public Participation Center of Expertise (CPCX). The CPCX includes a focus on processes and training associated with conflict resolution, as well as integrating public participation techniques with decision support and technical modeling. The IWR plays a prominent role within several USACE technical Communities of Practice (CoP), including the Economics CoP. In addition to civil and environmental engineering expertise, the IWR offices include many economists, sociologists, biologists, geographers, and other experts specializing in water and natural resources investment decision support analysis and multi-criteria tradeoff techniques.

The IWR Director is Dr. Joe Manous. Additional information on IWR can be found at: <http://www.iwr.usace.army.mil>. IWR's Water Resources Center mailing address is:

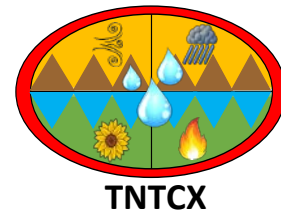
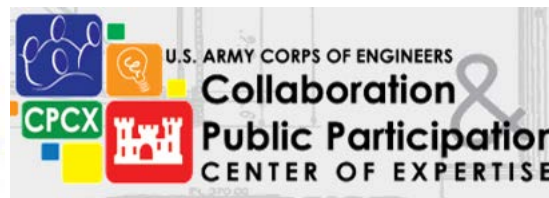
U.S. Army Corps of Engineers Institute for Water Resources  
7701 Telegraph Road, 2nd Floor Casey Building  
Alexandria, VA 22315-3868

# Strengthening USACE Collaboration with Tribal Nations for Water Resources Management

2020-R-01

14 September 2020

U.S. Army Corps of Engineers  
Institute for Water Resources  
Collaboration & Public Participation Center of Expertise  
Tribal Nations Technical Center of Expertise



## **PREFACE AND ACKNOWLEDGEMENTS**

The U.S. Army Corps of Engineers (USACE) values partnerships in execution of its mission, including its growing partnerships with Tribal Nations in water resources projects. In 2017, the Institute for Water Resources (IWR) was asked to (1) assess policy and business process inhibitors affecting collaboration between Tribes and USACE on water resources issues, and (2) identify policy, procedures, and tools to improve cooperation and collaboration among Tribes, USACE, and other Federal agencies on water resources issues. This work was done in support of the USACE Headquarters (HQ) Civil Works Planning and Policy Division and Civil Works Directorate. IWR's Collaboration and Public Participation Center of Expertise (CPCX) led the effort in partnership with the USACE Tribal Nations Technical Center of Expertise (TNTCX) and with contract support from Marstel-Day, LLC. A summary of this work is found in this report.

IWR strives to improve the performance of the USACE water resources program by examining water resources problems and offering practical solutions. The CPCX's mission is to help USACE staff anticipate, prevent, and manage water conflicts, ensuring that the interests of the public are addressed in USACE decision making. CPCX provides technical assistance to USACE Districts and Divisions on collaborative processes, builds collaborative capacity of staff through training, and publishes reports on environmental conflict resolution and collaborative processes. CPCX also manages USACE's Collaboration and Public Participation Community of Practice (CoP), where agency staff can regularly interact, collectively learn, solve problems, and build skills and competencies related to public involvement, collaboration, and risk communication. The mission of the TNTCX is to improve the agency's quality and effectiveness in delivering USACE's missions and Federal trust responsibilities to federally recognized Tribes.

Numerous individuals inside and outside USACE contributed to, and collaborated on the assessment, engagement, and inputs that allowed for the preparation of this report. Direction, collaboration, and leadership for this project was provided by Dr. Seth Cohen, the CPCX point of contact (POC) and Project Manager, and Michael Fedoroff and Dr. Ron Kneebone, the TNTCX Technical Leads. Dr. Hal Cardwell, CPCX Director, and Lisa Morales, USACE Headquarters (HQ) Senior Tribal Liaison (STL), provided additional guidance during the Phase 1 internal USACE assessment. Joe Redican, USACE HQ Civil Works Planning and Policy Division, provided overall support that was instrumental in completing this report. Special thanks to the following District Tribal Liaisons and subject matter experts (SMEs) for helping the team to organize the regional workshops with Tribes: Sarafina Maraschino, Mark Gilfillan, Patricia Fontanet Rodriguez, Nate Campbell, Jason Chumka, Kendall Campbell, Craig Johnson, Valerie Ringold, Jeremy Decker, and Cynthia Kitchens.

## **DISCLAIMER**

The report drew upon the following sources for its assessment and recommendations: U.S. Army Corps of Engineers (USACE) policies, programs, studies, and operations; USACE-internal surveys and facilitated discussions with staff; and regional workshops with members of Tribal Nations and USACE personnel. Meeting notes were taken and shared with attendees and reviewed to assure accuracy and to collect additional feedback. The perspectives of USACE Division and District personnel and the perceptions of the tribal workshop participants constitute the heart of this report. The contents of this report have been developed and reviewed for factual accuracy, logic, and clarity but remain the authors' presentation of the material and do not necessarily reflect the official views of USACE, the Institute for Water Resources (IWR), or the Tribal Governments that participated in the regional workshops.

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## EXECUTIVE SUMMARY

U.S. Army Corps of Engineers' (USACE) actions with federally recognized Tribes<sup>1</sup> have continued to expand in recent years, resulting in a substantial growth and diversity of USACE water resources studies and projects with Tribal Nations. Improvements in how USACE works and partners with Tribal Nations have been made. This marks a shift from *just* engaging on activities that impact Tribes and their resources, to working with Tribes on beneficial projects and studies collaboratively. However, USACE policies, procedures, and tools for operating within the context of the unique legal and government-to-government relationship between the United States and Tribal Nations have been slower to develop. This creates inefficient business processes within USACE and causes ineffective collaboration with tribal partners.

*The purpose of this assessment and report is to assess the current state of USACE collaboration with Tribes and suggests new (or improved) collaborative strategies to help address the water resources challenges Tribal Nations confront. This assessment has two main objectives: (1) identify and assess the policy and procedural impediments experienced by Tribes and USACE when working together on water resources related issues, and (2) recommend existing or new policies, procedures, and tools to improve cooperation and collaboration between USACE and Tribes regarding water resources management for Native American communities.*

These objectives align with the USACE Tribal Nations Program's primary goals to ensure effective consultation with Tribes that may be affected by USACE projects or policies, and to reach out and partner with Tribes on water resources projects. The USACE Tribal Nations Program<sup>2</sup> implements the Department of Defense (DOD) American Indian/Alaska Native Policy and the USACE Tribal Policy Principles (USACE n.d. (a)).

This report includes a summary of the USACE Tribal Nations Program, policies, and authorities; project methodology description; key findings of an internal USACE assessment with USACE staff; findings from regional workshops with participants from Tribal Nations and USACE Districts and Divisions; and the resulting recommendations and conclusions. Workshops primarily focused on the water resources needs and priorities of participating Tribes and their perspectives on the current state of USACE's collaboration with Tribal Nations – including what is working and what could be improved in the ways the agency communicates, coordinates, and partners with Tribes. These workshops were also an opportunity to share existing USACE programs that could address tribal water resources needs, and to build face-to-face relationships among 97 tribal

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<sup>1</sup> The report uses interchangeably the terms Tribes, Tribal Nations, and Native American Tribes. In general, USACE is limited to working with federally recognized Tribes. However, there are circumstances under which non-federally recognized Tribes may be eligible to participate in USACE programs.

<sup>2</sup> <https://www.usace.army.mil/Missions/Civil-Works/Tribal-Nations/>

participants from 51 Tribes and 41 USACE personnel from 12 Districts, 2 Divisions, the Tribal Nations Technical Center of Expertise (TNTCX), and the Institute for Water Resources (IWR).

This assessment resulted in the following recommendations:

### **Communications and Outreach**

1. Recommend USACE initiatives to enhance internal and external communication for Tribal Government engagement and partnering.
2. Update and increase frequency of USACE communications across all types of materials and media (e.g., newsletters, webinars, factsheets), including guidance for project evaluation, selection, and funding.
3. Develop a strategic approach to tribal engagement integrated with the USACE Campaign Implementation and Operations Plans.
4. In pursuit of strategic engagement, increase the number of in-person meetings, workshops, and conferences attended by Tribal Liaisons and other USACE staff to improve awareness and build relationships.

### **USACE Training and Capacity Building**

5. Provide authorization and additional funding for agency staff capacity building, to include a “Tribal Liaison mentoring system” and formal training program.
6. Create an internal “Tribal Liaison toolbox”.
7. Establish a Tribal Liaison annual award for outreach and engagement with Tribes.

### **Program Management and Implementation**

8. Clarify the processes for evaluating and selecting tribal projects/studies for funding at the agency level.
9. Implement tracking of tribal projects at the agency level.
10. Improve interagency collaboration.

These recommendations are derived from the findings of the Internal USACE assessment and the regional workshops with Tribes and are detailed in Section 5 of this report.

## **1 INTRODUCTION**

This report on *Strengthening USACE Collaboration with Tribal Nations for Water Resources Management* assesses the current state of U.S. Army Corps of Engineers (USACE) collaboration with Tribes and suggests new (or improved) collaborative strategies to help address the water resources challenges Tribal Nations confront. The report supports the USACE Tribal Nations Program's primary goals to ensure effective consultation with Tribes that may be affected by USACE projects or policies and to reach out and partner with Tribes on water resources projects (USACE n.d. (a)).

The report is divided into several sections. Section 1 provides a background of USACE tribal engagement and an overview of congressionally authorized programs available to address many of the water resources related priorities of Tribal Nations. Section 2 describes the assessment methodology. USACE staff's field experiences and insights are incorporated and form the basis of the findings set out in Section 3. The experiences and insights from tribal participants and the USACE personnel with whom they engaged in a series of workshops form the basis of the findings set out in Section 4. Section 5 provides recommendations for improving collaboration between USACE and Tribes on Civil Works projects, and water resources projects specifically. The report's conclusions are set out in Section 6.

### **1.1 Background**

There are currently 574 federally recognized Indian Tribes designated by the Bureau of Indian Affairs (BIA), which includes 229 federally recognized Alaska Natives Villages. The physical distribution of Tribes across the United States is not uniform, in part due to the historic forced removal of some Tribes from their homelands by the Federal Government, particularly in the eastern half of the country. Therefore, not all USACE Districts have the same level of engagement with Native American populations or with specific Tribal Governments. For example, there are more than 170 federally recognized Tribes within the South Pacific Division footprint, more than 100 Tribes within the Northwestern Division, and 229 in the Alaska District. The number of Tribes in a District or Division will play a role in how many projects with USACE are underway and how in-depth engagement can be between the agency and Tribes. Currently, USACE is formally partnering with approximately seven percent (40 Tribes) of the Native American communities in the country through the Tribal Partnership Program (TPP) and Planning Assistance to States (PAS). USACE leadership and the authors and contributors to this report believe that, despite impediments, USACE can do better. This report offers insights into how these and future partnerships can be improved.

Tribal Nations are sovereign entities with trust resources recognized by the United States under our Constitution, treaties, laws, and regulations. Chief Justice John Marshall, writing for the U.S. Supreme Court in 1831, noted a Tribal Nation was a "distinct political society, separated from others, capable of managing its own affairs and governing itself." (*Cherokee Nation v. State of Georgia* 1831) Relatedly the Court, in an opinion again authored by Marshall and rendered a

year later, held “[a] weak state, in order to provide for its safety, may place itself under the protection of one more powerful without stripping itself of the right of government and ceasing to be a State” (Worcester v. State of Georgia 1832). These two statements characterize the relationship between the United States (and its departments and agencies) and the Tribes: sovereign to sovereign on the one hand, and fiduciary to beneficiary on the other. Army Secretary John McHugh, in an October 24, 2012 *Memorandum to the Department of the Army* updating the Department’s *American Indian and Alaska Native Policy* referenced the Department of Defense (DOD) *American Indian and Alaska Native Policy*, which includes the note: “Under the Federal trust doctrine, the United States—and individual agencies of the Federal Government—owe a fiduciary duty to Indian Tribes” (DOD 2012, McHugh 2012).

USACE engages with Tribal Nations within the context of the Federal trust responsibility to Tribal Nations (Cherokee Nation v. State of Georgia 1831). President Clinton’s 1994 Presidential Memorandum, which is in effect still today, states that each Federal agency “shall take appropriate steps to remove any procedural impediments to working directly and effectively with Tribal Governments on activities that affect the trust property and/or governmental rights of the Tribes” (Clinton 1994, section (d)). USACE *Tribal Policy Principles* states, “The [USACE] will work to meet trust obligations, protect trust resources and obtain tribal views of trust and treaty responsibilities” (Van Antwerp 2010). It does so in relation to the Tribes as sovereign governments: “The [USACE] recognizes that Tribal Governments are sovereign entities” (Van Antwerp 2010).

Consultation with federally recognized Native American Tribes is also mandated in Executive Order (EO) 13175, *Consultation and Coordination with Indian Tribal Governments* (2000), and Presidential Memorandum, *Tribal Consultation* (Obama 2009). USACE responded to these requirements through development of a *Tribal Consultation Policy*, issued November 1, 2012. This policy defines consultation as:

“[o]pen, timely, meaningful, collaborative and effective deliberative communication process that emphasizes trust, respect, and shared responsibility. To the extent practicable and permitted by law, consultation works toward mutual consensus and begins at the earliest planning stages, before decisions are made and actions are taken; an active and respectful dialogue concerning actions taken by USACE that may significantly affect tribal resources, tribal rights (including treaty rights), or Indian lands.”

## 1.2 USACE Tribal Nations Program

Throughout the nation’s history, USACE has served as the initial interface between Tribal Nations and the United States Government. The nature of that interface has reflected U.S. Federal policy toward the indigenous peoples it encountered and incorporated into its body politic. From the “Corps of Exploration” in the late 19<sup>th</sup> century through the “Dam Building Era” of the early and mid-20<sup>th</sup> century, it became clear that better communication was needed with

Native Americans, whose perception of the Corps was often one of an agency single-mindedly focused on engineering (Mighetto and Miller 2005, Thorson 1994). At first, efforts to engage Tribes and improve communications were locally based, targeting specific issues (i.e., salmon fisheries in the northwestern United States and water resources management of USACE flood control projects). In recognition of the need for agency-wide coordination and development of policy, the Institute for Water Resources (IWR), at the behest of USACE leadership, conducted the first nationwide regional tribal workshops over a four-month period in 1995.

Although the USACE Tribal Nations Program is relatively young (formally established in 2003), developments leading to its establishment stem from the dedicated work of key individuals working at the Office of the Assistant Secretary of the Army (Civil Works) (OASA (CW)) and within USACE, and from the 1994 USACE Native American Intergovernmental Relations Task Force. This task force assessed the scope, extent, and quality of USACE-tribal interactions and issued a series of recommendations for improving USACE-tribal inter-governmental relations. (Native American Intergovernmental Relations Task Force 1996)

At that time, in response to then-President Clinton's 1994 directive that Federal agencies operate within a government-to-government relationship with federally recognized Tribes, USACE undertook extensive consultation with dozens of Tribes throughout the United States. Following this effort, USACE issued *Policy Guidance Letter Number 57* in 1998, which established the first USACE Tribal Policy Principles. Those principles created the framework for USACE collaboration, engagement, and partnering with Tribes. The current USACE Principles are as follows:

- **Tribal Sovereignty.** USACE recognizes that Tribal Governments are sovereign entities.
- **Trust Responsibility.** USACE will work to meet trust obligations, protect trust resources, and obtain tribal views of trust and treaty responsibilities.
- **Government-to-Government.** USACE will ensure that USACE leaders and tribal leaders meet as governments and recognize that Tribes have the right to be treated in accordance with principles of self-determination.
- **Pre-Decisional Consultation.** USACE will involve Tribes collaboratively, before and throughout decision making, to ensure the timely exchange of information, the consideration of disparate viewpoints, and the use of fair and impartial dispute resolution processes.
- **Self-Reliance, Capacity Building, and Growth.** USACE will search for ways to involve Tribes in programs, projects, and other activities that build economic capacity and to manage tribal resources while preserving cultural identities.

- **Natural and Cultural Resources.** USACE will act to fulfill its obligations to preserve and protect trust resources and to consider the potential effects of USACE programs on natural and cultural resources. USACE is determined to comply with the *Native American Graves Protection and Repatriation Act* (NAGPRA) and to ensure reasonable access to sacred sites.

In 2003, both the position of USACE Headquarters (HQ) Senior Tribal Liaison (STL) and the USACE Tribal Nations Program<sup>3</sup> were established to promote a uniform consultation process and to advance tribal consultation and collaboration. The Program's mission is:

"The Tribal Nations Program implements the DOD American Indian/Alaska Native Policy and the USACE Tribal Policy Principles. We acknowledge the wisdom that Tribes bring to the table and how our programs, projects, and activities are enhanced by their input." (USACE n.d. (a))

The Program's primary goals are (USACE n.d. (a)): 1) to consult with Tribes that may be affected by USACE projects or policies, and 2) to reach out and partner with Tribes on water resources projects.

Early efforts of USACE's Tribal Nations Program recognized the need for specialized Tribal Liaisons to better support the Program mission and goals. As a result, in 2003 USACE established a Tribal Nations Community of Practice (CoP). The Tribal Nations CoP Charter states:

"The Tribal Nations CoP brings together all [USACE] employees to share information and expertise across the organization with the goal of fulfilling Corps missions and Federal trust responsibilities at the same time. The Community will develop policy, doctrine, and strategies, as well as participate in national and interagency coalitions and task forces to create an environment that supports a learning organization, all in support of this goal" (USACE n.d. (b)).

Over the next decade, a cadre of Tribal Liaisons was formed, and consultation with Tribes increased around the country. Increased consultation and strategic engagement with Tribal Governments led to more Tribes becoming aware of USACE Civil Works programs. The increasing number of requests for assistance necessitated expanding the role of the Tribal Liaison. As a result, the Tribal Nations CoP annual meetings and related trainings were established and incorporated into the USACE Consultation Policy to share experiences and to build capacity of USACE staff. The USACE HQ Tribal Liaison and OASA(CW) hosted a 3-4 Consulting with Tribal Nations course in 2006 that has generally been offered bi-annually at different Districts. The course content was initially developed by the OASA(CW) Tribal Liaison and the first USACE HQ Tribal Liaison, with assistance over the years from other experts, USACE subject matter experts

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<sup>3</sup> <https://www.usace.army.mil/Missions/Civil-Works/Tribal-Nations>

(SMEs), including District Tribal Liaisons based in Albuquerque, Omaha, and St. Louis, and guest tribal instructors from numerous Tribal Nations.

As the number of projects with Native American Tribes increased between 2005 and 2012, the information requirements associated with those projects grew. In 2015, USACE established the Tribal Nations Technical Center of Expertise (TNTCX) to “provide support to the Senior Tribal Liaison and the Tribal Nations Program to improve capabilities and management, reduce redundancies, optimize the use of specialized expertise and resources, enhance USACE-wide consistency, facilitate technology transfer, help maintain institutional knowledge, and improve service to customers” (Morales 2016). The TNTCX mission “is to improve USACE’s quality and effectiveness in delivering USACE missions and Federal trust responsibilities to federally recognized Tribes.” The TNTCX is in the USACE Albuquerque District.<sup>4</sup>

Formal, government-to-government consultation between USACE leaders and Tribal Nations routinely occurs on any USACE projects or regulatory permits that potentially affect Tribal Nations. By far, of all USACE functions, the USACE Regulatory Program has the greatest number of engagements with Tribal Governments. Responsible for implementing Sections 9 and 10 of the *Rivers and Harbors Act of 1899* and Section 404 of the *Clean Water Act*, the program’s mission is to protect the nation’s aquatic resources, while allowing reasonable development through fair, flexible, and balanced permit decisions. Several thousand regulatory consultations have occurred to-date to seek input from Tribal Governments on programs around the nation.

In addition to following the necessary government-to government protocols, multiple levels of engagement also occur at the working level between USACE and Tribal Government staff to coordinate and partner on water resources projects and studies that Tribal Nations seek for the development and maintenance of their communities. These multiple levels of consultation and collaboration work together to increase the effectiveness of engagement between USACE and Tribal Nations. This report primarily looks at this level of staff engagement as projects and studies are initiated and developed within the USACE Civil Works Program.

Whereas higher levels of leadership in Federal agencies and Tribal Nations are typically involved in the signing of agreements, much of the collaborative work on water resources studies and related infrastructure projects occurs at the staff level, including SMEs in water resources planning and management. Ideally, collaboration takes on a robust form of engagement that includes working with each other in each aspect of the decision, ranging from the development of alternatives to the identification of various solutions and proposals.

Good collaboration has proven critical to solid partnerships between USACE and Tribal Nations, such as those that might be formed to carry out a cost shared watershed study on tribal lands. Watershed planning “goes beyond project planning for specific USACE projects towards more comprehensive and strategic evaluations and analyses that include diverse political,

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<sup>4</sup> More information can be found at <https://www.spa.usace.army.mil/Missions/Civil-Works/Tribal-Program/>.

geographic, physical, institutional, technical, and stakeholder considerations.” (USACE 2010, 2019)

USACE has many programs that can be employed to address a wide variety of water resources planning and management needs and challenges that tribal communities confront. The following sections highlight the specific authorities that might be used to address tribal water resources needs and related issues.

### **1.3 USACE Authorities and Programs Frequently Employed to Address Tribal Water Resources Problems and Needs**

As sovereign nations, Tribal Governments work to address priorities and meet the needs of their members and citizens. Often, these are related to water resources. This includes managing flooding risks, managing natural resources in riparian zones, and ecosystem restoration on tribal lands. The USACE Civil Works Program has a long history of addressing such water resources problems, needs, and opportunities through its many programs and authorities, and does so with many government entities, including Tribal Nations. Over the years, the OASA (CW) worked with USACE HQ to obtain legislation that provided a cost sharing reduction for Tribes. More importantly, in 2016, they accomplished a major legal and policy change for tribal sponsors of Civil Works projects consisting of changing project agreements so that Tribes no longer had to agree to waive their sovereign immunity to sponsor a water resources project.

USACE has many authorities and programs to address a wide variety of water resources problems, needs, and opportunities to overcome challenges, including technical engineering solutions. This section identifies the most frequently used USACE authorities and is not intended as a complete listing of all authorities available for Tribes and USACE to work together. These include the Tribal Partnership Program (TPP), Continuing Authorities Program (CAP), and Technical Assistance Programs, including Planning Assistance to States (PAS) and Flood Plain Management Services (FPMS). In addition to those Civil Works programs, this report includes the Interagency and International Support (IIS) program, as it is another USACE program for which Tribes are eligible.

The sheer number of authorities, programs, and special requirements associated with each make it imperative that those working with Tribes be knowledgeable on each. This will enable selection of the best authority to fit a specific need. Confusion or reversals on the interpretation of authorities and requirements can be especially frustrating to Tribes and can lead to delays caused by focusing on the wrong program. Such missteps on the part of USACE staff can lead to mistrust and hesitancy to engage on the part of Tribes. The following sections have a description of key authorities. A more detailed description of these authorities, along with other authorities, can be found in *Partnering with the US Army Corps of Engineers*, IWR Report 2019-R-02.



### ***Tribal Partnership Program (TPP)***

First authorized under Section 203 of the Water Resources Development Act (WRDA) of 2000, the TPP is the first and only planning authority specifically for federally recognized Tribes. TPP was initially a broad study-only authority that allowed USACE to conduct investigations in partnership with federally recognized Tribes. Issues to be studied include flood damage reduction, environmental restoration and protection, preservation of natural and cultural resources, and other projects as the Secretary, in cooperation with Native American Tribes and the heads of other Federal agencies, determine as appropriate. Over the past 20 years, the TPP has been expanded to allow for watershed assessments, technical reports, planning studies, and the study, design, and construction of water resources development projects.<sup>5</sup>

The TPP provides authority for USACE to work with Tribes to study and determine the feasibility of carrying out projects that:

- A. will substantially benefit the Tribe; and
- B. are located primarily within Indian Country, as defined in Section 1151 of Title 18, United States Code, and including lands within the jurisdictional area of an Oklahoma Tribe, as determined by the Secretary of the Interior, and are recognized by the Secretary of the Interior as eligible for trust land status under Part 151 of Title 25, Code of Federal Regulations, or in proximity to Alaska Native Villages.

Under TPP, USACE and Tribes can enter into cost share agreements on water related planning activities, watershed assessments, or activities relating to the study, design and construction of water resources development projects. The TPP was amended in the Water Resources Development Act (WRDA) 16 to include the authority to proceed to design and construction for those projects that are at a specified Federal cost threshold, which is currently \$12.5 million. This amount is subject to amendment if determined so by Congress. For those feasibility studies that exceed the current \$12.5 million Federal cost share threshold, USACE Chief's Reports are required to request Congressional authorization to proceed to design and construction. All TPP feasibility studies follow the USACE SMART Planning process (i.e., Specific, Measurable, Attainable, Risk Informed, Timely).

In addition, Section 1156 of WRDA 1986, as amended, is a cost share waiver that can be applied to feasibility studies for territories and was further amended in WRDA 16 to include federally recognized Tribes. The cost share waiver is currently \$484,000 and is subject to amendment, if determined by Congress. For feasibility studies, the cost share waiver is applied

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<sup>5</sup> Section 1002 of the Water Resources Reform and Development Act of 2014 amended the planning study process by consolidating reconnaissance and feasibility studies into a single-phase study that is cost shared 50 percent Federal and 50 percent non-federal. Prior to this amendment, Tribes would use the 100 percent Federally funded reconnaissance study for preliminary analysis of water resources issues.

to the entire study cost and the remaining balance is shared 50 percent Federal and 50 percent non-federal. Federally recognized Tribes can reduce their cost share by the application of the Ability to Pay provision, which applies only to TPP studies, watershed assessments, planning activities, and design and construction. The procedures are outlined in the WRDA 16 Implementation Guidance for TPP. Tribes can further reduce their cash contributions for study and design/construction with credit being afforded for the cost of services, studies, supplies, and other in-kind contributions.

The TPP is authorized to carry out stand-alone water related planning activities independent of watershed assessments and does not require new start determinations. Water-related planning activities are cost shared at a 50 percent Federal and 50 percent non-federal expense. The unique attribute of TPP is that feasibility reports are not required to contain recommendations for specific water resources development projects. Depending on the needs of the tribal sponsor, studies can be scoped to limited letter reports with an array of alternatives that are technically feasible, and economically and environmentally justified. Tribes can use these letter reports as templates for future planning and engaging with other Federal agencies.

Since 2017, USACE has eight ongoing feasibility studies addressing a range of activities, such as shoreline restoration, subsistence harbor development, and ecosystem restoration. One feasibility study will be completed in early Fall 2020 with the study then advancing to design and construction. Another feasibility study will be completed in Spring 2021. In addition, there are six ongoing watershed assessments, of which three should be completed in calendar year 2020, and one technical assistance study. USACE is working with Tribes, under the TPP, to develop new studies that address tribal water resources needs.

Completed studies to date include two watershed assessments and one feasibility study. The Pueblo of Santa Clara Watershed Assessment was completed in 2018, and the Acoma Pueblo Watershed Assessment was completed in 2019. The first feasibility study was completed in early 2020 by the USACE Omaha District in partnership with the Lower Brule Sioux Tribe in South Dakota. This study focused on natural resource preservation and ecosystem restoration. USACE and the Lower Brule Sioux Tribe entered into the first Project Partnership Agreement under the TPP for the design and construction of the project.

An additional reference on the TPP is the 2002 report, *Tribal Partnership Program: Issues Relevant to Working with Native Americans and Alaska Natives on Section 203 Studies* (Martin and Smith 2002).<sup>6</sup> However, that report does not reflect the significant amendments to, nor the evolution of, Section 203 of WRDA 2000, as amended. For more information, please reference WRDA 2007, the *Water Resources Reform and Development Act of 14*, WRDA 16, WRDA 18 and the WRDA 16 Implementation Guidance.

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<sup>6</sup> For more information on TPP and other DOD, Department of the Army, and USACE policies see [https://www.usace.army.mil/Missions/Civil-Works/Tribal-Nations/tribal\\_otherpolicies/](https://www.usace.army.mil/Missions/Civil-Works/Tribal-Nations/tribal_otherpolicies/)

### ***Continuing Authorities Program (CAP)***

Congress has provided USACE with some standing authorities to study and build water resources projects. These include authorities for emergency streambank protection; beach erosion and storm damage reduction; small navigation projects; mitigation of shore damage attributable to navigation works; beneficial uses of dredged material for ecosystem restoration; flood damage protection; aquatic ecosystem restoration; snagging and clearing for flood control; and modifications for improvement of the environment. These “continuing authorities” allow for project development and approval below a specific monetary threshold. Each continuing authority has its own rules regarding Federal cost share requirements, upper limits for Federal funding for a project, as well as a national program funding limit for the individual authority. Both phases – study and construction – of a CAP project are cost shared between the Federal Government and the non-federal partner. Tribes are eligible for a reduction of the non-federal cost share requirement (USACE IWR 2019, p. 17).

### ***Technical Assistance Programs***

Various technical assistance programs, both within and external to the Civil Works Program, allow USACE to provide technical water resources services to Tribes within their broader mandates. These programs include:

- **Section 202, Flood Plain Management Services (FPMS)**, allows USACE to provide data and analyses for flood hazard analyses and damage prevention to local communities and Tribes at 100 percent Federal cost. Services include flood modeling, floodplain mapping, flood emergency planning, flood-proofing studies, dam-break analyses, and other technical studies related to flooding. The program’s authority stems from Section 206 of the *Flood Control Act of 1960* (Public Law 86-645), as amended. Its objective is to foster public understanding of the options for dealing with flood hazards and to promote prudent use and management of the nation’s floodplains. Upon request, program services may be provided to state, regional, and local governments; Tribes; and other non-federal public agencies at 100 percent Federal cost.
- **Section 305, Planning Assistance to States (PAS)**, authorizes USACE to use its technical expertise in management of water and related land resources to help states and Tribes solve water resources problems. PAS permits USACE to use its technical planning expertise to support comprehensive water resources planning. Services include GIS mapping, water supply and demand studies, stormwater assessments, best management practices (BMPs), and other planning assessments. PAS is authorized by Section 22 of the 1974 WRDA. Upon request, USACE will cooperate with non-federal public sponsors in the preparation of plans for the development, use, and conservation of water and related land resources located within the boundaries of the state. Assistance is given within the limits of available appropriations, but \$2,000,000 is the maximum Federal funding available annually to any state or Tribe. A 50 percent cost share is required by the non-federal sponsor.

- **Silver Jackets** is a unique program that can bring together multiple state, Federal, local, and Tribal Governments to learn from one another and jointly apply resources to reduce flood risk.<sup>7</sup> These interagency Silver Jackets teams can provide a variety of flood risk management services for states and Tribes, including flood inundation mapping, emergency recovery activities (e.g., damage surveys), community education on disaster preparedness, and the coordination of delivery of needed disaster recovery services among participating agencies (USACE n.d. (c)).
- **Section 204, Interagency and International Services Program (IIS)**, is not a Civil Works Program authority but it does permit USACE to provide management and technical expertise to non-DOD entities, including Tribal Governments. While this report focuses primarily on USACE Civil Works programs, IIS is a significant program available to Native American Governments. Unique to USACE, the agency may provide direct specialized or technical services to a state, local, or Tribal Government under Section 6505 of Title 31, United States Code (USC), in accordance with Section 211 of the WRDA of 2000 (PL 106-541), as amended by Section 109 of the *Energy and Water Development Appropriations Act of 2002* (PL 107-66). Work requested by Tribal Governments is authorized under the provisions of 10 USC 3036(d)(2). IIS functions on a completely reimbursable basis and is a useful “reach-back” resource for Tribal Governments in fulfilling their numerous missions.

Examples of services that can be provided under the Section 204 authority include supporting the Environmental Protection Agency (EPA) on its Superfund Program; supporting the Federal Emergency Management Agency (FEMA) for preparation of flood insurance and planning studies; and providing engineering, environmental, construction management, and other technical assistance to Tribes. Under 10 USC, Section 3036(e)(1), Tribes are not required to establish that the services requested are available through ordinary business channels.

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<sup>7</sup> More information on the Silver Jackets program can be found at <https://silverjackets.nfrmp.us/>.

## 2 METHODOLOGY

The report methodology was comprised of two main phases.

**Phase 1 – Internal U.S. Army Corps of Engineers (USACE) Assessment:** This was an internal USACE assessment on the overall activities, effectiveness, challenges, opportunities, and awareness of the USACE Tribal Partnership Program. As part of this phase, literature, program, and policy reviews were conducted regarding USACE tribal collaboration and partnering within the area of integrated water resources management.

**Phase 2 – External USACE Assessment and Outreach:** This involved a series of USACE District-led workshops with Tribes to gain a broader perspective and share some existing USACE opportunities.

### 2.1 Phase 1 – Internal USACE Assessment Methodology

In the first phase, the team conducted an internal USACE assessment, with both surveys and virtual workshops, in 2018 and 2019. The team sought input via a web-based survey and then analyzed this data (Appendices C and D). The web-based survey was provided to 235 USACE employees electronically via email in July 2018. It was completed by 124 employees, a 53 percent return rate. The survey's purpose was to elicit information from USACE staff to provide an understanding of the respondents':

1. awareness of Civil Works authorities relevant to working with Tribes
2. the depth and nature of their work with Tribes
3. the types of communication materials they use in support of their work with Tribes
4. their views of the types of additional resources needed to enhance collaboration and partnering with Tribes

The survey showed that there is a wide range of USACE staff working with Tribes, in some capacity, to identify Civil Works projects and partnership opportunities. These individuals have varying levels of experience and knowledge of USACE programs and how to interact with federally recognized Tribes. Although there are policies and guidance related to working with Tribes, the respondents identified program, policy, and training suggestions that can help pave the way for more effective project partnering opportunities with Tribal Nations. The facilitated group discussions with USACE staff described further below were the critical next step to delve deeper into what the survey results revealed.

Using the information from the literature, policy, and program review as well as responses to the web-based survey, the project team (1) identified key stakeholders within each of the Divisions and Districts working with Tribal Nations on one or more of the five targeted Civil Works authorities for participation in workshops, and (2) developed discussion prompts and questions to facilitate discussion among these staff at facilitated discussions (Appendix E).

The focus of the facilitated virtual group discussions was to capture the variety of experiences from these staff and their professional insights into “what was working, what could be done better, and what was needed to do better.” The facilitated sessions gathered general insights related to their work with Tribes and then focused on three specific themes:

- **Communication and Outreach:** The focus here was on how USACE was succeeding in building trust and collaboration with Tribes and how it could better build such trust and collaborative relationships. In addition, this focus area addressed current efforts at communication and outreach and how to enhance effective communication and outreach to enable problem-solving processes, collaboration, and building partnerships to address the water resources related needs of Tribes.
- **Effective Program Management:** The focus here was on current program management and how to assure clear and informative guidance and appropriate evaluation procedures, as well as how to identify programs that “deliver the results” that meet the needs of Tribes and identify those best practices.
- **Capacity Building:** The focus here was on identifying elements that could assist in developing and sustaining the capability for effective communication, collaboration, partnerships, and problem solving between USACE and Tribes.

A total of nine facilitated group discussions were conducted with USACE Tribal Liaisons, Tribal Nations Technical Center of Expertise (TNTCX) staff, and a broad range of other USACE cross-functional, District, and Division staff that support or manage Civil Works programs and routinely engage with Tribes. Tribal Liaisons represented on the calls included archaeologists, biologists, regulatory project managers, and planners. Serving as a District Tribal Liaison was often an additional job duty for many of the participants.

The disciplines represented in the facilitated virtual discussions included the following:

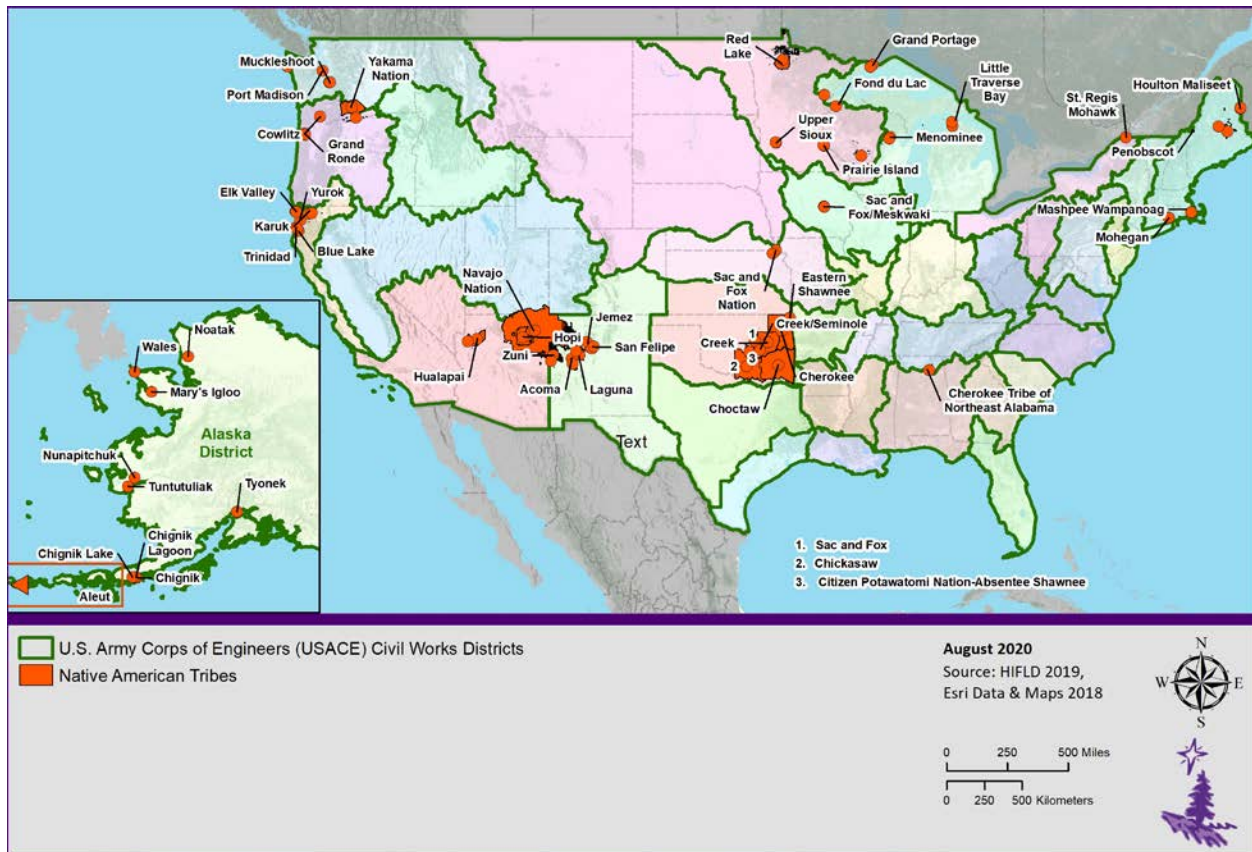
- Tribal Liaisons
- Archaeologists
- Civil Works Planners
- District Support Planners
- Division Strategic Engagement Coordinators
- Environmental Coordinators
- Outreach Coordinators
- Planning Chiefs
- Program Managers for Tribal Partnership Program (TPP), Planning Assistance to States (PAS), Flood Plain Management Services (FPMS), and Regulatory

## **2.2 Phase 2 – External USACE Assessment and Outreach Methodology**

After the internal USACE assessment, seven regional workshops were conducted in 2019 and 2020 with 97 participants from 51 Tribes and 41 USACE staff from 12 Districts, 2 Divisions, the TNTCX, and Institute for Water Resources (IWR). The primary workshop purpose was to elicit from Tribes their water resources challenges, and perspectives on the state of USACE’s collaboration with Tribal Nations. Secondly, these workshops shared information about USACE programs that can address tribal priorities. Thirdly, the workshops allowed for face-to-face relationship building among participants.

Table 1 provides detail regarding the participation by various Tribes in the seven workshops. Table 2 provides detail regarding the participation by USACE staff in the workshops. A map showing the Area of Responsibility (AOR) of USACE Districts within their respective Division is included in Appendix I. Figure 1 below shows the geographic distribution of the Tribes that participated in the seven USACE regional workshops, as well as those from an Environmental Protection Agency (EPA) conference (see additional information below). The USACE workshops focused on areas where coordination was facilitated in part by existing meetings and conferences that encouraged maximum participation. Due to study scope limitations, along with the larger presence of Tribes in the central and western portions of the United States, few Tribes from the eastern half of the country were able to participate in the workshops. However, the New England USACE District was able to gather some feedback on the topic of USACE – tribal collaboration from a few Northeastern United States Tribes that participated in an annual EPA – Tribal Environmental Conference held in Connecticut in September 2019. That feedback is included with the report findings from the seven USACE regional workshops.

Figure 1: Tribes that Participated in Workshops/Discussions with USACE, August 2019 – March 2020





**Table 1: Tribal Participation in Regional Workshops**

Tribe	State(s)	Workshop
Aluet	Alaska	AK
Blue Lake Rancheria	California	CA
Cherokee Nation	Oklahoma	OK
Chickasaw Nation	Oklahoma	OK
Chignik Lake Village	Alaska	AK
Choctaw Nation	Oklahoma	OK
Citizen Potawatomi Nation	Oklahoma	OK
Confederated Tribes of Grand Ronde	Oregon	OR
Cowlitz	Washington	OR
Eastern Shawnee	Oklahoma and Missouri	OK
Elk Valley Rancheria	California	CA
Fond du Lac Band of Lake Superior Chippewa	Minnesota	MN
Grand Portage Band of Lake Superior Chippewa	Minnesota	MN
Graton Rancheria	California	CA
Ho-Chunk Nation	Wisconsin	MN
Hopi	Arizona	NM
Houlton Band of Maliseets	Maine	EPA
Hualapai	Arizona	NM
Karuk	California	CA
Little Traverse Bay Bands of Odawa Indians	Michigan	MN
Mary's Igloo	Alaska	AK
Mashpee Wampanoag	Massachusetts	EPA
Matlakatla Indian Community	Alaska	AK
Menominee Nation	Wisconsin	MN
Mohegan	Connecticut	EPA
Muckleshoot	Washington	CA
Muscogee (Creek) Nation	Oklahoma	OK
Native Village of Noatak	Alaska	AK
Native Village of Tuntutuliak	Alaska	AK
Native Village of Tyonek	Alaska	AK
Native Village of Wales	Alaska	AK
Navajo	Utah, Arizona, and New Mexico	AZ
Native Village of Nunapitchuk	Alaska	AK
Penobscot	Maine	EPA
Prairie Island Indian Community	Minnesota	CA
Pueblo of Acoma	New Mexico	NM

Tribe	State(s)	Workshop
Pueblo of Jemez	New Mexico	NM
Pueblo of Laguna	New Mexico	NM
Pueblo of San Felipe	New Mexico	NM
Pueblo of Santa Ana	New Mexico	NM
Pueblo of Zuni	New Mexico	NM
Quileute	Washington	OR
Red Lake Band of Chippewa	Minnesota	MN
Sac and Fox Nation	Oklahoma	OK
Suquamish	Washington	OR
St. Regis Mohawk	New York	MN
Thlopthlocco Tribal Town	Oklahoma	OK
Trinidad Rancheria	California	CA
Upper Sioux Community	Minnesota	MN
Yakama Nation	Washington	OR
Yurok	California	CA

**Table 2: USACE Participation in Regional Workshops**

District / Division / Center	Workshop(s)
Alaska District	AK
Albuquerque District	NM, AZ
Detroit District	MN
Los Angeles District	NM, AZ
New England District	EPA
Northwest Division	OR
Portland District	OR
Sacramento District	CA, NM, AZ
San Francisco District	CA
Seattle District	OR
South Pacific Division	NM, AZ
St. Paul District	MN
Tulsa District	OK
Walla Walla District	OR
Tribal Nations Technical Center of Expertise (TNTCX)	AK, NM, OK, AZ
IWR's Collaboration and Public Participation Center of Expertise (CPCX)	All (Facilitator)

During the workshops, USACE staff both elicited information and shared information. Tribal participants shared their experiences, what water resources related challenges they were facing, and where they saw opportunities for collaboration. Tribal participants then shared their experiences and insights on what is working and what needs improvement when working with USACE on water resources projects, which are highlighted further below.

USACE representatives also provided examples of their work with Tribes and an overview of the programs that are available to federally recognized Tribal Nations under the Civil Works programs, including Planning Assistance to States (PAS), Tribal Partnership Program (TPP), Continuing Authorities Program (CAP), and Flood Plain Management Services (FPMS), as well as the non-Civil Works authority, the Interagency and International Services (IIS) program. USACE also shared how cost share agreements work, including the cost waivers to Tribes under certain programs, and other details on how Tribes can work with USACE on water resources related projects. They also emphasized that Tribes do not need to remember all the program or authority names as it is USACE staff’s role to identify which programs meet the requested needs. A sample workshop agenda is shown in Figure 2.

**Figure 2: Sample Strengthening Collaboration Workshop Agenda**

<b>Sample Workshop Agenda</b>
Welcome and Overview of Workshop Purpose
Introductions and Identify Tribal Water Resources Management and Planning Needs and Priorities
Plenary Sharing on Tribal Needs in the Region
Panel Presentations on USACE Civil Works (FPMS, PAS, TPP, CAP, and Silver Jackets)
Collaboration Discussion: What Is Working and What Is Not?
Wrap-up, Final Thoughts, and Adjourn

Table 3 briefly summarizes the context for each of the seven workshops. Detailed findings and recommendations based on the workshops’ content will be discussed in Section 4 (Findings) and Section 5 (Recommendations).

**Table 3: USACE Regional Workshop Context**

USACE Proponents	Location	Date(s)	Participants	Description
Sacramento and San Francisco Districts	Blue Lake Rancheria, CA	Aug. 14, 2019	12 tribal members and 1 tribal consultant, 6 USACE staff	This workshop was held in conjunction with a Flood Risk and Emergency Management interagency workshop.
St. Paul and Detroit Districts	St. Paul, MN	Nov. 6, 2019	11 tribal members from 10 Tribes, 4 USACE staff	This was a 90-minute session during the Bureau of Indian Affairs (BIA) 8th Annual <i>Partners in Action</i> workshop.
Alaska District	Anchorage, AK	Nov. 22, 2019	12 tribal members from 9 Tribes, 1 governmental staff, 1 nonprofit, 5 USACE staff	The IWR, TNTCX, and Alaska USACE District organized a four-hour session during the Alaska Native Tribal Health Consortium's <i>Alaska Tribal Conference on Environmental Management</i> .
Portland, Seattle, and Walla Walla Districts	Portland, OR	Jan. 29, 2020	8 tribal members from 5 Tribes, 2 tribal consultants, 2 nonprofits, 2 governmental staff, 8 USACE staff	This was a two-hour session during the Affiliated Tribes of Northwest Indians (ATNI) Conference.
Albuquerque and Los Angeles Districts	Albuquerque, NM	Feb. 11, 2020	14 tribal members from 8 Tribes, 13 USACE staff	This was a daylong, standalone workshop.
Tulsa District	Norman, OK	Feb. 18, 2020	18 tribal members from 9 Tribes, 12 governmental staff, 8 USACE staff	This daylong workshop differed from previous ones in that other state and Federal government agencies presented on their programs too. This strengthened the opportunities for interagency collaboration and discussion.
Sacramento, Los Angeles, and Albuquerque Districts	Window Rock, AZ	Mar. 3, 2020	18 tribal members from 1 Tribe, 2 governmental staff, 12 USACE staff	This was a daylong workshop organized by the Navajo Nation Department of Water Resources.

### 3 PHASE 1 – USACE INTERNAL ASSESSMENT FINDINGS

#### 3.1 Themes and Findings from the Web-Based Survey

The web-based survey responses from 124 USACE staff provided key insight into U.S. Army Corps of Engineers (USACE) staff experiences with the development and execution of projects and partnerships with federally recognized Tribal Nations. The following are key findings from survey responses:

- Most respondents were either somewhat familiar or very familiar with the programs, though there was a lower level of familiarity with the Interagency and International Services (IIS) Program.
- Most agreements for work with tribes were associated with Section 203 Tribal Partnership Program (TPP), Planning Assistance to States Tribes (PAS), and Continuing Authorities Program (CAP). A smaller number of agreements were completed under Flood Plain Management Services (FPMS) or IIS.
- There was the perceived need to re-evaluate current guidance to better address crediting and cost share waivers (e.g., consider the possibility of increasing the ability to waive the cost share provision for Tribal Governments).
- Some respondents, apparently unaware that such mechanisms (e.g., cooperative agreements and sole-source contracts) exist, commented that projects could be more readily pursued if there were an easier way to transfer funds to Tribes for environmental work (e.g., perhaps similar to the way USACE pays private consulting firms or other Federal agencies). Greater awareness of these mechanisms is needed across the agency.
- Some articulated the need to modify or create tribal-specific USACE policy to cover the construction and implementation of a recommended tribal project.
- Create greater USACE staff awareness about the “coordination funds” they can use to inform Tribes of the capabilities and functions of USACE prior to having a signed agreement with the Tribe.
- Respondents were also concerned and unclear about how the plan formulation process and policies on the selection of the National Economic Development (NED) Plan (or exceptions) can best support Tribes.<sup>8</sup> This concept was also confused with the

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<sup>8</sup> Federal interest determination is established initially by the trust responsibility owed by the Federal Government to all federally recognized Tribes. All Federal agencies have the "highest fiduciary responsibility" to address concerns raised by Native American communities. This fact has been recognized by the HQ Office of Counsel. The only question that remains regarding "Federal interest" then is the viability of the individual project. For more information on the NED Plan, see the NED Overview Manual at <https://usace.contentdm.oclc.org/digital/collection/p16021coll2/id/3844/rec/12>.

Federal Interest within each mission area defined in the Planning Guidance Notebook. The Federal objective of water resources planning is to contribute to the greatest net economic benefits (in selecting the NED Plan) consistent with protecting the nation's environment. This is defined in the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*, published in 1983 by the U.S. Water Resources Council and used during the study process.<sup>9</sup> USACE works with Tribes to determine the NED, which is the recommended Federal action. The four accounts – NED, Environmental Quality, Other Social Effects, and Regional Economic Development – are established to facilitate evaluation and display of effects of alternative plans. Exceptions to the selection of the NED Plan can be granted by the Secretary of the Army for overriding reasons based on other Federal, state, local and international concerns. More tribal-specific or detailed training on these topics could assist USACE staff that work on tribal projects.

- Provide formal training for all Tribal Liaisons and key planning staff on existing authorities and prepare expanded informational materials on all programs for Tribes (e.g., including packages of templates and implementation guidance documents) so Tribal Liaisons and planning staff can more readily brief interested Tribes about options.

As noted earlier, a more detailed report and analysis of the web-based survey can be found in Appendix C.

## 3.2 Themes and Findings from Facilitated Virtual Group Discussions

Many of the themes and suggestions by staff in the web-based survey described in the preceding section were echoed and elaborated on during the facilitated virtual group discussions. Set out below are the key findings gleaned from the USACE staff that participated in these discussions. These findings provide the basis for the recommendations that follow in Section 4. They were organized under the three primary discussions:

- Communication and Outreach
- Program Management and Implementation
- Capacity Building

### 3.2.1 Communication and Outreach

Outreach and communication are instrumental in building trust. Building relationships with Tribes takes regular outreach, and some Districts shared that it took many years before they

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<sup>9</sup> For more information on the *USACE Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies*, visit <https://planning.erdc.dren.mil/toolbox/current.cfm?Title=Planning%20Guidance%20Notebook&ThisPage=PlanGuideNotebook&Side=No>.

had the trust of local Tribes within their area of responsibility (AOR). There are multiple aspects to building this trust. Participants often emphasized how important it is to be known to “keep your word,” which in practice means not overpromising or under-delivering, being transparent, and “honest, no matter what” when discussing programs or circumstances surrounding a project or other matter. Engagement and communication with Tribes are more successful when there is a consistent point of contact, regular outreach, and honest messaging.

Tribal Liaison staff, who are typically the key points of contact (POCs) with Tribes, often have multiple job duties and balance a workload that can pull them away from the communication and outreach necessary to building relationships with Tribes. While outreach and meeting with Tribes were identified as key mechanisms for building strong relationships and trust, a variety of staff that engage regularly with Tribes said there is generally little to no funding to support ongoing outreach and engagement, as communication is typically limited to funded work on a specific project. This raised the frequent question among USACE staff: how can one best conduct outreach that would build relationships with tribal partners and inform them of USACE resources, but not be tied directly to project funding that may be limited or infrequent? This dilemma is a consequence of their multiple responsibilities and time constraints as well as limited resources. Many staff are familiar with what leads to building successful relationships but also know that it will require increased engagement.

Program resources to support USACE tribal collaboration are diverse and include factsheets, outreach materials, websites, agreements, and memos. These resources provide information and guidance on how to consult with Tribes and the steps involved in implementing a water resources project, and examples of programmatic agreements with Tribes. The resources also highlight the importance of understanding both tribal policies in combination with Federal requirements, and the necessity for being able to effectively communicate this information to Tribes. Each District is unique in its composition and focus on tribal engagement—from the number and diversity of Tribes in their AOR to the resources allocated for outreach. USACE staff emphasized that some Districts have created their own communications materials, and these have been received positively by Tribes. When these materials are shared at meetings, they help to increase understanding of the different USACE authorities. Participants believed additional foundational communication agency-wide materials about program authorities (intended to be tailored by Districts as needed) would be a valued resource.

When asked about currently available resources they found useful, many District staff pointed to the guide, *How to Plan a Water Resources Project with the US Army Corps of Engineers* (USACE 2017). Many participants noted they would like to see it regularly revised and updated with additional current information. One District subject matter expert (SME) shared that Tribes appreciate when hard copies of the guide and other USACE resources are brought to meetings. The following USACE resources – some that are available online, while others must be requested directly from a specific District – were also identified during the discussions as being helpful in communicating with Tribes:

- Consulting with Tribal Nations: Guidelines for Effective Collaboration with Tribal Partners, USACE, 2013<sup>10</sup>
- How to Plan a Water Resources Project with the US Army Corps of Engineers – A Guide for Tribal Governments, 3rd Edition, USACE Tribal Nations Program, 2017<sup>11</sup>
- U.S. Army Corps of Engineers Sacramento District Tribal Partnership [PowerPoint], November 2018<sup>12</sup>
- Working Together to Reduce Flood Risk: Tribal Partnerships and Collaborations [PowerPoint], USACE Sacramento District<sup>13</sup>
- Tribal Nations Technical Center of Expertise (TNTCX) quarterly newsletters<sup>14</sup>
- Partnering with Tribes – At a Glance, USACE Sacramento District
- The Civil Works Program, USACE St Paul District Tribal Partnerships Program at a Glance [Flyer/Brochure], USACE St. Paul District
- Missouri River Basin Tribal Socioeconomic and Cultural Resources Report, December 2015

While some tools, factsheets, guides, and training are accessible and being used, the District staff expressed their desire to see an increase in the availability of additional Civil Works tools. They also suggested that all staff should develop greater awareness how of Civil Works processes operate and the impact of these processes on Tribes. USACE staff who are not trained as Tribal Liaisons should be prepared to appropriately inform Tribes of current information and Civil Works opportunities that can support water resources related needs. In certain Districts, engagement with Tribes more frequently occurs via the Regulatory Program than through Civil Works programs. Participants noted that USACE staff, including Regulatory staff who engage with Tribes, should be aware of the different Civil Works authorities and programs so they can reference them if they see a need while working in the field with Tribes on other projects. At a minimum, staff can connect Tribes with their District Tribal Liaisons. As will be described further in Section 4, Tribes are appreciative of receiving this type of information and welcome opportunities for additional engagement. Table 4 highlights key findings in the USACE communication and outreach focus area.

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<sup>10</sup> [https://www.usace.army.mil/Portals/2/docs/civilworks/tribal/CoP/2013consult\\_guidelines.pdf](https://www.usace.army.mil/Portals/2/docs/civilworks/tribal/CoP/2013consult_guidelines.pdf)

<sup>11</sup>

[https://www.spk.usace.army.mil/Portals/12/documents/tribal\\_program/How\\_to\\_Plan\\_a\\_Water\\_Resources\\_Project.pdf?ver=2019-01-24-140011-623](https://www.spk.usace.army.mil/Portals/12/documents/tribal_program/How_to_Plan_a_Water_Resources_Project.pdf?ver=2019-01-24-140011-623)

<sup>12</sup>

[https://www.spk.usace.army.mil/Portals/12/documents/tribal\\_program/Tribal%20Partnership%20Program%20Presentation.pdf?ver=2016-11-14-130405-923](https://www.spk.usace.army.mil/Portals/12/documents/tribal_program/Tribal%20Partnership%20Program%20Presentation.pdf?ver=2016-11-14-130405-923)

<sup>13</sup>

[https://cdn.ymaws.com/floodplain.org/resource/resmgr/2018conference/presentations/thursday/working\\_together\\_to\\_reduce\\_f.pdf](https://cdn.ymaws.com/floodplain.org/resource/resmgr/2018conference/presentations/thursday/working_together_to_reduce_f.pdf)

<sup>14</sup> <https://www.spa.usace.army.mil/Media/News-Stories/Tag/61004/tribal-nations-technical-center-of-expertise/>



**Table 4: Findings from Internal USACE Assessment – Communication and Outreach**

Key Questions	Themes and Findings
What is working well (lessons learned/ secrets of success)?	<ul style="list-style-type: none"> <li>• Be honest, open, and transparent.</li> <li>• Have frequent contact with Tribes (e.g., regular check-in meetings).</li> <li>• Take the time to build a foundation of trust with Tribes—follow through is vital to building and sustaining trust.</li> <li>• Having knowledge of tribal issues and needs aids in communication.</li> <li>• Speaking at other agency programs that have tribal focus and tribal attendees maximizes effectiveness and reach.</li> <li>• Provide incoming USACE commanders with the opportunity to meet with Tribes and learn more about their needs.</li> <li>• Attend regional meetings to be cost-effective.</li> <li>• Share information about projects and what is working well within the TNTCX newsletter.</li> </ul>
What are significant challenges?	<ul style="list-style-type: none"> <li>• Tribes have voiced skepticism about working with the Federal Government and USACE. This is exacerbated when expectations fall through or are not fully met.</li> <li>• Tribes have difficulty understanding how USACE works, and the rules and requirements of different program authorities.</li> <li>• General outreach and coordination activities are generally not funded.</li> </ul>
What are top priorities for action to strengthen collaboration with Tribes?	<ul style="list-style-type: none"> <li>• Update and share good communication materials (e.g., How to Plan a Water Resources Project; Partnering with the Corps) to explain in clear terms how USACE works, program authorities and their requirements, steps in the process, etc.</li> <li>• A USACE Tribal Liaison internal webpage would serve as a clearinghouse for information and resources.</li> <li>• Improve definitions so Tribes and USACE are discussing the same things.</li> </ul>

**3.2.2 Program Management and Implementation**

All the discussion groups had a significant focus on gaining a deeper understanding of the successes and challenges of managing and implementing projects and studies with Tribes, and ideas staff had to improve current processes. A summary table for findings (Table 5) follows the narrative discussion.

Tribal Liaisons raised a significant observation: the independent evolution of the Tribal Liaison Program has led to the reality that the Tribal Liaison role is typically not considered an official or full-time position in many Districts. Staff recognize this flexible “position description” allows programs to be tailored to their respective Districts. However, they found this “other duties as assigned” status both distracted them from opportunities to address collaboration or partnering activities and hindered opportunities for training and certifications that would enhance professional development that could positively impact the program and its delivery. These, in combination, can impede the ability to optimally, much less exceptionally, deliver on program requirements related to collaboration and partnering with Tribes.

Some USACE District staff have worked to improve funding for their Tribal Liaison. One USACE District was able to show to its corporate board how the Tribal Liaison activities have increased productivity and funded water resources management activities. This success led to an increase of funding for the Tribal Liaison position. A short course or training on collaborative project development for Tribal Liaisons could enable other Tribal Liaisons to use this strategy to make the case for program resources.

Various USACE Districts expressed uncertainty about how project funding requests are submitted by or for Tribes and how requests are evaluated or prioritized when the Districts, Divisions, and Headquarters (HQ) work through the selection process. Staff would like to see greater transparency and clarity throughout the selection and prioritization process to help guide them in successfully implementing and developing programs with tribal partners. One District mentioned the cumbersome model agreement review process by Divisions and how this can be a hindrance to successful, timely implementation. Tribes are willing to wait, but delays can be a burden and can impact overall trust that the government will deliver what it promises. Many participating District staff said project requests from Tribes will increase due to greater awareness of the benefits, along with recent increases to program cost share waivers and the implementation of the ability-to-pay policy.<sup>15</sup> As the number of requests for assistance grows, guidance on how to evaluate and rank projects will be increasingly important going forward so that USACE staff engaging with Tribes on projects can set proper expectations.

USACE tracks project and program performance in multiple ways, for a variety of reasons. For example, monetary performance is tracked in the Corps of Engineers Financial Management System (CEFMS) to fulfill the agency's fiduciary responsibilities over taxpayer funds. When asked about tracking projects for program management, some Districts shared they use a spreadsheet for tracking, but each District's approach is unique. While programs are tracked at the HQ and Division levels, it does not appear there are formal tracking mechanisms used across USACE to track individual tribal projects. Participants noted the Regulatory Program uses the Operations and Maintenance Business Information Link (OMBIL) Regulatory Module 2 (ORM2), which is a robust system for tracking tribal engagement on project, programmatic, and process-level bases.<sup>16</sup> Based on discussions with USACE staff, the report authors note there is the potential for tracking individual projects through the USACE Financial Management System and in P2 (also known as the Project Management Automated Information System (PROMIS), which is the USACE scheduling and resourcing system). A modest change would allow a new project created in the USACE Financial Management System to be assigned an additional Command Indicator Code (CIC), identifying it as a "tribal" project. Then CIC could be used to "roll up" all tribal projects or,

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<sup>15</sup> Tribal Liaisons must make clear to Tribes that, while an authority always exists, funding is at the discretion of Congress. While USACE may express a "capability," Congress may fund programs at any level they wish.

<sup>16</sup> ORM2 is a database that is primarily tailored to the requirements of the regulatory process, which is very sensitive to the time it takes to obtain a permit. The system would need to be modified to focus on other key aspects of the project development process to be of effective assistance to monitoring progress on tribal projects.

conversely, to track in detail the status of an individual project when coupled with a project's P2 identifier. CICs are defined by the HQ Resource Management Program, and, as such, their cooperation would need to be requested if such a change were to be implemented (see *Tracking and Execution of FY15 Civil Works (CW) Operation and Maintenance (O&M) Funds Allocated for Sustainability and Energy Projects*, Memorandum 2014).

The need for such a simple mechanism becomes readily apparent when attempts are made to identify the number of tribal projects ongoing in the agency. One might also seek to query the relative status, their geographic representation, or any number of analytical categories. At the writing of this report, an effort was made to enumerate tribal projects ongoing within USACE. As the result of significant effort by the HQ Senior Tribal Liaison (STL), it was learned that there are 15 TPP projects underway in fiscal year (FY) 2020. In a previous analysis completed by USACE program managers it was learned that in 2018 there were 25 PAS/FPMS projects ongoing nationwide. The agency might be interested in average annual expenditures fulfilling our trust responsibilities to Native American communities. These and any number of questions could be rapidly and efficiently aggregated through the simple identification of tribal projects in systems that already exist.

During discussions with Tribes, USACE participants shared another challenge to program success: tribal members may not know which person, or what program or office, to contact within USACE for different issues. This becomes even more difficult when working across Districts. Participants wondered how this information could be streamlined to reduce the barriers for partnering and implementing projects. While the Tribal Liaison may ideally be the main point of contact within a District, this is not always feasible. Although this challenge may appear to be communications based, it is also an organizational challenge that often plays out in the lifecycle of a project. The large number of programs, authorities, and projects would be hard for one Tribal Liaison to track. Partnering with other agencies when they work with Tribes has worked well for some Districts. Those agencies can and do add additional skills and resources in such collaborations. This method both increases overall resources available to the Tribes and can reduce confusion or the burden of them having to work with multiple agencies independently.

Personal relationships are critical to effective intergovernmental communication with Tribes, and the state of the relationship between Tribal Nation leadership and USACE commanders is a critical foundation for formal agreements between USACE and Tribal Governments. USACE District leadership changes every two to three years, and many tribal leadership positions change annually. The strain these turnover events place on the important role of personal relationships in partnering can be reduced by developing a pattern of consistent, regular engagement with a crucial three-party meeting among tribal leaders, the outgoing commander, and the incoming commander. Such a "personal" introduction and "handoff" can be extremely effective in producing an ongoing engagement and demonstrating the change of command will not be a hindrance to continued collaboration and partnership.

During all discussions on policy, USACE staff expressed that the updated TPP cost share waiver has been very beneficial and well received by Tribes. The challenge when it comes to policy is that clear definitions are not always provided. One example brought up by several participants was the tension of implementing projects beneficial to “tribal lands” for projects off tribal lands. Specifically, a commenter noted the need for HQ to provide help and guidance to Districts on interpreting and explaining such challenges:

“Project was proposed as TPP. Project was just off tribal lands...it was a modification to an impoundment that would allow for fish passage. Effects would be felt on tribal lands. Guidance says, only applies if project is entirely constructed on tribal lands. Struggling to find a way to work around this issue. How do you get this project developed? [The benefit] is within tribal lands except where the construction is meant to take place. Limited by an important but insignificant limitation on this one.”

Even though the legislation referenced says “lands primarily within Indian Country,” in this case the interpretation provided was that though the project’s effects were primarily on tribal lands, since the project itself was located off tribal lands, it was not eligible for the TPP. It was also noted that District Offices of Counsel sometimes offer their own guidance, so there can be inconsistency across the agency.

Participants pointed out there have also been times when new guidance will come out during the middle of a project, which may then lead to confusion on current projects. A recent example of this occurring was when watershed studies guidance was rescinded and put under a different policy. Mid-stream changes in policy, or unclear or misleading interpretation of policy, can have negative impacts for long term collaboration with Tribes, as noted in the previous communication and outreach section.

Highlights of findings from the USACE program management and implementation discussions are in Table 5.

**Table 5: Findings from Internal USACE Assessment – Program Management and Implementation**

Key Questions	Themes and Findings
What is working well (lessons learned/ secrets of success)?	<ul style="list-style-type: none"> <li>• The cost share waiver for Tribes helps with funding and reduces the financial burden on Tribes.</li> </ul>
What are significant challenges?	<ul style="list-style-type: none"> <li>• Turnover in USACE staff can create distrust and halt progress on projects.</li> <li>• Tribes hesitate to share culturally sensitive information as it may not be protected under the Freedom of Information Act (FOIA) language.</li> <li>• USACE has multiple authorities and programs that make it difficult for Tribes to identify to whom or which program or office they should reach out to for assistance.</li> <li>• Tribes may have more experience working with other Federal agencies and not understand the projects and studies USACE can offer.</li> <li>• Tribal goals and priorities, which focus on protecting and enhancing culturally significant resources, do not always align with USACE project goals or processes.</li> </ul>
What are top priorities for action to strengthen collaboration with Tribes?	<ul style="list-style-type: none"> <li>• During engagement with Tribes, USACE staff should be familiar with the programs that could apply and how to use them. It is important to understand the authorities to deliver appropriate support and not over promise.</li> <li>• Regularly offering training and providing resources to support Tribal Liaison offices can aid in tribal engagement.</li> </ul>

### 3.2.3 Capacity Building

Participants were asked to highlight the policy, training, educational opportunities, or partnerships that help them to optimize relationships under the programs, the impediments to their capacity building efforts, and what they could use to increase capacity.

Participants noted cooperation with other Federal agencies has been effective in maximizing outreach opportunities. This requires becoming familiar with other agencies’ tribal program managers and staff, which can help USACE staff learn of other tribal studies or projects occurring in the area and how to leverage support to address tribal needs. Such interagency coordination can be helpful to Tribes with limited time and resources to familiarize themselves about what each agency can do and how it might apply to tribal lands. Recent examples included Flood Risk and Emergency Management workshops, funded through a Silver Jackets program grant, that leverage the resources of several Federal agencies to share information with multiple Tribes from a given region.

To maximize exposure of partnership opportunities, District staff working in the field need to be familiar with a variety of USACE authorities and how to use them. This message was conveyed several times by participating staff. A Tribal Liaison shared the need for Division staff to become better informed on the programs that can serve Tribal Nations. Along this same line, staff expressed the importance of USACE and Tribes understanding a shared terminology; without defining the terminology, misunderstandings can occur. Tailored trainings can help build capacity within USACE and Tribes. Several participants highlighted the effectiveness of a Tribal

Nations bi-annual training that has rotated to various Districts and regions of the country. This training brought a positive response and engagement from Tribes that were able to participate as honorary speakers and it sparked ideas among staff for more localized training opportunities.

Comments were also received expressing the need to better prepare new Tribal Liaisons to undertake their duties. One commenter noted, “There is no standardized program or mechanism for getting new [Tribal Liaisons] up to speed.... It would be helpful if there was some sort of introductory course, packet, guidance...” This would support Tribal Liaisons even if it is not their full-time position.

Building trust is not only about communication and outreach, although those are important for program success and for capacity building. Tribes may be hesitant to share information on sensitive topics (e.g., groundwater, surface water, cultural matters). Furthermore, Tribes may be reluctant to share information that may be subject to requests under the FOIA.<sup>17</sup>

Highlights of findings from the USACE capacity building discussions are found in Table 6.

**Table 6: Findings from Internal USACE Assessment – Capacity Building**

Key Questions	Themes and Findings
What is working well (lessons learned/ secrets of success)?	<ul style="list-style-type: none"> <li>• Leveraging work with other agencies builds joint capacity and maximizes outreach to Tribes.</li> <li>• Tribal Liaison Communities of Practice (CoP) meetings help to increase familiarity with the program.</li> <li>• Courses such as the internal USACE PROSPECT course help staff to gain a basic understanding of available authorities.</li> <li>• Localized training that includes tribal representatives solicits positive responses and engagement from both staff and Tribes.</li> </ul>
What are significant challenges?	<ul style="list-style-type: none"> <li>• Not all Districts have a Tribal Liaison as a resource, and most staff also require additional training in order to effectively communicate programs to Tribes.</li> </ul>
What are top priorities for action to strengthen capacity building for working with Tribes?	<ul style="list-style-type: none"> <li>• When Districts need to work with one another, staff could use more HQ support to coordinate and offer centralized resources, which will increase capacity across Districts.</li> <li>• USACE staff should attend cultural sensitivity training offered by resident Tribal Nations within their District or Division as these opportunities can initiate and improve relationships while improving one’s knowledge of critical issues.</li> <li>• Strong relationships within USACE, across program areas, including Planning and Regulatory, can improve processes and increase the ability to identify potential projects.</li> </ul>

<sup>17</sup> Tribes are often involved in legal disputes over many types of resources. Supreme Court decisions have reduced protection for sensitive tribal data in Federal custody. Premature release of this information may subject a Tribe to legal jeopardy. It is always essential to be aware of this fact when developing partnerships with Tribal Governments.

Based on discussions with the Tribal Liaison community and other staff, the USACE Tribal Nations Program has made significant progress since its inception in building the capacity of USACE to address the water resources problems and needs of Tribes. Significant achievements include the following, among others:

- establishment of a full-time Senior Tribal Liaison (STL) at HQ
- establishment of Tribal Liaisons at District and Division levels
- creation of a Tribal support policy statement
- development and application of USACE authorities to better address the water resources needs of Tribes
- formation of the TNTCX

Participating staff also stressed that there are still opportunities for additional growth and capacity building in USACE, including the following:

- establishing pathways for Tribal Liaison professionalization (e.g., career path, qualifications, training, and development)
- developing program performance goals, objectives, and ways to measure results
- providing dedicated funding for the TNTCX to increase support across USACE
- programming and advocating for increased resources to address requirements for program success and capacity building across the agency

Ways to address these challenges are described in the Recommendations (Section 5).

## **4 PHASE 2 – REGIONAL TRIBAL WORKSHOP FINDINGS**

Tribal and U.S. Army Corps of Engineers (USACE) participants in the regional workshops also spoke about what is working and what could be improved on for USACE communication and outreach with Tribes, as well as USACE program management and implementation. The workshops focused primarily on capturing tribal water resources challenges and needs. Discussions during the workshops led to additional findings on suggested water resources best management practices (BMPs). In each of these focus areas below, the findings that related to comments, questions, and suggestions from tribal participants are discussed first, followed by any USACE staff applicable suggestions that were provided at the workshops. A summary table for the more common findings follows the narrative discussion within each focus group. A list of all BMPs suggested by tribal workshop participants and USACE staff is in Appendix F.

### **4.1 Communication and Outreach Findings**

Tribes emphasize that strong relationships between USACE and Tribes require effective two-way communication and engagement. Building those relationships requires sustained trust, and several members of Tribes who attended the regional workshops reminded the USACE staff that the Army, and by extension USACE, has a long history of negative relations with Tribes that have impacted interactions. Furthermore, the impression of many Tribes was that Federal decisions are still being made that may damage overall trust and relationships. Historical injustices, as well as recent history, likely need to be addressed, or at least acknowledged, to move forward in some damaged relationships. Trust is an essential component of working with Tribes but building and maintaining trust requires an investment of considerable time, of which not all USACE staff have enough to dedicate specifically to the task. Tribes stated that relationships are often solid at the interpersonal level with some USACE Tribal Liaisons and other staff, while frustrations with the larger agency might remain.

Some USACE staff acknowledged during workshops and in post-workshop After Action Review discussions that it took them many years to gain the trust of Tribes in their Area of Responsibility (AOR). As was discussed in Section 3, staff said building trust required regular outreach and engagement that focused not just on speaking to tribal participants, but actively listening to them and taking their concerns and suggestions seriously by following through with action when appropriate. Only then may Tribes be willing to work collaboratively with USACE on each step of a Civil Works project or study.

Just as USACE staff have previously suggested the need for additional outreach materials on program opportunities that can benefit Tribes, tribal workshop participants said informational resources would be beneficial to their understanding of USACE programs and how they operate, and how Tribes can request a project or study. The letter of interest template to request USACE support for a project or study was found to be very useful by several Tribes (see Appendix G), but others are not aware of the sample inquiry letters and other resources that a District could provide to Tribes in its Area of Responsibility (AOR). At the regional workshops, each District



chose which handouts they would provide, so different Tribes received varying levels of resources, which could put some Tribal Nations at an advantage over others seeking support from a different District or Division. Tribes also stated that in addition to information on USACE Civil Works programs, specific content on how the Clean Water Act and Waters of the United States affect Tribes would be highly appreciated. As USACE staff debriefed lessons learned from these regional workshops, they noted that existing program materials should be distributed to all interested Tribes and new outreach materials should be developed to cover some of the gaps identified in this report.

The development of educational modules for Tribes on topics such as USACE programs and authorities, as well as the Regulatory Program, was another topic that many of the participating Tribes said would be very useful. Involving other Federal agencies like the Bureau of Indian Affairs (BIA) and Natural Resources Conservation Service (NRCS) in module development was another suggestion from tribal participants at the workshops. The educational modules could be given in webinar format, as was suggested by some workshop attendees, but face-to-face meetings are generally preferable for sharing information and relationship building. Some participants note that they tend to work with the same one or two people and/or agencies because they do not know who else can assist them. Interagency forums for Tribes to learn about all relevant Federal agencies, their contacts, and programs would be not only beneficial to Tribes but would also strengthen relationships between USACE and its Federal counterparts.

Those face-to-face interactions go beyond formal training programs, to attendance by USACE staff at cultural events hosted by the Tribes, at annual conferences for Tribes like the Affiliated Tribes of Northwest Indians (ATNI) Winter Convention, and through one-on-one meetings between Tribal Liaisons and tribal leaders on tribal lands and at USACE locations. It may also include more involvement from District commanders, particularly when Tribes have an issue that they think is not being addressed properly by other District staff. The District commander can provide a level of authority that lends support to the level of government to government consultation Tribes are due. Involving members of Tribes in the development of meeting or workshop agendas, including the selection of presenters, and management of other details, helps to build buy-in for the engagement and ensure the content better meets all parties' interests.

Successful engagement also requires that staff, both within USACE and the Tribes, talk to each other about their roles and responsibilities so that when turnover occurs (e.g., retirement, promotion) their replacement is aware of the projects taking place, the existing relationships, current outreach activities, and other tasks underway between USACE and its tribal partners. Several tribal workshop participants mentioned that they get frustrated when new USACE staff comes on board and is unaware of who to liaise with in their Tribal Government and what issues are of concern to the Tribe.

Some USACE staff agree that they have the same challenges regarding sustaining relationships with Tribal Government staff. They often reach out to who they think is the correct tribal representative, but often never hear back from that individual or find out that the person

no longer holds that role. Having a staff continuity plan on both sides – Districts and Tribes – would make long term communication easier and more productive.

Table 7 highlights findings from the communication and outreach workshop focus area. The table provides overall themes, outreach BMPs that were suggested by the tribal workshop participants or by USACE staff (marked with an \*), the number of workshops where the BMP was mentioned, and whether the idea/suggestion also came up during USACE staff group discussion interviews covered in Section 3 of this report.

**Table 7: Findings from Regional Tribal Workshops – Communication and Outreach**

Overall Themes	Suggested Best Management Practices (BMPs)	Workshop(s)	Mentioned by USACE Staff in Interviews / Surveys?
Outreach Materials	Reach out and provide program information and reminders about funding and how to request assistance to Tribes (i.e., bi-annual report and/or quarterly newsletter). You could broaden outreach to include key regulatory topics.	2	Yes
	Provide handouts and other visual aids to Tribal Government staff. The letter template is especially helpful.	2	Yes
Trainings and Meetings	Offer webinars, teleconferences, and in-person meetings/trainings for Tribes. Meet them where they are whenever possible.	3	Yes
	USACE should learn more about other agencies' work with Tribes to determine how best to improve interagency coordination and collaboration. This could include joint workshops to Tribes.	3	No
	Open meetings/workshops with an elder giving a prayer and close with a prayer.	2	No
In-person Engagement	Attend regional meetings and present at conferences where Tribes get together.	3	Yes
	Face to face meetings are extremely valuable and help to build trust, which is important to Tribes.	3	Yes
	Educate all sides about the language/terminology and processes of the USACE and Tribes so you can be prepared for future discussions.	2	Yes
	Regularly schedule face-to-face meetings. These are extremely valuable to Tribes and help to build trust.	2	Yes
	Have a translator available for all meetings with Tribes where language may be a barrier for some participants.	2	No
	Listen to each Tribe's needs and concerns; don't just talk/present at Tribes.	2	No

Overall Themes	Suggested Best Management Practices (BMPs)	Workshop(s)	Mentioned by USACE Staff in Interviews / Surveys?
In-person Engagement	Take Tribes’ concerns and suggestions seriously by following through.	2	No
(continued)	Be willing to share both strengths and shortcomings to build an effective working relationship.*	1	No
Leadership	If a Tribe is facing issues when working at the District level, they can reach out to the commander.*	2	No
Staffing Capacity	Develop a continuity plan. Turnover is a challenge when working with agencies and Tribes.* Hold staff to staff conversations to help with continuity to prepare for transitions.	4	Yes
	Have regional points of contact (POCs), like Division Tribal Liaisons, assist with coordination, outreach, and relationship building.	2	No
	Tribes are often used to dealing with one POC and they don’t realize there are others they could go to. Help make those connections to staff and other agencies.	2	No

## 4.2 USACE Program Management and Implementation Findings

Many tribal workshop participants noted that they have limited understanding of the various work USACE does or the various ways the agency has worked with Tribes in the past. Tribal participants stated they often lack enough information about how some programs work and they may be confused about some of the relationships between Civil Works Planning, Program and Project Management, and Regulatory branches of USACE. Additionally, many participants were unaware who their Tribal Liaison is and how they should go about contacting them. Meeting the Tribal Liaisons at these workshops was key to meeting that need. During each workshop, USACE staff answered all questions they could and then followed up with tribal participants on specific questions or project requests that could not be addressed during the allotted time. Some key topics of interest to tribal participants that were discussed include:

- What is the definition of “tribal lands” when considering a project or study area?
- Who determines what program applies to a project request?
- How does the cost share waiver work?
- How is “ability to pay” calculated?
- What constitutes a match?
- How are projects selected for funding?
- How does USACE work with other Federal agencies?
- What is an example of why an agreement between USACE and a Tribe might not be met?

- How does USACE determine which program is the most appropriate for a given project?
- And many others (see Table 8)

Some of this knowledge, or lack thereof, is based on word-of-mouth or outdated or generalized USACE handouts, while for others a distrust of USACE and the Federal Government in general has prevented them from wanting to learn more about USACE and its programs (Federoff 2018). Thus, these regional workshops were a welcome format for information exchange to occur. Tribal participants mentioned often the value of bringing USACE staff and tribal staff together for workshops that provided a space for listening and learning by all attendees.

Tribal Liaisons are often the key frontline agency staff to (re)build trust or sustain existing relationships with Tribes through regular engagement. However, given the broad scope of some programmatic questions, as well as the highly technical nature of the water resources project-specific questions, Tribal Liaisons will likely not be able to answer all questions on their own. The availability of program leads for Tribal Partnership Program (TPP), Planning Assistance to States (PAS), Flood Plain Management Services (FPMS), Silver Jackets, and Interagency and International Services (IIS) can be instrumental to success in the initiation and execution of projects and studies.

Table 8 emphasizes the questions most asked by tribal participants during the workshops. The table provides the overall themes, the specific questions that were asked by tribal participants, and the number of workshops where the same questions were raised. In each workshop, USACE staff answered what they could during the facilitated discussions and followed up later with tribal participants on specific questions.

**Table 8: Findings from Regional Tribal Workshops – USACE Program Management and Implementation Questions and Misconceptions**

Overall Themes	Key Questions
General USACE Information and Authorities	What is the definition of “tribal lands” and how does work off those lands take place?
	How can USACE support Tribes in complying with laws/mandates and provide guidance, especially unfunded legislation?
	How does USACE determine the difference between Section 103 and 205?
	Are inter-tribal organizations eligible under PAS? And can PAS be used for preventative problem-solving?
	Who manages the project, USACE or the Tribe?
	Does the hiring of contractors go through USACE?
	What is the next step after a study is done?
	How do cultural surveys work and who does them?

Overall Themes	Key Questions
General USACE Information and Authorities (continued)	How is USACE being more proactive about climate change?
	How does USACE incorporate tribal cultural practices/knowledge into projects and studies?
	Is there a limit to the number of partners that can be involved in a project?
Types of Projects that Are Funded	Does USACE have alternative/renewable energy projects?
	Does USACE have a program to deal with erosion?
	Would USACE fund small water treatment plants?
	Can USACE ecosystem rehab grants be used for non-USACE owned properties like tribal lands?
	Would USACE fund the construction of a sea wall?
	A beaver dam is hindering subsistence, can USACE help address this?
	Would USACE fund a boat ramp on the ocean?
	Could a Tribe purchase an unmanned aircraft as an acceptable project expense?
	Would USACE build wells?
	Where do Alaskan Natives sit in priority as compared to those in the lower 48 states?
Funding	What is a cost share waiver and how does it work?
	Can other Federal agency funds be used as a match under the TPP and other USACE programs?
	What qualifies as in-kind match?
	What per capita income is required to determine ability to pay for a Tribe?
	Is there a specific pot of money for TPP?
	If multiple Tribes applied for funds, how would that work?
	How can a Tribe be more competitive to get USACE funds?
	Can a project be paid for with 100 percent cost share?
Working with Other Agencies	How does USACE work with other Federal agencies?
	Could Tribal Liaisons offer their support in a letter to a Federal agency to support a proposed project?
	Can USACE help “grease the wheels” / get permission from non-tribal landowners for easements and/or involvement in a project?

Overall Themes	Key Questions
Project Specific Questions	If there is a smaller project, can a small Tribe apply for a Categorical Exclusion (CatEx) so it could be faster initiation of the project?
	How does a Tribe quantify the benefit of subsistence into a project?
	How are mitigation bank credits calculated?
	Has USACE ever looked into projects regarding restoration of natural springs? If so, how would that work?
	Would the intergovernmental support problem help with dredging/streambank reconstruction? And would USACE help design it?

### 4.3 Water Resources Challenges Findings

A primary objective of the tribal workshops was to learn what water resources challenges are priorities for Tribes and have USACE staff discuss possible programs that could address those issues. While water resources challenges and priorities vary for Tribal Governments across the United States, some strong commonalities exist. For instance, infrastructure related to water (e.g., reservoirs and storage, water treatment plants, irrigation ditches) was the most discussed topic, being mentioned 31 times over the course of all seven workshops. Water quality/quantity, flooding, and erosion are other top concerns for the 97 tribal attendees involved in this study. Although the presence of these key challenges across the regional workshops is important to recognize, the unique priorities of any Tribe are critical to consider.

What USACE staff think are the most pressing concerns in a District’s AOR, or within a watershed, might not line up with a Tribe’s top challenges. Therefore, it is essential for USACE staff to be aware of with the priorities of Tribal Nations. The agency may not be able to address each tribal water resources need but engaging wherever possible and suggesting the involvement of other agencies or entities will be greatly appreciated.

Table 9 highlights findings from the water resources challenges discussion. The table provides the overall challenges, the number of total times it was mentioned in one or more workshops by tribal participants, and the number of times it was mentioned by USACE staff during the interview and survey phase, where relevant. A more complete listing of all challenges can be found in Appendix F.

**Table 9: Findings from Regional Tribal Workshops – Water Resources Challenge Categories**

<b>Water Resources Challenges</b>	<b>No. of Times Mentioned in a Workshop</b>	<b>No. of Times Mentioned by USACE Staff in Interviews / Surveys</b>
Infrastructure	31	7
Water Quality and Quantity	29	3
Flood Related Issues	25	6
Erosion and Sedimentation	22	1
Restoration Work	11	7
Dams	11	1
Traditions and Cultural Resources	9	8
Watersheds	9	6
Climate Change	8	0
Emergencies	7	1
Regulations and Legislation	7	0

#### **4.4 Water Resources Best Management Practices (BMPs) Findings**

During the regional workshops, tribal participants and USACE staff shared experiences about water resources related issues and projects, and suggested areas for improvement. These BMPs fall into five broad categories: cultural resources and traditions, working with other agencies, funding, working with Tribes, and internal USACE processes. A full list of findings can be found in Appendix F.

##### ***Cultural Resources and Traditions:***

Water is an inherit part of tribal cultures and their spiritual/religious systems. Federal agencies often speak of water as a natural resource to be managed and used. USACE staff should seek to better understand the vast significance of water to Tribes and how particular bodies of water may be integral to their cultural traditions or their sense of place. Each Tribe has its own unique relationship with water and the sources that exist within their current or ancestral lands. At several workshops, the tribal participants recommended an organizational mindset change in how USACE approaches water resources work with Tribal Nations. They suggest USACE work with Tribes closely on cultural resource concerns and carefully consider a Tribe’s traditions and traditional ecological knowledge (TEK) throughout the project selection and implementation phases. This includes considering the use of TEK practices that may be contained in a Tribe’s management plan.<sup>18</sup>

<sup>18</sup> USACE’s *CONSULTING WITH TRIBAL NATIONS* training covers many of these requested topics and more. Although typically the training is offered at two Districts each year, not all personnel who interact with Tribes are able to attend.

USACE should also take measures to protect location-specific information for these resources in reports and other public documents due to FOIA concerns. Albuquerque District and the TNTCX provided at least one example where this has been done on a watershed study for a Tribe. One suggestion is to keep sensitive site information confined to an appendix that only the Tribe would receive. Another is to take Tribes at their word about the locations of sensitive cultural resources that do not need to be disclosed for a project to proceed.<sup>19</sup> Additional outreach to staff would help to educate them on these tribal concerns and how USACE can help alleviate them.

***Working with other Agencies:***

At five of the seven regional workshops, other Federal agency staff (e.g., Bureau of Land Management (BLM), NRCS, Environmental Protection Agency (EPA)) were in attendance as guest participants. In each case, USACE District staff invited them so they could share information with Tribes about relevant programs and, where applicable, discuss interagency collaboration opportunities to support Tribes. As was mentioned previously, interagency coordination can be mutually beneficial and ultimately help ease the burden on Tribes to figure out what the various agencies can bring to the table.

The workshop participant evaluations demonstrate the benefits of having other agencies in the room and the value of an interagency approach to any future collaborative workshops on water resources planning and management. However, some USACE staff mentioned that they lack a designated POC at certain Federal agencies, which makes coordination and collaboration challenging. Forming those relationships ahead of any potential need is critical. As one person noted, “The future potential of projects relies on knowing how to work with them. Future interagency coordination needs to make sure we’re all on the same page.”

***Funding:***

Throughout the workshops, USACE staff mentioned that Federal funds for water resources projects on tribal lands are limited nationwide. Currently, the number of submitted projects does not overwhelm the amount of money available in most cases, but as USACE continues to educate Tribes on the program that might change as more Tribes apply. Workshop presenters explained that only Congress can authorize additional funds for USACE programs like TPP and PAS. In addition, some workshop attendees expressed concern that the timing of matching up Federal funds like those from USACE with a Tribe’s timeline and project timelines can be a challenge.

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<sup>19</sup> USACE has been able to work with some Tribes to protect sensitive data, such as information derived from a watershed study on tribal lands.



The impact of USACE water resources projects on tribal lands could be increased by several orders of magnitude if combined with the funds and expertise of other Federal (and state and local) agencies. Many Tribes are not aware, for instance, that other Federal agency funds, like those authorized by the Department of Interior (DOI) through the *Indian Self-Determination and Education Assistance Act, Public Law 93-638*, can be used as a match for USACE project funding, or that USACE can write letters of support for projects seeking those funds.

***Working with Tribes:***

Routinely, USACE works with contractors to complete some parts of water resources projects. Some tribal participants suggested that Tribes could play a greater role for contracted, USACE-funded work being done on tribal lands. Professional, skilled work is difficult to find on tribal lands, according to some Native American participants, and this causes many young people to leave the reservation in search of better paying jobs. Being able to contract with tribal members as engineers, surveyors, natural resource professionals, and others for water resources work being funded by USACE would help fill an employment gap. It was suggested by several tribal attendees that USACE staff work with the Tribal Employment Rights Officer (TERO) to identify and contract with the right professionals for the job.

Working closely with Tribes, especially tribal leadership, throughout the life of a project may help minimize another concern of Tribes – that of “bad” contractors who perform work that is seen as sub-par on tribal lands. Some tribal participants are concerned with the use of lowest price bidders/contractors; however, a few District staff are under the impression that they have no control over that contracting requirement. One person did mention, though, that requirements can be written in such a way as to reduce the chances of a sub-par being chosen. Education is needed across Districts to raise awareness among staff on how the contracting process works to clear up any confusion and misinformation.

***Internal USACE Processes:***

Tribes suggested clarifying the various stages of project implementation upfront to help clear up any misunderstandings early in process. Tribes may have one solution in mind while USACE has another. Tribes may not understand all the different elements that go into a project and why it seems to take longer than anticipated. Frequent project updates and ongoing dialogue would reduce the opportunities for frustration. That requires effective project management on both sides, with clear expectations set forth in writing and explained verbally from project inception (with the use of a translator, where necessary, to involve community members that may not otherwise be able to provide critical input). One tribal member suggested the creation of a streamlined checklist, which would walk Tribes through the process of requesting, managing, and maintaining a project. Tribes may also want to understand the limitations of projects that occur outside of tribal lands but still impact tribal communities.

Another important suggestion from Tribes for improving USACE processes is asking District staff to recognize that many years of planning may have gone on by the Tribal Government before a project is submitted to USACE for funding and not to dismiss or overlook what has already been done. This recommendation was given by a tribal member who has seen well researched and written plans sit on shelves, frustrating those who helped write them. Even if USACE was not involved in the creation of those plans, the content can be relevant to its work moving forward. Several USACE staff likewise stated that any previous related USACE work for the Tribes should be consulted before starting from scratch.

## 5 RECOMMENDATIONS FOR STRENGTHENING COLLABORATION

The recommendations set out in this section are derived from the findings in Sections 3 and 4, as well as discussions with the U.S. Army Corps of Engineer (USACE) Institute for Water Resources (IWR) team (Collaboration and Public Participation Center of Expertise (CPCX) and the Tribal Nations Technical Center of Expertise (TNTCX)) and unresolved recommendations from prior studies (Native American Intergovernmental Relations Task Force 1996, Martin and Smith 2002, Federoff 2018). They are organized under subject groups covering USACE communications and outreach materials (including guidance), training and capacity building (including professional development), and program management and implementation. Each subject group has one or more narrative elements drawing from the findings and recommendations under that subject group.

### 5.1 Communications and Outreach

#### ***1. Recommend USACE initiatives to enhance internal and external communication for Tribal Government engagement and partnering.***

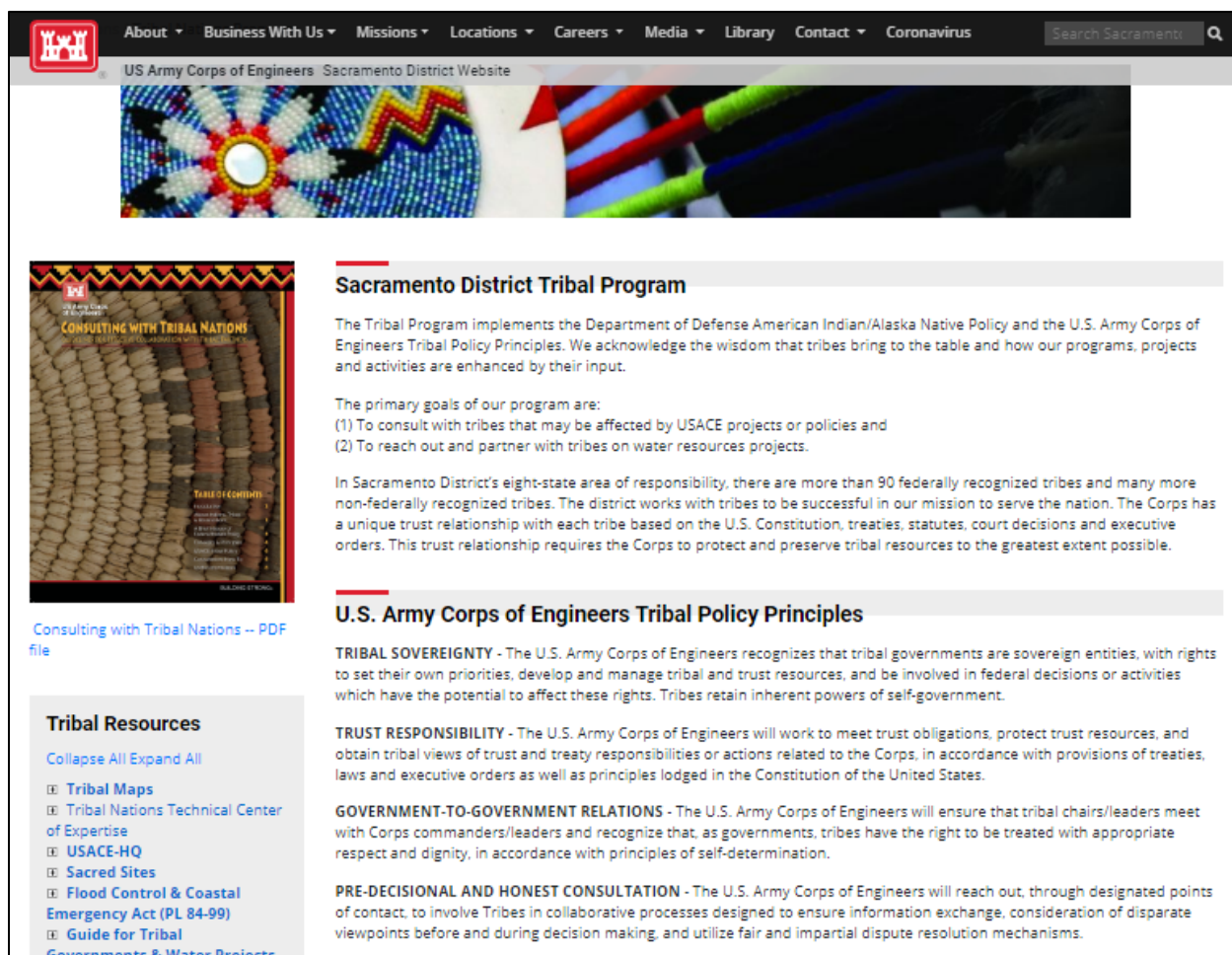
During the facilitated virtual group discussions, USACE personnel mentioned the need for better communications tools to facilitate tribal partnerships. Having a well-defined and intentionally structured communications and engagement strategy will enhance knowledge sharing and clarify the opportunities for USACE to support tribal water resources project implementation. Where possible, expand resources to support engagement generally, and project development specifically, including involvement by the District, Division, and Headquarters (HQ) level Public Affairs Officers (PAO). Elements that would enhance communication and engagement include:

- Develop information and education packages targeting Tribal Governments, offering training and education on the various USACE programs that would support partnerships between USACE and Tribes on Civil Works projects, including for water resources.
- Encourage routine communication and engagement by USACE District commands and District Tribal Liaisons with federally recognized Tribal Governments.
- Encourage USACE Division and District Program Managers to develop and sustain partnering opportunities with Native American Tribal Governments.
- Encourage USACE Divisions and Districts engaged with tribal members to work with USACE PAO to create dedicated webpages that support engagement, such as the one depicted in Figure 3, created by the Sacramento District.<sup>20</sup>

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<sup>20</sup> <https://www.spk.usace.army.mil/Missions/Tribal-Nations-Program/>

Figure 3: Sacramento District Tribal Program Webpage



**2. Update and increase frequency of USACE communications across all types of materials and media (e.g., newsletters, webinars, factsheets), including guidance for project evaluation, selection, and funding.**

Create a regularly updated contact list of federally recognized Tribal Governments for USACE Tribal Liaisons, program managers, and other key staff, including the PAO. Similarly, create a regularly updated contact list of USACE Tribal Liaisons as a quick reference in response to inquiries by Tribal Governments. At each workshop, tribal participants echoed the same sentiment – they are often unsure who their USACE District Tribal Liaison is and do not know who to contact about specific USACE programs. Tribal members may be used to interfacing with one specific individual at a District and not realize that they could contact other personnel with expertise on specific USACE programs. At the same time, USACE staff often have difficulties getting responses from Tribal Governments. Each District will benefit from verifying continually the best ways to communicate with each Tribe in its Area of Responsibility (AOR).

- Review and update USACE print materials used to explain key programs that address tribal water resources needs, and the procedure for implementing them. Recommended tasks include:
  - Existing USACE District, Division and/or agency fact sheets and brochures on tribal programs should be reviewed for accuracy and completeness, and then updated.
  - The Letter of Interest Template (Appendix G) should be updated and adopted nationwide.
  - USACE materials should be reviewed for use of “plain language” to ensure understanding. Many of the tribal participants said the words “authority” and “authorization” were confusing to them.
  - It should also be made clear in each external communications piece that USACE District staff, particularly the Tribal Liaisons, will work with Tribes to determine which programs are most applicable to their water resources planning and management needs or related infrastructure challenges. It is not a requirement that Tribes try to figure that out on their own.
  - USACE materials should be centrally available to all interested Native American Governments and USACE staff (e.g., through the TNTCX Tribal Platform).
- Develop a formal USACE continuity program for Tribal Liaisons and other USACE staff who interact regularly with Tribes. Staff turnover is a communications challenge for both USACE staff and Tribes. There should be more formalized conversations between departing staff and their replacements, whenever possible, to ensure transfer of knowledge about both USACE programs and Tribe-specific issues.
  - USACE cannot directly control how continuity is managed within Tribes, but the Tribal Liaisons can make suggestions with their tribal contacts – particularly after a close working relationship has been established – on best management practices (BMPs) that can be used to create a more seamless transition from one natural resources professional, tribal leader, or cultural resources practitioner to another. Using the USACE continuity program as a model, Tribal Liaisons can work with their tribal counterparts to improve long term knowledge transfer on both sides.

**3. Develop a strategic approach to tribal engagement integrated with the USACE Campaign Implementation and Operations Plans.**

USACE District leadership, Tribal Liaisons, and program and project managers should develop these strategic documents initially and review/revise annually. Engagement or Customer Relations Plans are a common practice in USACE Divisions and Districts, typically for Planning, Public Affairs, and other programs. A Strategic Tribal Engagement Plan would be used to get all District staff who interact with Tribes on the same page in terms of rules of engagement (e.g., frequency, code of conduct, correct contacts, BMPs, annual timeline). By knowing the

desired types and frequency of tribal engagement and having it documented, each District will be better able to budget annually for printing, travel, payroll, and other factors related to work with Tribes.

- Although Native American Tribes are not simply “stakeholders,” USACE’s Planning pamphlet, *Stakeholder Engagement, Collaboration, and Coordination* (CECW-P; EP 1105-2-57), provides critical guidance for any Strategic Tribal Engagement Plan. It reminds staff that:
  - “Federally recognized Tribes (as defined in section 102 of the *Federally Recognized Indian Tribe List Act of 1994* (25 U.S.C. 5130) and including Alaska Natives are not considered stakeholders due to their sovereignty. Division and District commanders must coordinate Civil Works planning programs with American Indian and Alaska Native Governments (hereinafter referred to as “Tribes”) consistent with Executive Order (EO) 13175 *Consultation and Coordination with Indian Tribal Government* and Department of Defense (DOD) policy. The Corps has an obligation for pre-decisional government-to-government consultation consistent with the USACE 2012 *Tribal Consultation Policy* (CECW-P; EP 1105-2-57).”
- USACE District outreach reports should be completed at year’s end to measure how closely the Strategic Tribal Engagement Plan’s content matched what took place that year. The report should analyze the coordination, outcomes, and lessons learned during project execution with Tribes and be used to modify, if needed, the Strategic Tribal Engagement Plan for the coming year. USACE Division and HQ USACE leadership will be able to compare progress among Districts using these outreach reports to determine where support and guidance from the TNTCX may be needed. When executed strategically, these engagements or customer relations plans seamlessly integrate with and directly contribute to the overall success of USACE Campaign Plans.
- Reinstate and regularly update a report tabulating USACE projects with federally recognized Native American Governments. This recommendation responds to comments expressed in facilitated virtual group discussions that information about results being achieved by the Tribal Nations Program are not widely reported. Most Tribal Liaisons believe the results being achieved are significant and need to be more widely shared—within USACE, with other agencies, with the Tribes, and with the public. This recommendation addresses several issues voiced during the facilitated virtual group discussions: there is a lack of information about “results” being achieved by the Tribal Nations Program that can be reported back to Congress, and there is a need for a routinized data collection system for reporting such results.

**4. In pursuit of strategic engagement, increase the number of in-person meetings, workshops, and conferences attended by Tribal Liaisons and other USACE staff to improve awareness and build relationships.**

Native American culture is based on personal relationships. In-person meetings are essential to building trust between Tribal Governments and USACE, something that numerous workshop participants noted is important to them. For Tribes that are still unfamiliar with USACE programs, or have apprehensions about working with USACE, in-person outreach is essential. Tribal members need to know the language and terminology of USACE to be better prepared to communicate and work with one another. Going where Tribes are (e.g., locations on tribal lands or at tribal conferences/events) reduces the financial burden to Tribes and recognizes their unique relationship to the Federal Government.

Although in-person engagement is not possible now due to the 2020 COVID-19 pandemic, when health and safety conditions allow, suggested specific, regularly scheduled meetings between USACE and Tribes might include:

- Tribal leaders should be invited to attend USACE District change of command events to build and strengthen relationships, a practice that does occur currently in many Districts. It is important for these leaders to have a relationship with the District commander so that if problems arise, they can go directly to the commander to request a government-to-government consultation. Commanders in turn should be responsive to tribal requests, responding in a prompt and respectful manner.
- A two- to three-day annual *USACE Tribal Liaisons Conference*, rotating the location from one USACE District to another. In alternate years, USACE could also host a two-day *National USACE Conference for Tribes*, which would also rotate to different locations across the country. These conferences could focus on hot button trends, BMPs, case studies, and offer ample time for networking between government staff and Tribes. The overall goal of these conferences is to strengthen working relationships among all parties and break down barriers to trust and communication.
- USACE Division-wide regional workshops, hosting up to two per year on a rotational basis. These two-day workshops could be tailored to the current challenges and opportunities in each Division, bringing local Tribes together with USACE staff and other Federal, regional, and state organizations. These smaller workshops would provide more opportunity for Tribes to converse with government representatives and build one-on-one connections.
- An annual one-day workshop hosted by each USACE District for the Tribes they support. These could take place as an extension to existing tribal conferences, as was done for some of the workshops in this project, or they could take place at the District office or a tribally owned facility that is central to a majority of Tribes in the District. District staff would coordinate with tribal leaders to select the date and location, plan

the agenda, and invite presenters, among other details. Involving the Tribes from the start will help create buy-in. Other Federal, state, and local stakeholders can be invited, as appropriate to the agenda.

- Provide translation services as needed. English is not always well understood by some members of Tribes, particularly those of older generations. They may be more candid and able to voice their concerns in their native language. At any of these in-person gatherings, having a translator can assist with ensuring that all messages and information are understood fully.

## 5.2 USACE Training and Capacity Building

### 5. ***Provide authorization and additional funding for agency staff capacity building, to include a “Tribal Liaison mentoring system” and formal training program.***

During the facilitated virtual group discussions, it was noted that new Tribal Liaisons would like to have more guidance on how to communicate effectively with Tribes and how to address troublesome issues that may arise when implementing programs. An issue heard frequently in the facilitated virtual group discussions and within the web-based survey was that many Tribal Liaisons learned what the position entails via “on the job training.” While this approach can be an effective way of learning, it can create gaps in an aspiring Tribal Liaison’s knowledge base, which can generate uncertainty about how to proceed when new situations or opportunities arise. Having a mentor knowledgeable in tribal engagement assigned to a new Tribal Liaison would allow him or her to discuss questions about encountered situations. This would provide needed information and guidance and would accelerate the rate at which new Tribal Liaisons acquire experience and confidence.

- The Tribal Liaison mentor could be selected based on the submission of a statement from the new Tribal Liaison about the kinds of issues and questions they find challenging. A Tribal Nations Community of Practice (CoP) panel could review the statement and select a mentor from the cadre of Tribal Liaisons, and the mentor and protégé could establish a jointly agreed upon process to confer and discuss issues and approaches over several weeks.
- Opportunities to expand USACE staff knowledge about proper engagement methods and strategies should be offered more routinely both in a classroom setting (e.g., USACE PROSPECT course or directly within a District or Division) and via distance learning courses or webinars. These trainings should be required for new Tribal Liaisons and other incoming staff who work with Tribes, and highly recommended for more long-serving staff. Enhancing resources available to staff to attend these events is important to building foundational knowledge across the agency.
- New USACE training opportunities touching on the key topics will benefit from being broadened, more varied, and financially supported no matter the source. The HQ



Senior Tribal Liaison (STL) and/or TNTCX staff, in conjunction with the USACE Learning Center, could lead the development and implementation of content for new course offerings (e.g., modules, overall goals and objectives, core competencies, agenda development, presenter/instructor assignments, handout materials). Instructors could come from within USACE, as well as other Federal and state government agencies, and members of Tribes who can share their perspectives and experiences in working with the Federal Government.

- USACE staff could benefit from additional training opportunities focused on methods of engagement and information sharing with Tribes that could facilitate improved outreach to Tribes during general USACE activities.
- These courses could build upon or supplement USACE's existing course, *Consulting with Tribal Nations*, which traditionally has been offered bi-annually by the USACE Tribal Nations Program. New courses or content might focus more specifically on key steps in partnering and collaborating with Tribes on studies and projects.
- Tribal participants in the workshops also discussed how trainings on USACE programs, new regulations, and business development, whether in-person or webinar format, would be beneficial to them. Supporting the development and ability of such a “force multiplier” could have substantial effect across Tribal Nations Program goals. Any form of training will improve outreach to the Tribes as well as enhance the general understanding of USACE's staff about the various programs that Tribes can use for their water resources needs. Webinars and other forms of appropriate virtual collaboration may be more common and desirable in the future as all governments adjust to the restrictions on travel and gatherings during and after the COVID-19 pandemic.
  - USACE staff and tribal members could benefit from webinars that showcase one or more case studies featuring novel or creative ways that outreach funds can be stretched or how other funds and programs can be leveraged to expand outreach and/or project success.
  - The Tribal Nations Community of Practice (CoP) might promote the sharing of good ideas and lessons learned, “stretching” the impact of outreach funds through the creation of webinars or similar venues (i.e., for USACE staff, Tribes, and other potential partners).

#### **6. Create an internal “Tribal Liaison toolbox”.**

USACE personal insights collected during the internal assessments demonstrate the need for a one-stop-shop for Tribal Liaisons and other staff to find helpful materials. An internal USACE website devoted to addressing the needs of Tribal Liaisons would provide a central repository of information that would enhance the capability of the Tribal Liaison community.

When the investigation for this report began, a “toolbox” for Tribal Liaisons did not exist. However, in the last year, the TNTCX, supported by the Albuquerque District and South Pacific Division, developed a “Tribal Liaison Toolbox” that now can be accessed at the TNTCX website.<sup>21</sup> In conjunction with the professional development opportunities outlined in Recommendation 5, this toolbox will provide needed information to help accelerate the rate at which Tribal Liaisons acquire new knowledge. In the future, the toolbox website will also include:

- existing USACE District, Division, and/or agency fact sheets and brochures on tribal and USACE programs
- sample letters of support and letters of interest
- presentations and recorded webinars
- back issues of TNTCX and other USACE newsletters
- contact information for tribal leaders and tribal natural resource managers

**7. Establish a Tribal Liaison annual award for outreach and engagement with Tribes.**

Tribal Liaisons are the face of USACE’s work with Tribes across the country. Their role is invaluable in building and maintaining strong relationships. Tribal Liaisons do substantial amounts of work with limited resources and, at times, competing priorities. Recognizing those who go above and beyond the minimum job requirements would not only provide validation and incentive to those Tribal Liaisons but might also inspire other staff to work more closely and frequently with Tribes. It could also raise the significance of the position in the eyes of District commanders and HQ leadership.

- The award could be given to the chosen Tribal Liaison by their commander at the annual Tribal Liaisons Conference, but any USACE staff or even member of a Tribe could nominate the person for the award.
- Criteria for nomination and selection could include the number of in-person meetings and other engagement events with Tribes, the total number of Tribes engaged, the number of water resources projects occurring with Tribes, participation in optional Tribe outreach related trainings, and the overall satisfaction of Tribes in the District with the Tribal Liaison’s performance, based on rankings of a survey sent from the District to each Tribe.
- The final decision on which Tribal Liaison will receive the award could be made by the HQ STL and staff from the TNTCX.

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<sup>21</sup> <https://www.spa.usace.army.mil/Missions/TNTCX/>

### 5.3 Program Management and Implementation

#### **8. Clarify the processes for evaluating and selecting tribal projects/studies for funding at the agency level.**

In-depth discussions with USACE staff suggest that District and Division personnel would benefit from greater clarity on the ways the agency evaluates and prioritizes tribal projects for selection and funding. There is a need to clearly explain to USACE staff the metrics for evaluating and prioritizing projects that serve Native Americans under each Civil Works program (e.g., Tribal Partnership Program (TPP), Planning Assistance to States (PAS), Flood Plain Management Services (FPMS), Continuing Authorities Program (CAP)) and the methods for tracking progress in Project Review Boards and up the chain of command. Clarify to USACE staff how projects are “racked and stacked” and better manage any expectations of Tribal Governments who request support. The agency should also consider the following elements that are unique to Tribes:

- What may seem like a small project to USACE staff could be considered large and vital to a Tribe. Taking on substantial projects may be challenging for Tribes, given the limited resources they might have. USACE should continue to support the priorities of Tribes even if it is a smaller Civil Works program effort. This may allow a greater number of Tribes to receive USACE support, which could then encourage Tribes to be a voice at the Congressional level.
- Interactive workshops provide an excellent forum for two-way information exchange, however only a limited number of Tribal Governments may be able to participate in such one-time gatherings. Given the limited resources available to Tribes, clear explanations need to be provided to help their project submissions be as competitive as possible.
- Traditional knowledge is central for Native American Governments. When determining the overall benefit of a project, the cultural and ecological benefits or impacts may outweigh economic benefits. These considerations might not be apparent to many USACE employees but should be a part of the collaborative decision-making process of implementing projects with Tribal Nations.

#### **9. Implement tracking of tribal projects at the agency level.**

Rapid and efficient quantification of USACE tribal projects would greatly enhance project and program management. In addition, higher level reporting through the Office of Assistant Secretary of the Army (Civil Works) (OASA (CW)) for the Administration and Congress would be greatly facilitated. The TNTCX could support HQ in these analyses.

- Introduce unique alpha or numeric identifiers for individual Native American projects in the Project Management Automated Information System (PROMIS or P2) – the USACE scheduling program, the Corps of Engineers Financial Management System (CEFMS) – the USACE financial management system, or both. This simple mechanism

would enable expanded project tracking. The process is easily accomplished at the initial entry of a project into either system.

- Enable quarterly, semiannual, or annual assessments of program utilization and project execution.

### **10. Improve interagency collaboration.**

At each workshop, questions arose about how USACE works with other Federal agencies like the Bureau of Indian Affairs (BIA), Natural Resources Conservation Service (NRCS), and the Environmental Protection Agency (EPA), among others. Some tribal participants wanted to know if other agency funds could be used as a match for USACE project funds. Others wanted to know if USACE would be able to write a letter of support for a Tribe seeking assistance from another agency.

- The first step is to spell out the answers to questions like these in a USACE engagement piece that can be distributed to Tribes. The second is to evaluate how USACE currently works with the various Federal agencies and determine if more could be done to work with those that frequently engage with Tribes. Improved coordination would reduce duplication of effort, make funding dollars go further, and clear up some confusion among Tribes about which agency they should communicate with on various issues. Engagement with Federal agencies can take place at both the USACE HQ level, through the STL, as well as at the District level, following clearly spelled out guidance as to the roles and responsibilities of each agency.
- At some of the workshops there were participants from other Federal agencies, which was helpful in showing Tribes that coordination does occur between agencies and in answering questions that were not exactly in USACE's purview. District staff took it upon themselves to invite representatives from agencies like the Department of Housing and Urban Development (HUD) and the Bureau of Land Management (BLM) to the workshops; some were given formal time on the agenda to present, while others were granted the same time for sharing and asking questions as the tribal participants.
- In the future, USACE should continue to invite other Federal agency representatives to meetings and workshops with Tribes, and consider developing joint trainings and outreach materials, where relevant.

Table 10 illustrates the overall needs related to effective collaboration between USACE and Tribes, as well as the current ongoing and future opportunities for action outlined in the Recommendations section.

**Table 10: Collaboration Challenges and Recommended Actions for Resolution**

Overall Needs	Current and Future Actions
<b>Communications and Outreach</b>	
Strategic engagement	Funding of an agency Tribal Engagement Plan by the TNTCX
Increase face-to-face meetings	Command memo from USACE leadership
Increase internal USACE communication	Amplify TNTCX Tribal Platform
<b>USACE Training and Capacity Building</b>	
Tribal Liaison mentoring	Integration into USACE individual development programs
Tribal Liaison Toolbox	TNTCX tribal platform - <a href="https://www.spa.usace.army.mil/Missions/TNTCX/">https://www.spa.usace.army.mil/Missions/TNTCX/</a>
Agency recognition	Recognize outstanding Tribal Liaison accomplishments
<b>Program Management and Implementation</b>	
Evaluation and selection transparency	Inclusion of the Tribal Program in the planning and implementation of the annual budget process
Interagency collaboration	Command memo from USACE leadership encouraging collaboration

## **6 CONCLUSION**

The overarching goal of this assessment was to examine the current state of collaboration between the U.S. Army Corps of Engineer (USACE) and Tribes and to recommend improvements to existing collaborative processes as well as new strategies to help address the water resources challenges Tribal Nations confront. Over the past 40 years, many strides have been made by USACE and the Office of Assistant Secretary of the Army (Civil Works) (OASA (CW)) to improve the way they work and partner with Tribes through the Civil Works programs, including formalizing the Headquarters (HQ) Senior Tribal Liaison (STL) role, establishing a Tribal Liaison Community of Practice (COP), creating the Tribal Nations Technical Center of Expertise (TNTCX), and expanding the Tribal Partnership Program (TPP). With more recent improvements in the USACE Tribal Nations Program, the agency's engagement with Tribes now often includes formal cost share partnerships and direct collaboration between USACE District staff and Tribal Government staff on Civil Works projects and studies.

Although improvements have been made, challenges remain. These challenges of communications and outreach, training and capacity building, and program management and implementation were identified in USACE surveys with Tribes 30 years ago, and yet many remain to this day. Topics such as the development of a uniform Environmental Justice policy and guidance, processes for the incorporation of traditional ecological and cultural knowledge, "Other Social Benefits" project justification, as well as government-wide coordination on all these issues, are beyond the scope of this report, warranting additional investigation and individual resolution.

Even though water resources priorities vary for Tribal Governments across the United States, Tribes share many similar challenges related to managing and protecting their water and lands. Flooding, erosion, climate change impacts, and water quality are major concerns reflected by the 97 tribal attendees involved in the seven USACE-organized workshops held between August 2019 and March 2020. Improving infrastructure for water management (e.g., reservoirs and storage, water treatment plants, irrigation ditches) was a commonly discussed need in the workshop discussions. Tribal participants and USACE staff also discussed key water resources management insights that are organized into best management practices (BMPs) in this report. These BMPs are described under five broad categories: cultural resources and traditions, working with other agencies, funding, working with Tribes, and internal USACE processes. A full list of workshop findings can be found in Appendix F.

The report's findings also suggest that many USACE Districts and Divisions are creating innovative tools and pathways to enhance water resources projects with Tribal Nations, reaching out to Tribes to implement innovative projects under existing authorities, and taking an interagency approach to addressing tribal needs like flood risk management under programs like the USACE Silver Jackets. Many USACE staff have strong awareness and familiarity of the various Civil Works authorities and programs that are available to Tribes. The USACE Tribal Nations Program and the TNTCX continue to share their lessons learned and BMPs through informal

conversations, within the USACE Tribal Community of Practice (CoP) and its annual meetings, and in the quarterly TNTCX newsletter.

The recommendations in this study aim at amplifying the effective sharing and transfer of the lessons learned and BMPs from the facilitated discussions with USACE staff and tribal participants. Recommendations include strengthening communication and outreach strategies, offering mentoring opportunities and additional formalized trainings for all Tribal Liaisons, creating a centralized location for resources that support USACE staff and tribal partners, increasing the number and frequency of virtual and in-person meetings with tribal representatives, and providing additional guidance and transparency about the factors used to evaluate projects and proposals. Addressing the report's recommendations at an agency-wide level can reduce impediments to program implementation, build the capacity of staff across Districts and Divisions, improve working relationships and trust between Tribes and USACE, and ultimately help to meet the critical water resource needs of Tribal Nations.

In summary, the report demonstrates that both USACE personnel and tribal members who participated in this study value many of the opportunities that exist to collaborate for the benefit of Native American communities. While the internal USACE assessment garnered important insights and experiences from within the agency, the regionally focused workshops with tribal participants created an opportunity for the critical perspectives and requirements of Tribal Nations to be shared with USACE staff, while also allowing for in-depth discussions about how USACE programs can help to address tribal water resources needs. The collective insights of the participating Tribes and USACE staff can help pave the way for greater efficiencies and more desirable and effective project partnering opportunities between USACE and Tribal Nations.

Of necessity, this report identifies and discusses policy and procedural impediments at a surficial level and far more remains to be done to move the Tribal Nations Program forward. A next step would be the creation of a master list of policy and procedural impediments, as well as areas of inquiry. In the future, impediments could be more fully described to enable OASA (CW), USACE senior leaders, Tribal Liaisons, and the many staff who work with Tribes to understand impediments resolved, impediments unresolved, and ideas and actions for addressing those that are unresolved.

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## APPENDIX A. ACRONYMS

AOR	Area of Responsibility
ATNI	Affiliated Tribes of Northwest Indians
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BMPs	best management practices
CAP	Continuing Authorities Program
CatEx	categorical exclusion
CIC	Command Indicator Code
CoP	Community of Practice
CPCX	Collaboration and Public Participation Center of Expertise
CW	Civil Works
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of Interior
DOJ	Department of Justice
DOT	Department of Transportation
EA	environmental assessment
EC	Engineer Circular
EO	Executive Order
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FOIA	Freedom of Information Act
FPMS	Flood Plain Management Services
FUDS	Formerly Used Defense Sites
FWS	Fish and Wildlife Service
FY	fiscal year
GAP	Global Access Program
GI	general investigations
GIS	Geographic Information Services

HEC	Hydrologic Engineering Center
HUD	Department of Housing and Urban Development
HQ	Headquarters
ICIWaRM	International Center for Integrated Water Resources Management
IIS	Interagency and International Services Program
IWR	Institute for Water Resources
MSC	Major Subordinate Command
NALEMP	Native American Lands Environmental Mitigation Program
NCR	National Capital Region
NDC	Navigation and Civil Works Decision Support Center
NED	National Economic Development
NEPA	National Environmental Policy Act
NHPT	National Historic Preservation Act
NN	Navajo Nation
NOAA	National Oceanic and Atmospheric Agency
NWD	Northwest Division
O&M	Operations and Maintenance
OASA (CW)	Office of the Assistant Secretary of the Army (Civil Works)
OMBIL	Operations and Maintenance Business Information Link
ORM2	OMBIL Regulatory Module 2
OSE	Other Social Effects
PAO	Public Affairs Officer
PAS	Planning Assistance to States
PB	Planning Bulletin
PL	Public Law
PM	project manager
POC	point of contact
POD	Pacific Ocean Division
PPA	Project Partnership Agreement
PROMIS	Project Management Automated Information System (P2)

RMC	Risk Management Center
SME	subject matter expert
SOW	statement of work
SPD	South Pacific Division
SPK	Sacramento District
STL	Senior Tribal Liaison
SW	Southwest
TCP	traditional cultural properties
TEK	tribal ecological knowledge
TERO	Tribal Employment Rights Officer
TNTCX	Tribal Nations Technical Center of Expertise
TPP	Tribal Partnership Program
UNESCO	United Nations Educational, Scientific, and Cultural Organization
USACE	United States Army Corps of Engineers
USBR	United States Bureau of Reclamation
USGS	United States Geological Survey
WCSC	Waterborne Commerce Statistical Center
WRDA	Water Resources Development Act

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## APPENDIX C. EXECUTIVE SUMMARY FROM WEB-BASED SURVEY

### USACE Partnership and Project Opportunities with Tribal Nations

#### Web-Based Survey Results Summary

USACE’s Collaboration and Public Participation Center of Expertise (CPCX) at the Institute for Water Resources (IWR) is working with the Tribal Nations Technical Center of Expertise (TNTCX) and USACE Senior Tribal Liaison (STL) to develop a summary report of the current policy, approaches, and capabilities that support collaboration between USACE and federally recognized Tribal Nations. It is anticipated that this report will be a useful resource for USACE staff, providing best practices and lessons learned on working with Tribal Nations, especially regarding water resources management and related water issues. As part of our data collection, a web-based survey was designed to gain a better understanding of USACE staff experiences with the development and execution of projects and partnerships with federally recognized Tribal Nations. It is focused on learning how USACE staff explore Civil Works (CW) project opportunities with federally recognized Tribes.

The web-based survey was provided electronically, via email, to Tribal Liaisons, TNTCX staff, District Planning staff and Project Managers (PMs) who are involved in partnering with tribes on projects and others identified by the TNTCX point of contact (POC). It was sent out in July 2018 to 235 USACE employees. Fifty three percent (124 people) of the USACE staff participated in the web-based survey, with 94 people finishing the web-based survey and 30 only partially completing the web-based survey. **Figure A** shows a breakdown of web-based survey participants based on their Division / Major Subordinate Command (MSC) alignment.

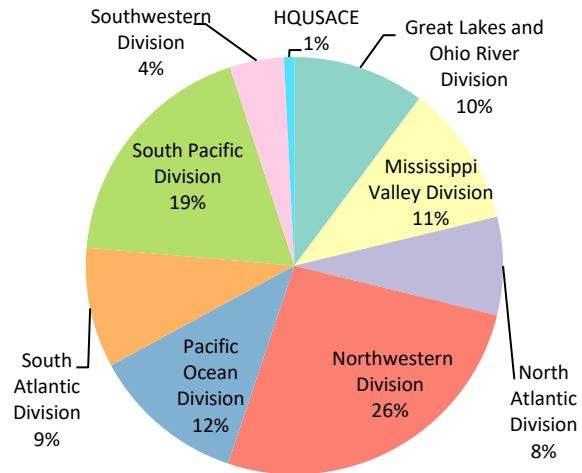


Figure A – Survey Respondents by MSC

Responses were received from all eight MSCs as well as from USACE Headquarters (HQ). The greatest number of web-based survey invites per MSC were sent to the South Pacific Division (SPD), the Northwest Division (NWD), and the Pacific Ocean Division (POD). That higher number did translate to a higher percentage of the total responses, with NWD and SPD showing 26 percent and 19 percent (respectively) of the total responses.

Most of the web-based survey invitations were sent to District staff, and approximately, 50 percent of those receiving an invite provided responses to the web-based survey. A breakdown of respondent location, by District, can be found in **Table A. District Participation in Web-Based Survey**. Out of the 37 Districts that were invited to participate, six Districts did not provide responses (Chicago, Huntington, Louisville, Savannah, Fort Worth, and Galveston).

**Table A – District Participation in Web-Based Survey**

<i>USACE District</i>	<b>Number of Email Invites Sent</b>	<b>Survey Responses Provided</b>
<i>Buffalo (LRB)</i>	3	2
<i>Detroit (LRE)</i>	9	3
<i>Nashville (LRN)</i>	2	1
<i>Pittsburgh (LRP)</i>	9	6
<i>Chicago (LRC)</i>	2	0
<i>Huntington (LRH)</i>	2	0
<i>Louisville (LRL)</i>	1	0
<i>Memphis (MVM)</i>	2	2
<i>New Orleans (MVN)</i>	2	1
<i>Rock Island (MVR)</i>	1	1
<i>St. Louis (MVS)</i>	2	4
<i>St. Paul (MVP)</i>	6	4
<i>Vicksburg (MVK)</i>	2	1
<i>Baltimore (NAB)</i>	4	2
<i>New England (NAE)</i>	8	2
<i>New York (NAN)</i>	1	1
<i>Norfolk (NAO)</i>	2	2
<i>Philadelphia (NAP)</i>	1	1
<i>Kansas City (NWK)</i>	7	3
<i>Omaha (NOW)</i>	5	1
<i>Portland (NWP)</i>	9	3
<i>Seattle (NWS)</i>	19	17
<i>Walla Walla (NWW)</i>	5	3
<i>Alaska (POA)</i>	22	13
<i>Charleston (SAC)</i>	2	2
<i>Jacksonville (SAJ)</i>	9	4
<i>Mobile (SAM)</i>	9	3
<i>Wilmington (SAW)</i>	1	1
<i>Savannah (SAS)</i>	3	0
<i>Albuquerque (SPA)</i>	17	9
<i>Los Angeles (SPL)</i>	11	1
<i>Sacramento (SPK)</i>	16	5
<i>San Francisco (SPN)</i>	8	4
<i>Little Rock (SWL)</i>	1	1
<i>Tulsa (SWT)</i>	4	3
<i>Galveston (SWG)</i>	2	0
<i>Fort Worth (SWF)</i>	3	0
<b>TOTAL</b>	<b>212</b>	<b>106</b>

The individuals who responded to the web-based survey identified with a wide range of roles/disciplines. More than two-thirds of all respondents identified as Tribal Liaisons, Archaeologists, Project Managers, and Planners. The remaining respondents identified with a wide range of



disciplines such as biologist, outreach/ environmental coordinator, and PM. When asked about how long the participants have been working with Tribes, about 40 percent of those who completed the web-based survey, stated that they have been working with tribal nations for over 10 years while upwards of 75 percent have been supporting the development of partnerships or projects with tribes within the Corps for 10 years or less.

When asked about the respondents’ familiarity with a range of possible partnering/ project opportunities more than 80 percent of the respondents noted that they were, at least, somewhat, if not very familiar, with the Tribal Partnership Program (TPP) (Section 203 of WRDA 2000, as amended and Section 2011 of WRDA 2007) (See **Figure B**). They had an even higher level of familiarity with the Continuing Authorities Program (CAP) (89 percent). Their level of familiarity was slightly less for Planning Assistance to States (PAS), Section 22 of the Water Resources Development Act (WRDA) of 1974, as amended and Flood Plain Management Services (FPMS), Section 206 of the 1960 Flood Control Act (PL 86-645). The exception to this high level of familiarity of potential opportunities was related to the IIS (Interagency and International Services (IIS)), provisions of 10 USC 3036(d)(2)], where almost half of the participants were not familiar with that program.

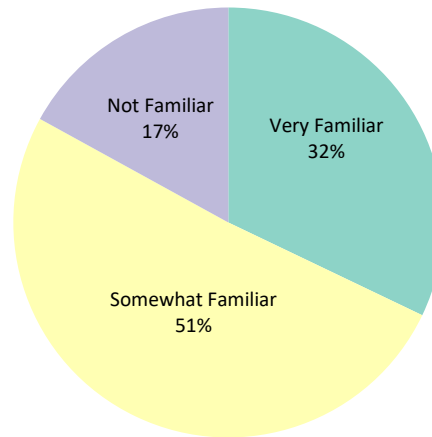


Figure B – Familiarity with the USACE Tribal Partnership Program

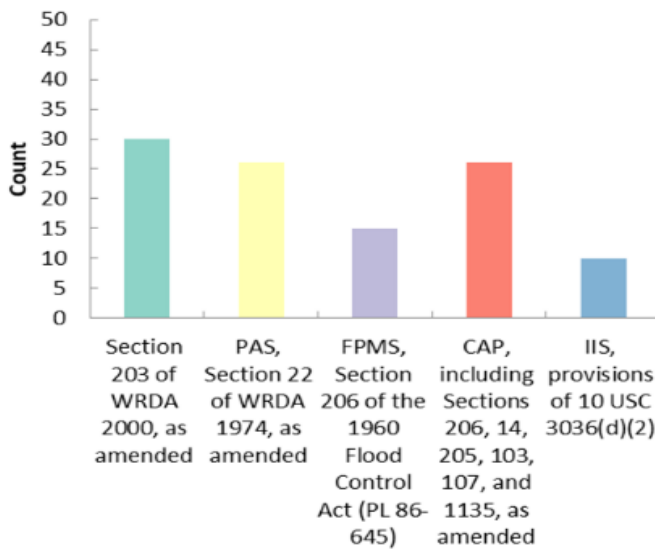


Figure C – Number of Completed Tribal Agreements

Respondents were also asked about completed tribal agreements for the above-mentioned programs. Thirty percent of the respondents were aware of Section 203 of WRDA 2000, as amended, agreements while about a quarter of the respondents knew of completed agreements associated with PAS and CAP. FPMS and IIS had fewer known agreements, with only 15 percent and 10 percent (respectively) of respondents noting agreements completed in their Districts. **Figure C** reflects the actual respondent counts associated with those percentages. A follow-on survey question asked for respondents to identify which specific

CAP authorities were used in their District, and over 50 counts of various CAP authorities were identified. The most often used was Section 1135 Project Modification for Improvement to Environment (12 counts) followed by Section 206 Aquatic Ecosystem Restoration (11 counts) and Section 205 Flood Damage Reduction (11 counts).

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**Other USACE Programs for Partnering with Tribes**

- *Native American Lands Environmental Mitigation Program (NALEMP)*
  - *Formerly Used Defense Sites (FUDS)*
  - *Silver Jackets Program*
  - *Section 729 Watershed Studies*
  - *Projects in conjunction with existing USACE projects*
  - *Challenge Partnership Agreements (Handshake Program – NRM)*
  - *Federal Columbia River Power System (FCRPS) Cultural Resource Program*
  - *Individually Authorized Studies and Projects (Section 520)*
  - *Cooperative Agreements (Section 1031(b) of WRRDA 2014)*
  - *Forward Engineer Support Team (FEST)*
  - *PL 84-99*
  - *Navigation Federal Projects*
- 

In addition to the CW programs presented above, the respondents identified additional programs that have been used in their Districts for partnering with Tribes. These programs range from activities associated with existing Corps projects to individually authorized projects. The types of programs and activities provided by the respondents are reflected in the table to the left. A handful of respondents noted that they have completed agreements under the Silver Jackets program while others referenced individually authorized projects or programs such as the Middle Rio Grande Endangered Species Collaborative Program, Big Cypress Seminole Project, Columbia River Treaty Fishing Access Sites (CRTFAS) Program, Great Lakes Fishery and Ecosystem Restoration (GLFER) Program, and the Section 116 Alaska Coastal Erosion Program.

Although the majority of respondents were familiar with the TPP (83 percent), about two-thirds of the respondents had familiarity with the current body of policy and guidance related to working with Tribes

(including the February 2018 Memo on Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program). Based on that level of familiarity, 40 percent of the respondents believe that the current body of policy and guidance is sufficient for effectively forming partnerships and projects with Tribes. Respondents had the option to provide suggestions for additional policy/guidance that might be helpful. The following list provides a summarization of many of the additional policy items that the respondents recommended.

- Design roadmap(s) of internal processes that need to be followed to facilitate these programs.
- Remove the 3x3x3 model from studies involving Tribes.
- Modify or create tribal-specific policy to cover the construction and implementation of the recommended tribal project.
- Determine viability of current approach of single-phase projects for watershed assessments and feasibility studies with Tribes.

- Develop clear direction/ implementation guidance for Cooperative Agreement Authority (1031(b) of WRRDA 2014).
- Re-evaluate current guidance to better address crediting and cost share waivers (consider possibility of waiving the cost share provision for Tribal Governments).
- Establish easier way to transfer funds to Tribes for environmental work (perhaps similar to the way we pay private consulting firms or other Federal agencies).
- Review/ change policy around levee program for mitigation and monitoring.
- Re-evaluate the definition of “Indian lands” since the current definition prohibits many beneficial projects and does not account for corporation lands in Alaska, Tribes without reservations in OK, and severely limits Tribes with small land bases from participation.
- Promote more outreach and education activities. More training opportunities. Increased funding to TPP and other Tribal Programs.

In addition, the respondents were asked if there were any other types of guidelines or tools that would be helpful in facilitating the development of water resources planning and management related projects and partnerships with Tribes. Several responses were provided and are summarized below.

- More information about TPP that raises awareness of its use as a tool for partnering with Tribes.
- Coordination fund that staff can draw from to inform Tribes of the capability and function of the Corps of Engineers (prior to having a signed agreement).
- Guidance on how project opportunities that are technically outside of “Indian Country” but directly impacts a local Tribe and their cultural and environmental resources.
- Understanding of how federal interest determination should apply to Tribes given that the justification process is different than with other partners, especially on tribal lands that need help the most, where federal interest may not be originally determined.
- Clarification on ability to pay calculations (currently in development).
- Revised guidance in the Planning Guidance Notebook that emphasizes the communication with tribes early and continually in the general inspection (GI) planning process.
- Step by step guidance on how to develop a Tribal Nations Program at a District level.
- District-wide training (at all staff levels) on the importance of tribal issues and USACE responsibilities.
- Comprehensive list of Tribes (within each District area of responsibility (AOR)) and the specific types of projects on which they would be interested in consulting given a certain area.
- Greater clarity on the interpretation of trust responsibilities with respect to each Federal agency.
- Cost breakdown spreadsheets or formulas that consider the cost share waivers applicable to federally recognized Tribes.

- Formal training for all Tribal Liaisons and key planning staff on existing authorities, and preparation of expanded (i.e., more than the existing booklet) informational materials (including packages of templates, implementation guidance documents, etc.) for Tribes so that Tribal Liaisons and planning staff can more readily brief interested Tribes on options.
- Build a Tribal Engagement log to have a record of who from the District has spoken to each Tribe as well as the purpose and outcome of that communication.
- Annual policy updates and refreshers on authorities that we can share with our partners.
- Short YouTube-like videos that Tribes can access to provide greater explanation of the “How to Plan a Water Project” Guide.
- USACE HQ hosted webinars and “brown bags” on topics relevant to working with Tribes.

The respondents identified the type(s) of training and continuing education they received to assist in their role associated with working with Tribal Nations. Several respondents shared that they received on the job training and mentoring/support from their Tribal Liaisons. Others mentioned that they have participated in training held by Tribes or other Federal agencies. The respondents listed several formal training opportunities such as the USACE Working Effectively with Tribes Workshop, Cultural Resources PROSPECT Course, FEMA-Emergency Management Overview for Tribal Leaders (L0583), Department of Defense Native American Cultural Communication Course, Bureau of Indian Affairs (BIA) Tribal Road Inventory Field Data System (RIFDS) training, the Alaska Native Cultural Communication course, the Tribal Liaison Tribal Training, Tribal Consultation Training - Basic and Advanced, the Corps Planning Core Curriculum courses, as well as courses included in PAS. Several respondents also provided other training

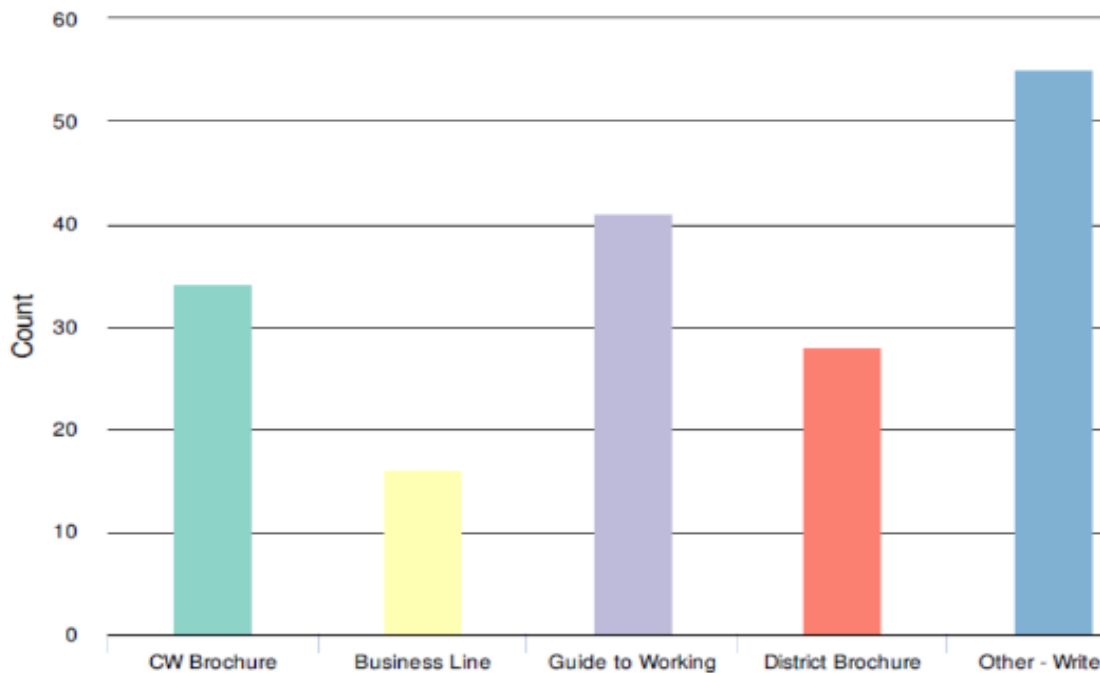


Figure D – Informational Materials Provided to Tribes

sources such as Department of Justice (DOJ) Sacred Sites Training Video, 2018 National Native American Graves and Repatriation Act (NAGPRA) Program Training Videos, and Tribal Immersion training. Another category of training/education that the respondents identified was through more collegial group discussions and seminars such as the annual Tribal Relations Community of Practice (CoP) meeting as well as webinars/sit-down meetings with Tribal Liaisons. Other types of training presented by the respondents included graduate coursework, speaking with Elders, and Udall Certificate in Environmental Collaboration.

There are a variety of available materials that can be provided to tribes to explain/describe USACE partnering and CW project opportunities. Based on respondent feedback, the most widely used is the guide to *How to Plan A Water Resources Project with the US Army Corps of Engineers*, followed by the Civil Works brochure. (See **Figure D**) Respondents also shared that they utilize flyers/brochures on different business lines and program authorities, District information factsheets, PowerPoint presentations, and verbal information sharing during face-to-face meetings to provide information about the various CW Programs.

### **Conclusions**

Based on the feedback provided by the web-based survey respondents, there is a wide range of Corps staff working with Tribes, in some capacity, to identify CW projects and partnership opportunities. These individuals have varying levels of Corps experience and knowledge of how to interact with federally recognized Tribes. They have awareness and familiarity of the various CW authorities and programs that are available to Tribes and have also identified several challenges with being successful at building these project partnerships. Since many of the written responses related to completed agreements, it seems that there may be an opportunity to build diagrams and descriptions of how agreements are built and finalized within each of the CW authorities. It also appears that a lot of outreach materials that are used with Tribes (other than the guide) are specific to Districts, and there may be a benefit to sharing that information across the agency. Although there are policies and guidance related to working with Tribes, the respondents have identified process, funding, procedures, policy language, and training suggestions that may pave the way for greater efficiencies and more desirable and effective project partnering opportunities with Tribal Nations.

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## **APPENDIX D. WEB-BASED SURVEY QUESTIONS**

Welcome!

The U.S. Army Corps of Engineers (USACE) Collaboration and Public Participation Center of Expertise (CPCX) at the Institute for Water Resources (IWR) is working with the Tribal Nations Technical Center of Expertise (TNTCX) and USACE Senior Tribal Liaison (STL) to develop a summary report of the current policy, approaches, and capabilities that support collaboration between USACE and federally recognized Tribal Nations. It is anticipated that this report will be a useful resource for USACE staff, providing best practices and lessons learned on working with Tribal Nations, especially regarding water resources management and related water issues. As part of our data collection, the web-based survey shown below is designed to gain a better understanding of USACE staff experiences with the development and execution of projects and partnerships with federally recognized Tribal Nations. It is focused on learning how USACE staff explore Civil Works (CW) project opportunities with federally recognized Tribal Nations.

With the support of the USACE STL, the web-based survey will be provided electronically to Tribal Liaisons, TNTCX staff, District Planning staff, and Project Managers (PMs) who are currently involved in CW tribal projects identified by the TNTCX and CPCX points of contact (POCs). We appreciate you taking the time to provide your insights.

Please select your USACE Division:

- Great Lakes and Ohio River Division
- Mississippi Valley Division
- North Atlantic Division
- Northwestern Division
- Pacific Ocean Division
- South Atlantic Division
- South Pacific Division
- Southwestern Division
- Other – Write In

If applicable, please provide your District. [prompt to select District based on Division chosen]

What is your primary role/position?

- Tribal Liaison
- Project Manager
- Planner
- Other – Write In

How familiar [are] you with each of the following programs? Tribal Partnership Program (Section 203 of WRDA 2000, as amended and Section 2011 of WRDA 2007).

- Very Familiar
- Somewhat Familiar
- Not Familiar

How familiar you with each of the following programs? Planning Assistance to States (PAS), Section 22 of WRDA 1974, as amended.

- Very Familiar
- Somewhat Familiar
- Not Familiar

How familiar you with each of the following programs? Flood Plain Management Services (FPMS), Section 206 of the 1960 Flood Control Act (PL 86-645).

- Very Familiar
- Somewhat Familiar
- Not Familiar

How familiar you with each of the following programs? Continuing Authorities Program (CAP). Aquatic Ecosystem Restoration, Section 206 of WRDA 1996, as amended; Emergency Stream Bank & Shoreline Erosion, Section 14 of the Flood Control Act of 1946, as amended; Flood Damage Reduction, Section 205, Flood Control Act of 1948, as amended; Hurricane and Storm Damage Reduction, Section 103, Rivers and Harbors Act of 1962, as amended; Navigation Improvements, Section 107, Rivers and Harbors Act of 1960, as amended; Project Modification for Improvement to Environment, Section 1135 of WRDA 1986, as amended

- Very Familiar
- Somewhat Familiar
- Not Familiar

How familiar you with each of the following programs? Interagency and International Services (IIS) provisions of 10 USC 3036(d)(2).

- Very Familiar
- Somewhat Familiar
- Not Familiar



How long have you been working with Tribes? Choose the option that most closely matches.

- 1 year
- 2 years
- 3 years
- 4 years
- 5 years
- 6 years
- 7 years
- 8 years
- 9 years
- 10 years
- 11 years
- 12 years
- 13 years
- 14 years
- 15 years
- 16 years
- 17 years
- 18 years
- 19 years
- 20 years
- 20+ years

What other USACE programs have you considered developing projects with Tribes? If none, please write in "None" to move to the next question. *(Note: Keep in mind that this survey is focused on learning how USACE staff explore CW project opportunities with Tribes. The results will allow for the elaboration of completed and ongoing CW efforts to work with, consult, and sometimes enter into partnerships with Tribes to address water resources challenges.)*

As a USACE, how long have you been supporting the development of partnerships of projects with Tribes?

- 0-2 Years
- 3-5 Years
- 6-10 Years
- 11-20 Years
- Over 20 Years
- Not applicable

What training and continuing education have you received to assist you in providing this role? If none, please write in "None" to move to the next question.

How familiar are you with the current body of policy and guidance (including the February 2018 Memo on Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program)?

- Very Familiar
- Somewhat Familiar
- Not Familiar

Do you find the current policy sufficient for effectively forming partnerships and projects with Tribes?

- Yes
- No
- Not applicable

If not, please provide your suggestions for additional policy.

What other guidance would be helpful in facilitating the development of water resources planning and management related projects and partnerships with Tribes? If none, please write in "None" to move to the next question.

Under which of the following CW authorities has your District completed tribal agreements?

- Section 203 of WRDA 2000, as amended
- PAS, Section 22 of WRDA 1974, as amended
- FPMS, Section 206 of the 1960 Flood Control Act (PL 86-645)
- CAP, including Sections 206, 14, 205, 103, 107, and 1135, as amended
- IIS, provisions of 10 USC 3036(d)(2)
- Unsure
- Other – Write In

If CAP was the authority applied, which specific authority or authorities did you use?

- Aquatic Ecosystem Restoration, Section 206 of WRDA 1996, as amended
- Emergency Stream Bank & Shoreline Erosion, Section 14 of the Flood Control Act of 1946, as amended
- Flood Damage Reduction, Section 205, Flood Control Act of 1948, as amended
- Hurricane and Storm Damage Reduction, Section 103, Rivers and Harbors Act of 1962, as amended
- Navigation Improvements, Section 107, Rivers and Harbors Act of 1960, as amended
- Project Modification for Improvement to Environment, Section 1135 of WRDA 1986, as amended

Approximately what percentage of Tribal Agreements, in your District, have been executed?

- Less than 10%
- 10%
- 20%
- 30%
- 40%
- 50%
- 60%
- 70%
- 80%
- 90%
- 100%
- I don't know

What types of materials do you provide to tribes to explain/describe USACE partnering and CW project opportunities?

- CW Brochure
- Business Line Brochures
- Guide to Working with the Corps
- District Brochure
- Other - Write In

Optional: Please provide your name.

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## **APPENDIX E. FACILITATED VIRTUAL GROUP INTERVIEW DISCUSSION QUESTIONS**

USACE's Collaboration and Public Participation Center of Expertise (CPCX) at the Institute for Water Resources (IWR) is working with the Tribal Nations Technical Center of Expertise (TNTCX), and with support from USACE Headquarters (HQ) to develop a report of the current policy, approaches, and capabilities that support collaboration between USACE and federally recognized Tribes. It is anticipated that this report will be a useful resource for the USACE Tribal Program and Corps personnel, providing best practices and lessons learned on working with Tribal Governments, especially regarding water resources management and related water issues.

The overall scope of this project is to assess existing USACE policies, programs, and authorities and propose modifications or recommendations that will address systemic organizational constraints on USACE initiating and executing projects and partnerships with Tribal Nations; highlight existing USACE programs and partnerships with Tribal Governments; work with the TNTCX and the IWR to identify how to help USACE and Tribes enhance water resources planning and management capabilities; and suggest collaborative processes and new (or improved) tools to promote efficient collaboration and coordination between USACE, Tribal Nations, and other Federal agencies under existing laws and authorities.

The CPCX, TNTCX, and the USACE HQ Tribal Liaison worked closely with Marstel-Day, LLC to develop a survey and identify staff to complete it. The survey was provided electronically to Tribal Liaisons, TNTCX staff, District Planning staff, Project Managers (PMs), and other staff who are currently involved in CW tribal projects. This survey was an initial and important step in this overall effort, now the next step is to utilize the survey data and conduct interviews and group discussions to collect clarifying data on the internal processes USACE has to implement water resources related projects and partnerships with Tribal Nations to improve these processes and procedures.

Group discussions and interviews will be comprised of target programmatic staff from Division leads, HQ Program Leads, and District personnel. It is understood that the data collected in these interviews is internally USACE focused and internally generated by USACE staff. In addition, it is understood that tribal perspectives outside of USACE could indeed contrast or conflict with the information generated internally by USACE personnel. However, a baseline of information is needed on internal USACE process before engaging Tribes on ways to improve collaboration related to water resources planning and management.

Discussion Questions:

During the group interview call, we will not focus on each question, but we would like to hear some examples and what is working and what is challenging within each of the below discussion categories.

\* Please take the time between now and our scheduled call to respond to the below questions in writing and send to Ann Kuo at akuo@marstel-day.com. Your responses can be gathered from within each District and do not need to be completed by each person individually. Answers can be an approximation where appropriate and can be as detailed or brief as your time allows. Collecting these written responses will allow us to gather important information that you may not have time to share orally, while allowing us to focus our phone conversation on sharing ideas between Districts.

Thank you very much for your time. It will certainly help to paint a better picture of USACE's work with Tribes and lead to recommendations that might enable better projects and partnerships with Tribal Nations.

**General**

1. Describe your current engagement activities with Tribal Nations in your area of responsibility (AOR).
2. The overall goal of this project is to identify information that can help USACE build and sustain collaborative relationships with Tribes. (a) Based on your experience what complicates or impedes the attainment of this goal (e.g. policies, procedures, tools, etc.)? (b) What is working well in supporting/enhancing collaboration with Tribes (policies, procedures, tools, etc.)?
3. What type of projects are Tribes requesting/proposing under the XXXX program?
4. How are projects tracked? Do you use any management software to track projects w/ Tribes etc.? Do you find it effective?
  - a. How do you track successes in the program? Other metrics?
5. Understanding how potential projects navigate through Section 203, Flood Plain Management Services (FPMS), Planning Assistance to States (PAS), Continuing Authorities Program (CAP), and Interagency and International Services (IIS) application/selection process will help us gain greater insights into the nuances associated with tribal nations pursuing these types of activities with the Corps.
  - a. What is the process for routing and evaluating any projects with Tribes? And how does this differ by program authority?
  - b. How often do you receive phone calls from tribal representatives, asking about XXXX program opportunities?

What types of “Letter of Requests” do you receive each year, if any, from Tribal Nations? How many?

### **Communication/ Outreach**

6. How well is your outreach program resourced? What are some of the challenges you face with resourcing your outreach activities with Tribes?
7. What do you provide tribes that request USACE assistance (regardless of how they contact you)? How does follow-up occur and who follows-up with them?
8. What are some effective ways that aid communication/outreach with Tribes?
9. Based on your experience, what materials are provided to Tribes that explain the types of work that can be pursued under the different CW authorities as well as the details of the application process? (Ask to have a copy provided, if specific to Division or District.)
10. Describe the internal (and external) interaction/approval needed to move from one step to the next of the project selection process once the Letter of Request is received.

### **Program Implementation**

11. What guidance do you enlist to review and evaluate project applications?
12. What additional policy or guidance, if any, do you think is necessary to strengthen and enhance project opportunities with Tribal Nations?
13. What resources and/or tools are used to assist in evaluating the applications and selecting projects?
14. What topics (funding source, project timeline, agreement language, etc.) do you often see as potential challenge areas with tribal applications?
15. What are the barriers that you hear when engaging with Tribes, as to why these programs may not be utilized?
16. If a tribal project is selected, what have you noticed to be some of the issues related to moving forward (concerns w/ agreement language, cost-sharing, etc.)?
17. How have those issues been resolved or rectified?

### **Capacity Building**

18. Based on your knowledge of the various programs you work on with Tribes, what training/educational opportunities are valuable to optimizing the continued use of this authority?
19. Are there other areas of capacity building that would be useful in your work with Tribal Nations?

## **Wrap-up**

20. An aspect of this study is interested in improving IWR opportunities for Tribal Nations. Is there anything in particular you can share about working on water resource planning and management issues/challenges with Tribal Nations?
21. Based on your involvement with the Tribal Nations, are there any water resources planning/management approaches or projects that you think would be of most benefit to tribal communities, and what would it take for you to be able to help make that happen?
22. Please share 1-2 top priorities for action to better achieve the goal of improving collaboration with Tribes, that is, what challenges would you give priority to tackling taking everything into account (significance, do-ability, etc.)?



**APPENDIX F. COMPLETE FINDINGS FROM TRIBAL REGIONAL WORKSHOPS**

**Table F-1: Regional Tribal Workshop Complete Outreach and Communications Findings**

Overall Themes	Suggested Best Management Practices	No. of Workshop(s) Where Mentioned	Mentioned by USACE Staff?
<b>Outreach Materials</b>	Reach out and provide more updates (i.e., bi-annual report and/or quarterly newsletter) to Tribes. Messages could include ideas for different projects. Could also broaden this to include Regulatory topics and reminders about funding opportunities and how to apply.	2	Yes
	Tribes appreciate handouts and other visual aids that you can provide them. The letter template is especially helpful.	2	Yes
	Provide more and sooner notice about fill and dredge activities that could affect a Tribe’s water resources.	1	No
	Share the results from this study with the Tribes.	1	No
	Create some sort of database to hold all the contact and project information that Tribes could access. The different districts produce different data and information on Navajo Nation (NN). There is no one place where NN representatives can go to get that info. The chapters submit their budgets online to NN. This might be a way to track ongoing projects and enhance coordination and reduce duplication.	1	No

Overall Themes	Suggested Best Management Practices	No. of Workshop(s) Where Mentioned	Mentioned by USACE Staff?
<b>Trainings and Meetings</b>	Offer more webinars, teleconferences, and in-person meetings/trainings for Tribes. Meet them where they are.	3	Yes
	USACE should learn more about other agencies to determine how best to work with them and share information. This could include joint workshops to Tribes.	3	No
	Open meetings/workshops with an elder giving a prayer and close with a prayer.	1	No
	Make sure to walk through housekeeping at the beginning of every day for trainings/meetings.	1	No
	USACE should reach out to consortiums and share their presentations. Boroughs and communities aren't always talking. USACE needs to spread more awareness and be proactive about it.	1	No
	Train the trainer to educate key people and then they can share with the chapters.	1	No
	Make sure you have all the right stakeholders in the room.	1	No

Overall Themes	Suggested Best Management Practices	No. of Workshop(s) Where Mentioned	Mentioned by USACE Staff?
<b>In-person Engagement</b>	Attend regional meetings and present at conferences where Tribes get together.	3	Yes
	Face to face meetings are extremely valuable and help to build trust, which is important to Tribes.	3	Yes
	Be willing to listen and not just talk at Tribes.	2	No
	Take Tribes' concerns and suggestions seriously.	2	No
	Learn about the language and terminology of the USACE / Tribes so you can be prepared for future discussions.	1	Yes
	Alaska is different and those differences need to be taken into consideration.	1	Yes
	Important to have translator in all meetings with Tribes.	1	Yes
	Call and ask to visit and attend cultural events to show you are willing to take that extra step.	1	No
	Be aware of and sensitive to the history of an area and with the Tribes.	1	No
	Work with your Tribal Liaison to help write the letter of request to USACE to make it more successful.	1	No
	Consultation needs to be more meaningful than checking a box. Early discussions in the process is very important.	1	No
	Be honest no matter what.	0	Yes
	Everyone needs to go out and talk to Tribes. It can't just be one to two people.	0	Yes
<b>Funding</b>	Program more funds for communications and monitoring into grants and the budget.	1	Yes

Overall Themes	Suggested Best Management Practices	No. of Workshop(s) Where Mentioned	Mentioned by USACE Staff?
<b>Leadership</b>	If your Tribe is facing issues when working at the District level, reach out to the commander.	2	No
	Have Tribes attend the change of command. This helps with relationship continuity.	1	Yes
	Invite the commander to regional meetings so they can hear the issues and what is needed.	1	Yes
	Commander should acknowledge receipt within three days and assign someone to respond directly to that problem.	1	No
	Leadership needs to be involved / know what's going on, especially if things get complicated.	1	No
	If you don't feel that you are being heard, you can request a government to government consultation because you are a federally recognized Tribe.	1	No
	It is always important to start with the Tribal Council Chairman, but also reach out to other relevant Tribe members. In the letter, state that if that is not the right person, ask them to forward it on.	1	No
	We need to recognize the knowledge-level of Chapter Presidents and provide the best information to them. Help build that capacity. Create a link between the chapters and USACE for better coordination.	1	No
<b>Content of Discussions/Materials</b>	Start from the project level and scale up to how legislation applies at the 10,000 level.	1	No
	Don't mention "Authorities" and "Authorizations", just help Tribes get their projects done.	1	No

Overall Themes	Suggested Best Management Practices	No. of Workshop(s) Where Mentioned	Mentioned by USACE Staff?
Staffing and Capacity	Turnover is a challenge when working with agencies and Tribes. Need more staff to staff conversations to help with continuity before people leave.	4	Yes
	Create regional POCs / PMs that will improve outreach and communication, which will make it easier to communicate and create relationships and improve responsiveness.	2	No
	Let Tribes know who the liaisons are and what TNTCX contacts and opportunities exist.	1	No
	Sometimes Tribes are used to dealing with one person/agency and they don't realize there are others they could go to. Help make those connections.	1	No
	Develop a list of contact names for the people in Federal Government and other Tribal Government agencies.	1	No
	If the Tribal Liaison in one District is unable to help right away, have someone from a nearby District help until the other person can step in.	1	No

**Table F-2: Regional Tribal Workshop Complete Water Resources Challenges**

<b>Challenge</b>	<b>No. of Workshops It Was Discussed</b>	<b>No. of Times Mentioned in a Workshop</b>	<b>No. of Times Mentioned by USACE Staff in Interviews / Surveys</b>
Erosion (streambank and coastal) and sedimentation	All	22	1
Watershed studies/plans	5	9	6
Flood protection / risk mitigation (including flash floods)	5	9	4
Impacts of climate change / mitigation and adaptation planning	5	8	0
Emergency preparedness and response planning	4	7	1
Water supply / competition for resources / water rights	4	7	1
Drought management	4	7	0
Wetlands and wetland restoration	5	6	0
Canals and ditches	4	6	0
Irrigation project	3	5	1
Water and sewer infrastructure in general / aging infrastructure	3	5	1
Floodplain management plans and mapping	2	5	2
Structures / building in the floodplain	4	5	0
Water quality and impacts on food sources (aquatic and terrestrial) and people	3	5	0
Groundwater protection and modeling	4	5	0
Coal mines / hard rock pit mines	2	4	1
Complying with new laws/mandates, especially unfunded legislation	4	4	0
Impacts of USACE dams	3	4	0
Sediment buildup behind dam / dredging	2	4	1
High water levels / high tides and fluctuation	2	4	0

Challenge	No. of Workshops It Was Discussed	No. of Times Mentioned in a Workshop	No. of Times Mentioned by USACE Staff in Interviews / Surveys
Ecosystem / habitat restoration	3	3	6
Cultural resource protection on ancestral lands	3	3	4
How to improve water quality / water quality standards	3	3	2
Working off tribal lands in general	3	3	3
Renewable energy (e.g., hydropower, tidal generation, wind)	1	3	2
Fish passage	3	3	1
Dam in need of repair / dam safety	3	3	0
Clean Water Act	3	3	0
Shoreline stabilization and resilience	2	2	1
Using drones to monitor projects or do survey work	2	2	0
Subsistence hunting / fishing; restrictions on, and accounting for in project benefits	1	2	3
Protecting sensitive / confidential tribal information	1	2	1
Invasive species issues and removal	2	2	0
Flood insurance	2	2	0
Water as a cultural resource	2	2	0
Building an access road and/or bridge	2	2	0
Well repair / replacement	2	2	0
Beaver dam	2	2	0
Water plans / water use planning	2	2	0
Reservoir operations / creation	1	1	1

**Table F-3: Regional Tribal Workshop Complete Water Resources Best Management Practices**

Overall Themes	Best Management Practices	Mentioned by USACE Staff in Interviews / Surveys?	No. of Workshop(s) Where Mentioned
<b>Working with Other Agencies</b>	Bureau of Indian Affairs (and other Federal agencies) has funds that don't expire and can be co-mingled with other agency funding.	No	5
	Have the USACE write a letter of support to other Federal agencies for a project to show they are a part of it.	No	2
<b>Working with Tribes</b>	Consider Tribe members when choosing consultants for a project on tribal lands. The Tribal Employment Rights Officer (TERO) can provide a list of all skilled employees who could do work on tribal lands.	No	2
	Need to know what the limitations are on projects that may occur outside of tribal lands but benefit the Tribes.	Yes	2
	Keep in mind that what is a small project to USACE may be big to Tribes.	No	1
	Help the Tribes understand that while they might have a specific remedy like dredging in mind, a study might have to be done first.	No	1
	Convey how the project implementation process works (e.g., legal review, permitting) so that "delays" are understood and accepted by all involved. Be clear about expectations. Frequent updates are key.	Yes	1
	Getting the Tribal Governmental officials involved from the start helps in potentially getting additional Federal funds and grants to pick up where USACE has to leave off.	No	1



Overall Themes	Best Management Practices	Mentioned by USACE Staff in Interviews / Surveys?	No. of Workshop(s) Where Mentioned
<b>Working with Tribes (continued)</b>	Project management is key. Need to know all the factors that are in play. Client needs to establish the Statement of Work, resources, milestones, and budget, then find funding source(s) and establish requirements.	No	1
<b>Funding</b>	The timing of matching up Federal funds with Tribe timelines and project timelines is a challenge.	No	1
	If you need to go to Congress to get funds authorized for a project, work with your USACE Tribal Liaison first.	No	1
<b>Cultural Resources and Traditions</b>	Be selective of what goes into any report and what goes to the agency you are working with because it is subject to Freedom of Information Act (FOIA). Can add it as an appendix – Tribe keeps the appendix and does not make it to the public version that may be subject to FOIA.	Yes	1
	Recognize that Tribes are still using traditional ecological knowledge (TEK) practices and using them in their management plans.	No	1
	When working with Tribes, shoreline stabilization is not necessarily about infrastructure. It is more a concern to Tribes if they lose access to a waterbody for cultural practices and water resources. USACE needs a mindset change when it comes to the importance of shoreline restoration and access for Tribes.	No	1
	Take Tribes at their word about where cultural resources are located and don't share that information.	No	1

Overall Themes	Best Management Practices	Mentioned by USACE Staff in Interviews / Surveys?	No. of Workshop(s) Where Mentioned
Internal USACE Processes	Develop a definition for "co-management" and a guide on how Tribes can write co-management plans.	No	1
	Develop a streamlined checklist that Tribes could go through and then give them funding to implement the projects.	Yes	N/A
	Rather than putting a Band-Aid on a bullet wound, remove the bullet. USACE should identify the real problem before making a plan for it.	No	1
	In terms of the contracting piece and lowest price issue, if the requirements are written in such a way sometimes you can weed out "bad" contractors.	No	1
	Recognize all the years of planning that have gone on before a project starts – don't just dismiss it.	No	1
	Involve Regulatory and Construction earlier on in a project's timeline.	No	1
	Raise concerns over the new Waters of the US ruling to the Senior Tribal Liaison at USACE HQ.	No	1

## APPENDIX G. LETTER OF INTEREST TEMPLATE

### *Tribal Government Letterhead*

*District Commander*

*U.S. Army Corps of Engineers, Name District*

*Address*

*Dear Sir/Ma'am:*

This letter is to seek the assistance of the U.S. Army Corps of Engineers in addressing a water resource challenge facing (name of Tribe).

***(Briefly describe the nature and severity of the problem and the facilities believed needed to correct the problem.)***

We understand that a project cooperation agreement (PCA) may be required and as the non-Federal sponsor the [name of Tribe] would be required to pay a portion of the cost for the project.

***Please contact (name, address, and telephone) for further information.***

***Sincerely,***

***(Name and Title of public official authorized to request assistance)***

*cf:*

*State Delegation*

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## APPENDIX H. SUMMARY OF TNTCX RESPONSIBILITIES AND ACTIVITIES

Several key mission support areas for the Tribal Nations Technical Center of Expertise (TNTCX) were noted in the news release announcing the formation of the TNTCX prepared by the Senior Tribal Liaison at USACE Headquarters (HQ):

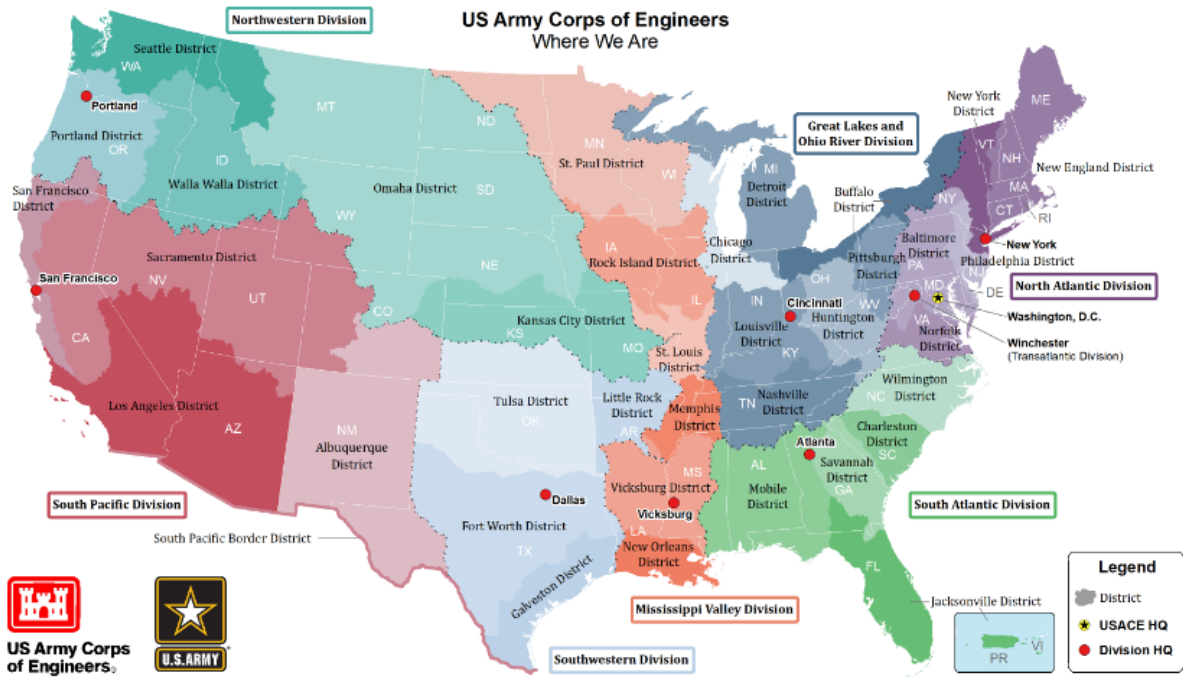
“The TNTCX provides assistance in closing gaps where there is limited capability to support the USACE Tribal Nations Program and reimbursable work for others, including other Federal agencies, federally recognized Tribes, as well as state and local governments. More and more Tribes are coming to USACE as project partners, seeking technical services from USACE’s interagency and international services authorities, collaborating on environmental issues and consulting on USACE projects. One of the goals of the TNTCX is to ensure effective delivery of critically needed resources, such as ecosystem restoration and construction of infrastructure that USACE is uniquely positioned to provide while fulfilling the agency’s Tribal trust responsibilities.

“The TNTCX provides support to the senior Tribal Liaison and the Tribal Nations Program to improve capabilities and management to reduce redundancies, optimize the use of specialized expertise and resources, enhance USACE-wide consistency, facilitate technology transfer, help maintain institutional knowledge and improve service to customers.” (Morales 2016)

See full article at: <https://www.spa.usace.army.mil/Media/News-Stories/Article/646777/new-tribal-nations-technical-center-of-expertise-to-track-interactions-statisti/>.

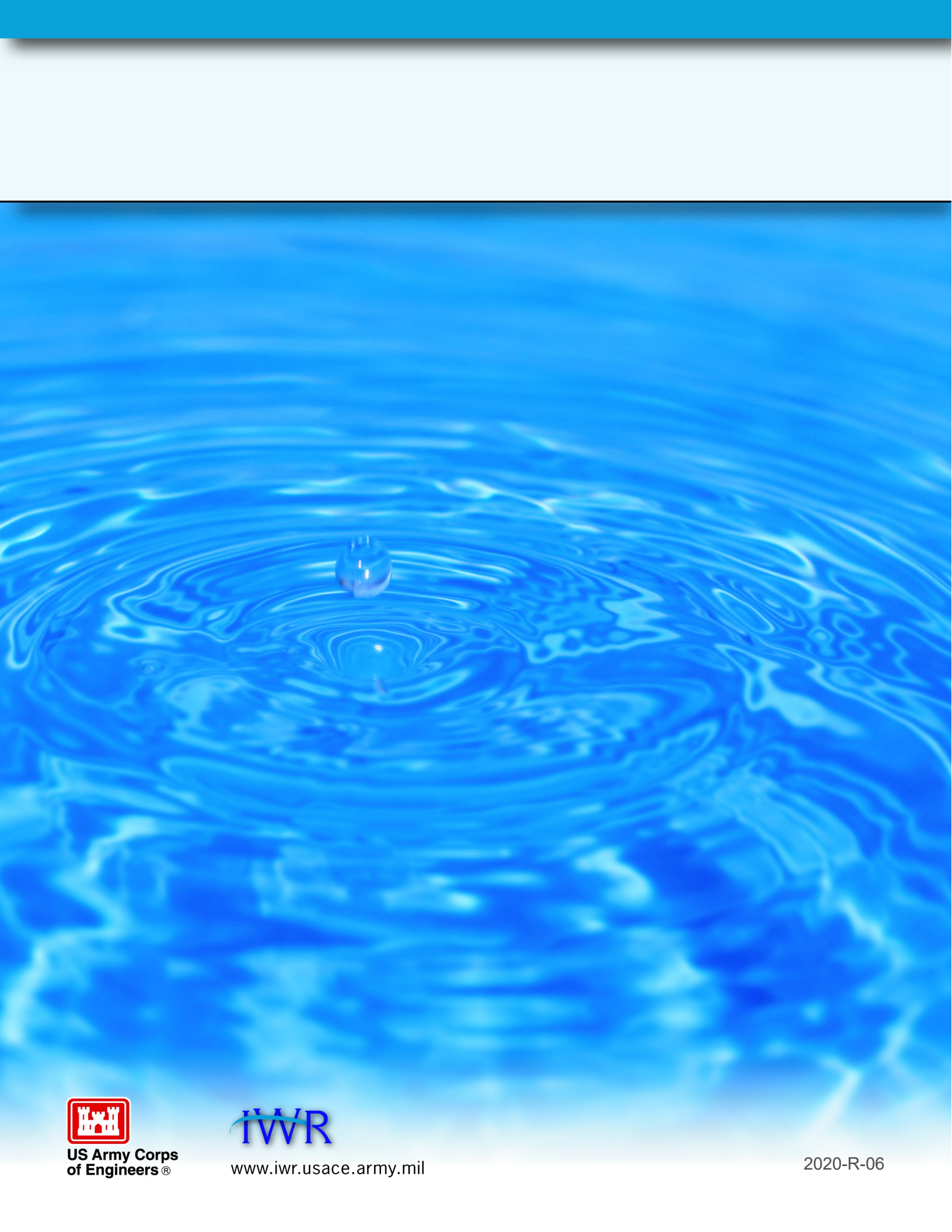
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# APPENDIX I. MAP OF USACE DIVISION AND DISTRICT AREAS OF RESPONSIBILITY (AOR)



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