

GAO Highlights

Highlights of [GAO-19-22](#), a report to congressional requesters

Why GAO Did This Study

Federal agencies are required in certain circumstances to consult with tribes on infrastructure projects and other activities, such as permitting natural gas pipelines, which may affect tribal natural and cultural resources. GAO was asked to review federal agencies' processes for consulting with tribes on infrastructure.

This report examines, among other things, key factors tribes and selected federal agencies identified that hinder effective consultation on infrastructure projects and steps agencies have taken to facilitate tribal consultation. GAO examined laws, regulations, and policies and interviewed officials from 21 federal agencies that are generally members of the FPISC. GAO also summarized comments that 100 tribes submitted to federal agencies in 2016 to provide input on tribal consultation for infrastructure projects and interviewed available officials from 57 tribes and eight tribal organizations. Tribal and agency views are not generalizable.

What GAO Recommends

GAO is making one matter for congressional consideration and 22 specific recommendations to 17 of 21 agencies and the FPISC on actions they can take to improve tribal consultation, including that the FPISC develop a plan for establishing a central federal information system and that agencies establish or update their policies to better communicate their consideration of tribal input. The agencies to which GAO made recommendations generally agreed with them.

View [GAO-19-22](#). For more information, contact Anne-Marie Fennell at (202) 512-3841 or fennella@gao.gov.

March 2019

TRIBAL CONSULTATION

Additional Federal Actions Needed for Infrastructure Projects

What GAO Found

Based on interviews with officials from 57 tribes and 21 federal agencies, as well as comments submitted by 100 tribes in 2016 on tribal consultation for infrastructure projects, GAO identified key factors that tribes and agencies believe hinder effective consultation on infrastructure projects.

Some of the key factors identified by tribes included

- agencies initiating consultation late in project development stages,
- agencies not adequately considering tribal input when making decisions about proposed infrastructure projects, and
- agencies not respecting tribal sovereignty or the government-to-government relationship between federally recognized tribes and the federal government.

Some of the key factors identified by the agencies included

- challenges in obtaining and maintaining accurate contact information for tribes, which is needed to notify tribes of consultation opportunities;
- agency resource constraints to effectively support consultation; and
- difficulties coordinating with other federal agencies when there are multiple agencies involved in particular infrastructure projects.

The 21 agencies in GAO's review have taken some steps to facilitate tribal consultation, but the extent to which these steps have been taken varied by agency. For example, GAO found the following:

- Three agencies have developed systems to help identify tribes that should be consulted on infrastructure projects, and 18 agencies have developed systems to help notify tribes of consultation opportunities. For instance, the Department of Housing and Urban Development developed a system that aims to identify over 500 tribes' geographic areas of interest and includes their contact information.
- The Federal Permitting Improvement Steering Council (FPISC)—which was created to make the process for federal approval for certain (large) infrastructure projects more efficient—recommended in its fiscal year 2018 best practices report the development of a central federal information system of tribal areas of interest and points of contact for consultation. In July 2018, the Department of Housing and Urban Development submitted a proposal to the FPISC to expand the department's system in response to the FPISC recommendation. Although the FPISC has discussed the proposal, as of October 2018 it had not yet decided whether and how to respond to it. If the FPISC decides to move forward and develop a centralized system, a plan with well-defined goals and clear roles and responsibilities, among other things, will provide greater assurance that a centralized system will be implemented in accordance with successful practices for developing government websites.
- Five agencies' tribal consultation policies specify that agencies are to communicate with tribes on how tribal input was considered, but 16 agencies do not call for such communication in their policies.