

June 12, 2023

Dear NSF Representatives,

Thank you for this opportunity to provide input into the proposed revisions to the PAPPG regarding engagement between Tribal Nations and researchers. We provide this input as representatives of the Navigating the New Arctic Community Office (NNA-CO). The NNA-CO is a research support and coordination office that builds awareness, partnerships, opportunities, and resources for collaboration and equitable knowledge generation within, between, and beyond the research projects funded by NSF's Navigating the New Arctic (NNA) initiative. Within this mission, the NNA-CO, advised by Indigenous and Research Advisory Boards, regularly engages with Tribes and Indigenous Peoples organizations across Alaska and with university-based researchers who collaborate or plan to collaborate with Tribes and Indigenous communities.

The proposed changes in the PAPPG will likely impact Tribes in both positive and negative ways, depending on implementation. The intent of the proposed revisions requiring researchers to seek and obtain "Tribal Nation permission for proposals that may impact Tribal resources or interests" indicates a notable and positive step forward. However, implementation may result in undue burden on Tribes and, secondarily, on researchers, especially if adequate guidance and resources are not provided to support the engagement process.

In general, we understand that the proposed revisions require principal investigators (PIs) to: (1) engage with Tribes to assess whether the research is impacting the resources or interests of Tribes; (2) if the answer is yes, seek Tribal guidance on what aspects of the proposed work require review and Tribal approval; and (3) based on Tribal guidance, submit a request to the Tribes for approval.

Below are several related concerns:

(1) Proposed revisions seemingly require the proposal's principal investigator (PI) to initially assess and acknowledge potential impact(s) on Tribal resources and interests. Some PIs may interpret these revisions as requiring an assessment of primarily negative impacts. This should be clarified by requesting that PIs acknowledge both negative impacts and positive impacts (benefits) so that Tribes have a more complete/holistic context when considering whether to approve projects. Additionally, the revisions may be strengthened by clarifying what may constitute engagement best-practices, which should include the researcher(s) holding

discussions with the Tribe(s) to increase understanding and to potentially agree to mutually beneficial outcomes.

(2) The examples provided for projects with potential Tribal impacts (for example, “*the participation of Tribal citizens in research as collaborators/consultants/subject matter experts pertinent to a specific Tribal Nation; the participation of Tribal citizens as human subjects in a study (note that this type of proposal may also require a separate Tribal IRB); carrying out studies or research on Tribal reservations, territories, and other locations where Tribes have legally protected rights to resources or to engage in activities; and using Indigenous knowledge or Tribally controlled information or data in research.*”.) are helpful. It seems appropriate and important to include reference to relevant Executive actions, namely the Executive Memorandum on “*Indigenous Traditional Ecological Knowledge and Federal Decision Making*” (Nov 15, 2021) and the Executive “*Guidance for Federal Departments and Agencies on Indigenous Knowledge*” (Nov 30, 2022). Such guidance will be important for showing that there are federal guidance/orders/statutes for engaging with Tribes and Indigenous Peoples beyond the Federal Environmental Statutes, such as the National Environmental Protection Act (NEPA), the National Historic Preservation Act (NHPA), and the Endangered Species Act (ESA), which are highlighted in Section II.D.2.i.

(3) PIs seeking Tribal review, guidance, and potential approval may overwhelm many Tribes. Most Tribes in Alaska do not have research or IRB protocols or the resources to support their development and implementation. Therefore, many Tribes may choose not to engage in the process. Ideally, funding and support opportunities for Tribes should be created and/or identified to support Tribal reviews in the short-term and to assist in building Tribal capacities in the long-term. Additionally, an unintended consequence may be that many researchers/PIs may choose to design and submit research proposals that do not require Tribal input or collaboration. NSF may consider suggesting a more than adequate time frame for this engagement to be completed, encouraging PIs to allow for several months to a year for the approval process and to support relationship building and equitable engagement (e.g., see the Circumpolar Inuit Protocols for Equitable, Ethical Engagement protocols:

<https://www.inuitcircumpolar.com/project/circumpolar-inuit-protocols-for-equitable-and-ethical-engagement/>). PIs should be encouraged to consider developing relationships and agreements that support reciprocity and accountability within research (see the “Principles for Conducting Research in the Arctic” by the Interagency Arctic Research Policy Committee, 2018, Washington D.C.). An additional best-practice for researchers engaging Tribes may be to encourage researchers to provide general information about NSF funding rates, as an effort to communicate the uncertainty and competitive nature of research proposals submitted to NSF.

This will help Tribes make decisions about investing their time and resources in supporting and/or engaging with prospective PIs.

(4) The proposed policy changes appear to allow proposals to be submitted to NSF with only their "*written request to the relevant Tribe(s) to carry out their proposed activities/activity that require(s) prior approval from the Tribal Nation(s)*". This implies that such proposals would be peer-reviewed prior to Tribal approval. This could lead to the situation where proposals are recommended for funding but not awarded until Tribal approval is granted, which could put Tribes in the position of being the final "barrier" to an award being made. This could lead to undue pressures on Tribes by PIs and universities who are eager to receive funding. This language could be adjusted to require Tribal approval as part of the initial proposal submission.

(5) The proposed changes allow proposals to be submitted with "*written permission from the Tribal Nation(s) to engage in an initial phase for planning collaboratively*", implying that this phase would happen after the award is granted. It would be appropriate for NSF to require this planning phase to be adequately represented in the project timeline and budget, and require proposals to have developed contingency plans if the collaborative planning phase does not result in a shared vision or interest with the Tribe or does not adequately address Tribal interests. As an alternative, NSF may consider developing a process for collaborative planning proposals with Tribes that could be granted in advance of the research proposal.

(6) Proposed revisions provide context for when "*Tribal reservations, territories, and other locations where Tribes have legally protected rights to resources or to engage in activities.*" It is not clear whether the Alaska context, with the presence of Tribes, Tribal organizations and consortia, and Alaska Native Corporations, has been considered. This should be clarified. Also, the current PAPPG revisions apply to federally recognized Tribes. There are many unrecognized Tribes, as well as Native Hawaiians, and Tribal organizations and consortia who would benefit from being included. These organizations are often in service to Tribes and provide critical support, administration, and capacity. The reference to Tribes could be revised to include "Tribal organizations and consortia".

(7) The revised PAPPG does not address training around these updates, potential requirements, and the right of refusal held by Tribes. Training for Tribes, Tribal organizations and consortia is needed to ensure all impacted are aware of these changes. Funding is also needed to support these organizations in creating processes and governance bodies to fully respond to requests from researchers.

On May 31, 2023, the NNA-CO organized and hosted an informational webinar session with NSF representatives to discuss the proposed revisions to the PAPPG and to answer participant questions. Over 40 people attended, including researchers, community engagement professionals, Arctic Indigenous scholars and community members, and NSF officials. A recording of the session is available on the NNA-CO website (<https://www.nna-co.org/special-session-nsf-representatives-discuss-proposed-revisions-pappg-related-tribal-engagement>).

Several participants acknowledged that researchers seeking Tribal Nation approval for research that impacts Tribes is very important and is good to have addressed in NSF proposal policies and procedures. Below is a summary of some of the comments, concerns, and questions that were raised; many have been slightly revised for length and clarity (any mistakes are those of the NNA-CO, which hosted the session and captured high level notes).

- If a Tribal nation denies approval, what are the implications for the NSF proposal process?
- Additional guidance would help clarify the timeline for proposers, Tribal review, or deadlines for proposal submissions. For example, Tribal Councils may have a process that includes review by other advisory bodies and that can take months. Tribes often have layers of consent, from individual to community level approvals. There was a suggestion for more rolling grant deadlines (rather than specific deadlines) to provide more flexibility when working with Tribes.
- How does a PI know if their proposal may impact Tribal resources or interests? It will be important to provide resources for PIs to assist in determining Tribal impacts or interests.
- The governance landscape in Alaska is complex. Would a PI need to get approval from all entities —Tribes, Alaska Native Village Corporations, Alaska Native Regional Corporations, etc. — that might be impacted by proposed research?
- How will Tribes receive clear guidance or training on their rights through these new policies and procedures if they go into effect?
- How do these proposed new guidelines relate to when Tribes themselves are serving as PI on a proposal that has an impact on Tribal resources and interests? For example, if the Tribal president is the PI and the Tribe a project partner, would approval be implicit?
- What happens if consent from a Tribal Government is revoked after a project is awarded? For example, if Tribal leadership changes after a research award is granted, and as a result Tribal approval gets revoked, would the project need to be discontinued?
- Is there any guidance on how research institutions are to communicate with Tribal governments?
- Is there something in the proposed policies that requires the PI to first ask the Tribes if the proposed research is something that the Tribe may need and want and if it furthers

Tribal plans and interests. Are there requirements for the PI to ask Tribes what their current research needs are? Will there be guidance for the PI to make this process go smoothly for Tribes and take some of this work load off of Tribes? Tribes get a lot of requests and this would add to their workload.

- Will NSF be able to fund small approval-seeking grants for Tribes to review proposals? It takes time and money to co-produce projects and to seek equitable input on proposed activities.
- How will NSF determine if a proposal is fulfilling the requirement for Tribal approval? It will be important to have compensated Indigenous reviewers (including community members and Elders) and NSF program staff to help determine if a proposal is fulfilling these goals.
- Are there ways for these proposed revisions to include reference to Indigenous Peoples in the Pacific and state recognized or unrecognized Tribes, recognizing that their Indigenous sovereignty is inherent?
- Has NSF considered the potentially negative impacts of these PAPPG revisions, e.g. potentially fewer proposals that include Tribes being submitted? There was a suggestion for NSF internal tracking to include a parameter for 'involvement of Indigenous communities' in the same way that NSF already tracks 'involvement of Tribal Colleges'. This will allow for assessment of the outcomes of these proposed revisions. If proposals that involve Tribes and Indigenous communities decline, NSF may consider a Tribal set aside as an incentive to ensure that research includes Tribes.

Thank you again for the opportunity to provide these comments.

Sincerely,
Matthew Druckenmiller, NNA-CO Director
On behalf of the NNA-CO Team