EXHIBIT 2-M.7

Section 106 Tribal Consultation: Step-by-Step Process

STEP 1: INITIATE CONSULTATION

- Using information from TDAT—Tribal Directory Assessment Tool, write a letter to the tribe(s) and invite them to consult
  - Exhibit 2-M.6: Sample Tribal Consultation Letter
    - Inquire about historic properties
    - Include project description and insert a map of the project area
  - Letters to tribal leaders and Tribal Historic Preservation Officer (THPO) identified using TDAT
  - Letter must be on Responsible Entity’s letterhead and signed the RE’s official
    - Cannot be delegated down to a consultant (per HUD guidance in webinar on 6/21/2012)
  - Letter may be transmitted by email
  - Response requested within 30 days of receipt
    - Tribe requested to accept or decline consultation within 30 days, NOT to provide information within 30 days
    - If tribe responds with no interest, or there is no response, tribal consultation is complete
  - Responsible Entity may invite non-federally recognized tribes to be consulting parties; or they may also participate as members of the public

STEP 2: IDENTIFY AND EVALUATE HISTORIC PROPERTIES

- Gather and share information about known and potential historic properties
  - Evaluate properties on the National Register of Historic Places
  - Tribes possess special expertise in evaluation of historic properties of religious and cultural significance to them
  - If parties disagree, can invite the Advisory Council on Historic Preservation (ACHP) to consult
  - Tribe can ask ACHP to request that the Responsible Entity obtain a formal Determination of Eligibility
- Consultation meetings with tribes
  - Face-to-face, web, phone
  - Joint consultation with other tribes and consulting parties
  - No fees paid to consulting parties, but travel expenses or consultant costs are allowable

Confidentiality
  - Be aware it may be culturally inappropriate to share some information
  - Protect sensitive information by all practical means and in accordance with state and federal laws
  - If an archaeological survey is requested/needed, use HP Fact Sheet #6—Guidance on Archeological Investigations in HUD Projects
Fact Sheet #6—Factors to consider
  - Information received from SHPO, THPO, tribes
  - Likely impact of the project on potential properties
  - Previous ground disturbance
  - Likely significance of potential properties
  - Magnitude of the project and degree of HUD involvement
  - Public interest
  - Presence of human remains
  - ACHP Policy Statement on Affordable Housing and Historic Preservation:
    “Archeological investigation should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance”
    - Statement does NOT apply to new construction

STEP 3: ASSESS EFFECTS
  - Criteria of Adverse Effect:
    - Physical destruction or damage of historic properties
    - Alteration of building or setting or use that does not meet Secretary of the Interior’s standards
    - Removal of property from historic setting
    - Introduction of incongruent visual, audible, or atmospheric changes
    - Transfer, lease, or sale of historic properties
  - Make a Finding
    - No Historic Properties Affected
    - No Adverse Effect
    - Adverse Effect
  - Notify all consulting parties of the Finding
    - Parties have 30 days to object
    - Tribe or RE may ask ACHP to review

STEP 4: RESOLVE ADVERSE EFFECTS
  - If Adverse Effect, notify ACHP and invite their participation in consultation
    - ACHP will respond within 15 days
    - Criteria for ACHP participation
      - “Presents issues of concern to Indian tribes and Native Hawaiian organizations”
    - Consult to avoid, minimize, or mitigate Adverse Effects
      - Consider alternatives
      - Consider mitigation measures
    - Memorandum of Agreement (MOA)
      - Required signatories—RE, SHPO/THPO, ACHP
      - Invited signatories—THPO, tribe, other consulting parties
      - Must be executed PRIOR TO decision point for project
    - Mitigation Measures
      - Data recovery through excavation
      - Signage or plaques on site
      - Oral history
      - Interpretive exhibits with artifacts
- Web archive or exhibit
- Educational programs
- Deed restrictions for property disposals

- RE must inform tribe and others when stipulations and mitigation measures have been carried out

- Termination of consultation may be requested by
  - THPO on tribal lands, RE, SHPO, ACHP (if participating)
  - Tribe that is consulting about properties off tribal lands may decline to sign MOA, but cannot terminate consultation

- Discoveries During Construction
  - If historic properties are discovered during construction, stop construction and notify tribes, THPO, and SHPO within 48 hours, and re-enter consultation
  - If discovery includes human remains, respectfully cover over and secure the remains, and notify same officials plus local law enforcement officials

- ACHP “Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects”

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1 Excerpted from: Consulting with Indian Tribes About Historic Properties in Environmental Review-Guidance for Responsible Entities, June 21, 2012; U.S. Department of Housing and Urban Development, Community Planning and Development