



U.S. Department of Housing and Urban Development

Office of Environment and Energy

Consultation Session on the Tribal Directory Assessment Tool (TDAT) and the draft Information Request Form

(November 17, 2022)

Lauren Hayes Kn...: Good afternoon everyone, and good morning for folks on the West Coast. Thank you for joining this part two of the consultation [inaudible 00:00:10] listening session for HUD's Tribal Directory Assessment Tool or TDAT. I'm Lauren Hayes Knutson, I'm the director of the Environmental Planning Division in HUD's Office of Environment and Energy and I'm joined by Brendan Barrington who is the system administrator for TDAT and by Lynn Rakos who is our acting federal preservation officer.

And thank you to those who joined last week's session as well, for those who weren't able to join, we went over some background on our statutory requirements for tribal consultation and some background on the TDAT tool and how it works, as well as our plans for our current enhancement project, including soliciting feedback from tribes on information to include in the tool. So Brendan will go over some highlights from last week's conversation and then we will turn it over to participants. We are very interested in hearing your thoughts. We certainly value your feedback and can answer questions you have on the enhancement project and the tool and we very much look forward to hearing from you. Thanks, I will turn it over to Brendan.

Brendan Barrington...: Thanks Lauren. So this is the second of two sessions that we'll be going through. In the first session we went through pretty much everything including the team data tool itself and the enhancement project. So we're not going to spend a whole lot of time rehashing what we went through last week. Just as a refresher, TDAT was developed back in 2010 as a tool to make it easier for users to identify tribes with a specific interest in an area for their proposed project. Intended it is to assist HUD staff and its responsible entities in identifying federally recognized Indian tribes to consult with per section 106 of the National Preservation Act. When assessing potential impacts a project may have on tribal cultural resources sites located on ancestral lands, just refresher REs are units of government who take responsibility for conducting environmental reviews for on HUD's behalf.

TDAT is currently a publicly available database that identifies counties that tribes may have a specific interest in for the purposes of section 106 consultation. The current data set I'm teed at is derived from publicly available databases and individual responses from tribes. One of the issues that we've

had with TDAT as of late is that it's been difficult to keep the information current and there have been inaccuracies, season inconsistencies in the data and this has led to complaints by users and tribes alike, and part of the enhancement project is to make this data more current and easier to access.

So that brings us to the enhancement project itself. There are quite a few goals under it, one of the big ones is to improve the accuracy of the data and this can be done through quarterly updates that we're doing. We're allowing TDAT to synchronize with data from BIA and NPS on a quarterly basis to get regular updates to the data. We're also implementing the role of a TDAT administrator, which at the moment is going to be filled by myself. The TDAT administrator will have the ability to vet changes in the data through regular updates and would be notified if data is inconsistent between various updates and will have the ability to contact tribes on a case by case [inaudible 00:04:16] to correct the information on TDAT. Also on the flip side of that, updated information can be provided by tribes directly to TDAT administrator to make changes on the fly. And as we said last time, the Federal Permitting Improvement Steering Council also known as FPISC, has coordinated with HUD to fund technical upgrades because it sees the benefit that TDAT can provide to tribal consultation when the information on it is regularly updated and it's kept current.

Just an overview of the project timeline, the project was authorized back in July and that's when the basic software development began. The tribal consultation was initiated last month in October via dear tribal leader letter that had gone out. This month last week on the 10th and today we're doing the two virtual presentations. Tribal consultation will end with any comments received since October 13th and December 13th and after that point all comments will be considered and incorporated into the final product. System testing would begin in January and with a full phase one launch anticipated in April of 2023, assuming we stick to that schedule, we're anticipated a second phase of the project to be completed by late 2023, which will include more mapping and GIS application features. This is one of the things we wanted to list of comments on. I mentioned that we wanted to try and keep the information on TDAT more current.

This is one of the proposed tribal directly system tool information request form. This form I want to trust is not mandatory, but is intended to help facilitate the Section 106 consultation by identifying specific parameters for consultation preferences. For instance, one of the things this form could do is if you have information on TDAT and its HIPO and you have a specific way you want to be contacted to initiate consultation. Using this form, which would be available on TDAT, you can select which method you would prefer to be contacted, whether you prefer to be contacted by email, whether you prefer a letter or a phone call, you can choose this on this form. Also, if there are specific projects that you don't want to be bothered with for tribal consultation, you can also check this, check the boxes or mention them specifically on this form. This includes projects you may not wish to review, such as projects found in a grounded disturbance or no physical activity. So now we're going to open it up to an open forum, so if

you have any questions you can put them in the chat, and our moderator can read them off and I will attempt to answer them to the best of my ability along with our acting federal preservation officer, Lynn Rakos, who is also on this call.

Speaker 2: Okay. If you'd like, please make sure to address your questions or comments to all panelists. It looks like we do have one that's come through here. It is always important to the tribe to know when we share information, what is available to the public to see. It was stated this information is for HUD staff, can this information be FOI'd? It would also be helpful to get a notice that submitted information has actually been entered.

Brendan Barrington...: So the information you would give to the TDAT administrator would go onto TDAT, which is a publicly available database, which the information would be public. There wouldn't be anything to FOIA that wouldn't already be on the publicly available database. The database isn't eliciting any personal information, it's giving information about contacts and their information and how to contact them and not any sort of private addresses or specific information that's not already available to the public. And-

Speaker 2: Okay. We have-

Brendan Barrington...: Oh, sorry, I was going to answer the second part. And-

Speaker 2: Please go ahead.

Brendan Barrington...: And yeah, if you feel like when we do get an update, if you think it'd be a good idea for some sort of read receipt or email feedback as a notification that the information you provided to the administrator was received and implemented, that is a recommendation we definitely could consider.

Speaker 2: Okay. We have an additional comment here. It should include spaces for PHPOs to provide the email, phone number or address that they want to be contacted at.

Brendan Barrington...: The form... Yeah, so when you contact the administrator as part of the enhancement project, there's a feature that on this part of the enhancement project that you can contact the administrator directly with an update to the contact information for the TIPO, including a new email or phone number or mailing address for which they want to be contacted on. That would be separate from the form, it would be part of the enhancement project. So if you're a TIPO and you go on the TDAT and you notice that your phone number is not correct or your address is out of date, you would have the ability on TDAT now just to go on there, contact the administrator and tell them, "Hey, our address is moved, or my phone number has changed, please update this information." And the administrator should be able to make that change.

Speaker 2: Okay. The next question we have, in the past tribes had to correct errors in our areas of interest by downloading the list from TDAT and updating it ourselves before submitting it to TDAT, that was an extremely tedious and time consuming process. Will we now be able to simply send a list of our counties of interest for you to add to TDAT?

Brendan Barring...: Yeah, that's one of the reasons we wanted to do the enhancement project to begin with is because we realized that in the past it is in really difficult because we've been working through essentially a middle man to try and get the information on TDAT updated. As with the enhancement project, you would actually have a full-time employee who would be able to respond to questions including counties that tribes would've an interest in and would be able to request updates directly instead of going through a lengthy process. So if you have an updated list of counties that you wanted to comment on projects on, you can do that directly through TDAT now, once the enhancement project goes up.

Speaker 2: Okay, comment here. I agree that a response that the information was received and updated, after that we have, how can we separate the THPOs and if applicable our housing office?

Brendan Barring...: So the intent is the contact on TDAT is supposed to be whoever wants to be contacted to initiate tribal consultation. So whoever you want to be contacted should be the contact list on TDAT. Does that answer your question?

Lynn Rakos: Could I just interject? That would be the person you want contacted for tribal consultation under section 106 for the National Historic Preservation Act. So any other tribal consultation, whether it's directly right to housing, it has nothing to do with historic preservation and 106 that would not be included under TDAT, so this is really for the 106 process. I hope that clarifies it.

Speaker 2: Okay. Next we see so many entities and federal agencies use this tool and there are errors and tribes have been left out. Will HUD reach out quarterly for updates?

Brendan Barring...: Yes, it's specifically supposed to synchronize with data that's provided to BIA and NPS on a quarterly basis. And if any of the information is flagged as inconsistent in this updating process, the TDAT administrator is supposed to reach out to tribes for clarification. So for instance, if we get an update from our quarterly data that shows that a tribe's address has been changed, but we see two different answers in two different places, the administrator would have to actually contact the tribe to figure out which piece of information is correct. And this would be kind of a mechanism to make sure that the information is current.

Speaker 2: Okay. TDAT should include a disclaimer that if the tribe is telling you something different than appears on TDAT, users should always defer to the tribe. We are

constantly battling with REs that refuse to follow our consultation preferences because they claim that they have to follow what is on TDAT.

Brendan Barrington: Lynn, do you want to comment on this?

Lynn Rakos: Yeah, sorry. Hi. According to the HUD tribal consultation memo, TDAT is listed as a tool, it's not a requirement. So it's really the REs who make the determination as to who they consult with. And I believe that if you are having trouble with the responsible entities... Could you tell me the question again? There's REs who are not consulting, is that the problem?

Speaker 2: REs that refuse to follow our consultation preferences.

Lynn Rakos: They should be following your preferences for consultation and particularly on tribal lands. Are you referring to tribal lands?

Speaker 2: Okay, I'll keep an eye out for response on that. Will the TDAT separate reservations from counties?

Brendan Barrington: At the moment, it doesn't have capacity in the way it's in the application is geo coded to do that. We are trying to brainstorm other ways to actually accomplish that. At the moment, the layers on TDAT are geo coded by state and county, so there's not at the moment a way to tell if you were to put an address for instance, to designate whether that address is on a tribal land or not, it would just tell you which county and state it would be in and whether that county or state has been listed as an interest for a tribe. But we're exploring other ways, we're actually very much open to comments on how to accomplish that.

Speaker 2: If a tribe does not want to be involved with consultation on certain activities, how can this be documented to include the environmental review?

Brendan Barrington: So on the form that we're proposing, I'll go back a slide here, on the bottom half we have a list of check boxes for projects that you would not want to be commented on. There's even an other box so if you have a variety of projects that you see far too often that you didn't want to comment on, you could check that and it would show that you do not want to comment on that type of project.

Lauren Hayes Knapp: Brendan, as a follow up, would this be documented in TDAT? Like it would show that the charge doesn't want to be consulted on these items and that could be documented in the environmental review?

Brendan Barrington: Yes, that information would be on TDAT.

Lauren Hayes Knapp: Great thanks.

Speaker 2: Is the intent still to still use county boundaries for the enhancement project or is there potential that we could submit a GIS shape file of our interest areas that may only include a small portion of a county?

Brendan Barrington...: So for the first phase that's supposed to wrap up in April, that's not possible, but we do want to expand it in the second phase that's going to take place right after that, to include more GIS applications. And a shape file of that point would be helpful. At the moment we're trying to get through some of the more basic objectives in the enhancement project and once those are completed in April, we're hoping to move on to more advanced features such as shape files and actual boundaries and layers on TDAT as opposed to just counties and seeds.

Speaker 2: Okay. Can you add multiple contacts or just the THPO in chief?

Brendan Barrington...: At the moment there's only one contact on there, for whoever would be the preferable contact initiate consultation. But if you think it would be preferable to have more than one contact on there, that would be a suggestion that we could take under consideration.

Speaker 2: All right. BIA and NPS do not have our list of counties, they cannot be providing that. Where have you gotten the county's lists?

Brendan Barrington...: So at the moment the county list is whatever we currently have on TDAT, plus any individual updates that have been submitted to HUD. With the enhancement project, if you have a preferred list of counties that you want to add to TDAT or amend, you should be able to contact the administrator and make that change correctly.

Speaker 2: Next, we were told that we had to list our tribal leader. Can we remove that information since our office is delegated to handle a Section 106 review?

Brendan Barrington...: You should list whoever you want to be contacted to initiate Section 106 consultation.

Speaker 2: Okay. And a clarification question here, tribal lands being all lands, not just trust land?

Brendan Barrington...: So TDAT would list any lands that you wish to list comments on. If you can clarify for that a little bit, that would be helpful, the question.

Speaker 2: Okay. We have a follow up from an earlier question. I'm referring to TDAT's outdated information on both our ancestral territory and contact person. Many REs do not understand that TDAT is just a tool to help them. They think that they are required to follow the information on there. HUD needs to do a better job of informing them that tribes are the ones that decide who their point of contact is and how they want to be contacted.

Brendan Barrington: Okay. Thank you.

Speaker 2: All right. And then after that we... Oh, go ahead.

Brendan Barrington: No, go ahead.

Speaker 2: We've been trying to get our tribes information updated for years now with no luck, is there any mechanism to get that corrected now or do we have to wait till spring? Because TDAT is used by many federal agencies this out dated information has inflated negative impact.

Brendan Barrington: So we do have, right now, prior to the enhancement project going up, we did create a new email address just for TDAT that is accessed by myself, the administrator and the acting FPO. It's tdat_info@hud.gov. If you have any immediate changes that you want to make to the information on TDAT, you can email there and we can forward it along to get updated. Hopefully with the enhancement projects that process will be cut down significantly and changes can be made on the spot instead of having to go through a process.

Speaker 2: Okay. Where did you get the county lists that are currently in TDAT?

Brendan Barrington: What we have currently is leftover from when TDAT was initially created and any individual updates that have been submitted since then.

Speaker 2: Since other federal agencies use TDAT, will the data indicating a tribe doesn't have interest in certain types of projects be limited to HUD projects? Could the form be updated to include check boxes for the tribe to indicate if this preference is only for HUD projects or for all federal agency projects and make this preference visible on TDAT?

Brendan Barrington: At the moment the form is tailored to HUD projects, but that is a good suggestion. If he wanted to expand the form to include more than just options for HUD related projects, since TDAT going to be used by more than one federal agency, that would be something to consider as a comment.

Speaker 2: There should also be an option on the form for tribes to indicate they want to consult on all projects. We are currently not receiving hundreds of projects because REs who typically have no prior knowledge of Section 106, proper consultation etiquette nor any background training in a relevant field are deciding they do not have to consult because they think their project qualifies as an exemption or CE.

Brendan Barrington: That's actually a good suggestion. One thing we could do is we can include another box that would say we want to be contacted on all projects. The form is finalized yet, so if you have any suggestions on how to word or improve it or different options include, we would welcome those comments as part of the consultation process.

Speaker 2: Okay. We're currently waiting for any additional questions or comments.

Looks like we have one that's coming. Could you put the form up again and zoom in so that it's readable?

Brendan Barring...: Sure.

Speaker 2: So yes, and I'll instruct you on how you can zoom in. At the top toolbar there you should have a zoom in option, looks like a plus sign. So for those of you that need to be able to see it a little bit better, you can also use Alt+Enter to full screen the presentation.

Okay. We have another comment here. There should be a way of tribes that may have an interest in a county but not on another tribe's reservation to be able to include the do not want to consult on projects on the other tribe's reservation.

Brendan Barring...: Okay. I mean we can... One of the common issues we're trying to figure out is if that might be something we could add on this form is if there's a checkbox that would say we do not wish to consult on another tribe's preservation. That it would be a suggestion that we could add that checkbox to this form so that reference is available on TDAT.

Speaker 2: Okay next. How's this system going to be an improvement when you are still just having one person or even a couple of people processing all the information request forms as well as comparing the lists from BIAs and NPS to current TDAT information and ensuring they are not overriding tribal data with data from another federal agency. A system where the tribes can log in and update and correct their information directly without having to go through someone at HUD would be much more straightforward and accurate.

Brendan Barring...: Well at the moment the goal of the enhancement project is make it very easy for a tribe to contact a person, in this case the administrator, and have them update it directly instead of waiting for the information to become out of date will have regular updates instead of a whole string of people who have you have to go through to update your information. You'll have one person who will have the administrative privileges to go onto TDAT directly and update their information. We don't have a feature at the moment for users outside of the administrative role to actually go in and update the information themselves, but that is a comment we can take under consideration.

Speaker 2: Okay. We're currently standing by for more comments and questions.

When you search by tribe, it should show their ancestral territory as well.

Brendan Barrington...: That is correct. So when you switch by tribe, it should show any state and county that would be in their ancestral territory or if they want to have an interest in commenting on projects that take place in that state or county.

Speaker 2: Can we add date of when this info from tribe was received?

Brendan Barrington...: So one of the things that we're adding to TDAT is a timestamp. So when you go on to TDAT and generate an export for a project like you select the state in the county, it'll show you when the data was accessed. In addition, on the interior side, the administrator will have access to a record of when individual requests were received and implemented in TDAT. So on the administrative side you would have someone in HUD who would've a record of whenever any data on TDAT has been changed, and on what date. And on the flip side for the user, for the people using TDAT, when they export the results and obtain a list of tribes to be interested in commenting on a project in a particular county, it'll come with a date stamp for the date that they access that information, so that if they want to present this list in tribal consultation or some other medium, they'll have a record of when it was accessed.

Speaker 2: Okay. The menu on TDAT still has the old email for feedback and corrections, when will this be updated?

Brendan Barrington...: We're going to try and update it as soon as possible.

Speaker 2: Will the system also indicate whether the information came directly from the tribe or a different agency?

Brendan Barrington...: So the administrator will have access to the sorts of the information. So as the administrator, I would be able to go onto TDAT and look and see if the information on there was either from legacy data, data that's already been on TDAT, imported from another source where a BIA or NPS, or whether that data came directly from a special individual request from a tribe. So from an internal perspective, the administrator on HUD side should be able to tell where this data came from. That would not be present from somebody who is actually using TDAT.

Speaker 2: When I look now, will I see a date of when the tribe last submitted?

Brendan Barrington...: So right now the data on TDAT is not timestamps. When the enhancement project is completed, it'll show when that data was extracted from TDAT, but the administrator would have a record of when that data came into TDAT. That information would not be public on TDAT when that data was updated. After the enhancement project, a user of TDAT would know when they obtained their output results from TDAT, because they would have a timestamp, but the administrator on HUD side would still have the information on when that information came in and what source it came from.

Speaker 2: And we're standing by for more comments or questions.

Okay. We have another incoming question here. You have mentioned in this meeting that the mapping and function of TDAT is being updated, but in the presentations you have only really focused on the form, will there be an opportunity to comment on the function as well?

Brendan Barring...: So the mapping as it is right now for the current phase is definitely going to be by county and state. So phase one we're focusing on the form and the ability to edit TDAT, and the data on it. The second phase would go more into the mapping application. If you want to elicit comments on ways to improve the mapping feature, that could be brought up in the next phase of the project when we actually go in and try and implement different layers and features on the TDAT that go beyond what we're working on right now.

Speaker 2: Once again, if you have a comment or question, please feel free to leave it to all panelists in the chat panel.

Doesn't look like we have anything coming in right now, Brennan.

Brendan Barring...: Okay, well if think of any comments between now and the 13th, please send them along. Our email address is tdat_info@hud.gov. Any comments taken between now and then we'll be considered as part of the enhancement project, especially looking for comments on this particular form and ways to improve it. Thank you very much. I mean you had quite a few comments and suggestions that we really didn't think of, so hopefully they'll be useful down the road as we try and finalize this phase of the project. Again, here's the information, tdat_info@hud.gov. If you have any comments, like I said, the deadline is December 13th, and we'll look forward to receiving them and hopefully any feedback will help us improve the process and the form associated with TDAT.

Lauren Hayes Kn...: Thanks everyone, we appreciate your participation and feedback.

Speaker 2: All right, that concludes our conference. Thank you for using event services. You may now disconnect.