

**Agency: U.S. Department of the Interior**  
**Bureau: Bureau of Land Management (BLM)**  
**Decision Package Title: Tribal Consent Certification Program (TCCP)**  
**Budget Period: FY 2025-2027**  
**Budget Level: Policy Level**

## **Decision Package Summary**

The Department of the Interior proposes the establishment of the Tribal Consent Certification Program (TCCP) in partnership with the U.S. Department of Agriculture (USDA), Bureau of Land Management (BLM), Environmental Protection Agency (EPA), and affected Tribal Nations. This policy-level decision package seeks to embed the principle of free, prior, and informed consent (FPIC) into the federal hardrock mining permitting process. The TCCP ensures that no mining projects proceed within designated Trigger Zones, areas near tribal lands, sacred sites, or culturally significant properties, without formal tribal consent. This shift supports federal trust responsibilities, strengthens Tribal sovereignty, and upholds environmental justice goals.

## **Fiscal Detail**

<b>Account</b>	<b>Fund Source</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Total</b>
1061	Bureau of Land Management	\$2,000,000	\$1,800,000	\$1,500,000	\$5,300,000

**FTEs Requested:** 4 FTEs (2 Tribal Liaison Officers, 1 Legal Analyst, 1 Program Manager)

## Policy Detail

<b>Object Code</b>	<b>Description</b>	<b>FY 2025</b>	<b>FY 2026</b>	<b>FY 2027</b>	<b>Total</b>
<b>A</b>	<b>Salaries and Wages</b>	\$480,000	\$494,400	\$509,232	\$1,483,632
<b>B</b>	<b>Employee Benefits</b>	\$144,000	\$148,320	\$152,770	\$445,090
<b>C</b>	<b>Contracts</b>	\$400,000	\$300,000	\$200,000	\$900,000
<b>E</b>	<b>Goods &amp; Services</b>	\$500,000	\$400,000	\$300,000	\$1,200,000
<b>G</b>	<b>Travel</b>	\$150,000	\$130,000	\$120,000	\$400,000
<b>J</b>	<b>Equipment</b>	\$250,000	\$200,000	\$100,000	\$550,000
<b>Total</b>	—	\$1,924,000	\$1,672,720	\$1,382,002	\$4,978,722

## Package Description

Mining operations near Tribal lands continue to threaten sacred sites and landscapes of profound cultural, historical, and spiritual significance. Although current federal permitting frameworks require consultation with Tribal governments, they do not mandate consent, leaving Tribes with limited authority in decisions that impact their lands and cultural integrity. The Tribal Consent Certification Program (TCCP) addresses this critical gap by establishing a formal requirement for Tribal consent before mining

activities can proceed within designated proximity to Tribal territories. By embedding a consent-based mechanism into federal permitting law, the TCCP upholds Tribal sovereignty and ensures respectful, culturally informed development.

Currently, federal agencies frequently receive and advance mining proposals with minimal or delayed Tribal involvement. Without a formalized Free, Prior, and Informed Consent (FPIC) process, these projects often bypass meaningful engagement, resulting in mistrust, legal challenges, and ongoing environmental injustices. This fragmented approach fails to meet the federal government's trust responsibility and undermines the principles of equity and co-governance. The TCCP offers a durable solution by aligning federal permitting practices with internationally recognized Indigenous rights frameworks.

The TCCP introduces a four-part system to institutionalize Tribal consent in mining projects. First, **Trigger Zone Mapping** will define standardized 50–100-mile buffer zones around federally recognized Tribal lands, sacred sites, and culturally significant landscapes. Second, a **Tribal Consent Certification** will be required for any mining activity proposed within these Trigger Zones; no project may advance without formal Tribal authorization. Third, **FPIC principles, including early notice, transparent communication, fair mitigation, and compensation**, will be embedded directly into permitting law. Finally, a **Tribal–Federal Arbitration Board** will be established to adjudicate disputes, confirm the cultural significance of sites, and ensure equitable resolution of conflicts.

## **Narrative Justification and Impact Statement**

The TCCP is expected to generate measurable improvements in federal permitting outcomes. These include an increase in the number of permits that incorporate valid Tribal Consent Certificates, a significant reduction in litigation initiated by Tribes over mining approvals, and a strengthened foundation for nation-to-nation trust and cooperation. The creation of a public-facing consent-tracking dashboard will

also enhance transparency and accountability across agencies, developers, and Tribal nations. In addition, the TCCP aligns with multiple federal priorities. It supports Executive Order 13985 by advancing equity for underserved and historically marginalized communities, and Executive Order 13175 by reinforcing the principles of Tribal Consultation. It also dovetails with ongoing efforts to modernize the National Environmental Policy Act (NEPA) and address environmental justice through more inclusive and equitable regulatory processes.

### **Alternatives**

Alternative approaches were considered, including continuation of the current consultation-based model. However, this status quo has proven insufficient, repeatedly excluding Tribal voices from decisions that impact their lands and resources. The preferred approach, establishing a binding consent process, aligns with both human rights standards and the federal government's legal obligations to Tribal nations. Failure to adopt the TCCP will perpetuate the inequities of the existing system, leaving sacred sites vulnerable and exposing the federal government to continued litigation, reputational harm, and administrative delays. Adoption, by contrast, will affirm Tribal sovereignty, improve the integrity of the permitting process, and help build a more inclusive, just regulatory framework.

### **Trade-offs: Pros & Cons**

Implementing the Tribal Consent Certification Program (TCCP) offers significant benefits, but it also comes with trade-offs that must be carefully considered. On the positive side, the TCCP would meaningfully strengthen tribal sovereignty by enforcing the principle of Free, Prior, and Informed Consent (FPIC) as a legal requirement in mining decisions. It would protect sacred and culturally significant sites from irreversible harm and improve federal-tribal relationships by shifting from a consultation model to one of co-governance. The program also aligns with broader environmental justice

and climate resilience goals, and over time, it could reduce litigation and uncertainty by providing clearer processes for consent.

However, these gains come with challenges. The program could face political opposition and resistance from mining companies concerned about perceived delays or added regulatory burdens. Implementation would be complex, requiring new administrative systems, definitions of sacred areas, and intergovernmental coordination. It would also demand significant upfront investments in staffing, legal infrastructure, and tribal capacity building. In the short term, some projects may experience delays during the transition, and legal or legislative adjustments may be necessary to embed consent requirements in existing frameworks like NEPA or BLM permitting rules. Despite these challenges, the long-term benefits of equity, trust-building, and cultural preservation make the TCCP a transformative policy worth pursuing.

## **Recommendation**

In the future biennial, the Tribal Consent Certification Program (TCCP) is expected to deliver several long-term benefits. These include a measurable reduction in legal disputes related to mining permits, resulting in decreased administrative and litigation costs. The program will foster stronger tribal-federal relationships, leading to more efficient and timely permitting processes. Over time, the TCCP will help institutionalize a shift toward co-developed, culturally aligned land use planning that reflects the values and sovereignty of Tribal Nations while promoting sustainable resource management.

## Policy Logic Model

### Logic Model: Tribal Consent Certification Program (TCCP)

Makayla McGilvrey - - Master of Public Administration, The Evergreen State College - - Amy Gould, PhD, and Larry Geri, DPA

