

document on February 8, 2022 and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Luvenia Potts,**

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[FR Doc. 2022-03124 Filed 2-11-22; 8:45 am]

BILLING CODE 8320-01-P

## DEPARTMENT OF VETERANS AFFAIRS

### Department of Veterans Affairs' Tribal Representation Expansion Project

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of Tribal consultation.

**SUMMARY:** The Department of Veterans Affairs (VA) is seeking Tribal consultation on "The Tribal Representation Expansion Project (T. REP)", a project through which VA strives to ensure that Native American Veterans have access to responsible, qualified representation in the preparation, presentation, and prosecution of their benefit claims before VA. VA is seeking comments on whether Tribal communities currently have access to representation for VA benefit claims and, for those Tribes that are being underserved in terms of representation, whether the Tribal governments may be interested in collaborating with VA to designate an individual within the community as authorized to prepare, present, and prosecute VA benefit claims. In addition, VA is seeking comments and recommendations on any issues, concerns, or processes the Tribes believe should be addressed in T. REP to better ensure that the project is successful in helping to expand access to representation for Native American Veterans on their benefit claims before VA.

**DATES:** VA will hold the virtual tribal consultation session on March 23, 2022, from 3:00–5:00 p.m. (Eastern Time). Written comments may also be submitted to VA on or before March 30, 2022.

**ADDRESSES:** Participants can access the virtual consultation session by registering through the following link: <https://veteransaffairs.webex.com/veteransaffairs/onstage/g.php?MTID=eaa07b769b5f8a27cfe390e0c732ee1eb>; for audio by phone, please dial 1-404-397-1596, access code 2760 198 8717. Participants will

interact by submitting written comments and/or questions using the chat function during the presentation. Written comments may also be submitted by any of the following methods:

- By email to [tribalgovernmentconsultation@va.gov](mailto:tribalgovernmentconsultation@va.gov).
- By facsimile to 202-273-5716.
- By mail to U.S. Department of Veterans Affairs, Suite 915B, 810 Vermont Avenue NW, Washington, DC 20420.

Comments should indicate that the submission is in response to "The Tribal Representation Expansion Project."

**FOR FURTHER INFORMATION CONTACT:** Clay Ward, VA Office of Tribal Government Relations at (202) 461-7445 (this is not a toll-free number), or by email at [Tribalgovernmentconsultation@va.gov](mailto:Tribalgovernmentconsultation@va.gov), or by mail at Suite 915B, 810 Vermont Avenue NW, Washington, DC 20420.

**SUPPLEMENTARY INFORMATION:** Through T. REP, VA strives to ensure that Native American Veterans and their families have access to responsible, qualified representation in the preparation, presentation, and prosecution of their benefit claims before VA. Through T. REP, VA aims to focus on the Tribal communities that are being underserved in terms of representation. To help improve access to claims representation in those communities, VA would like to collaborate with Tribal governments to designate an individual within the community as authorized to prepare, present, and prosecute VA benefit claims.

VA has long since recognized the unique circumstances of Tribes and that cultural, geographical, or language barriers may exist that prevent or deter Native American Veterans from seeking out representation on their benefit claims before VA. In 2017, VA took affirmative steps to improve access to representation on Tribal land by revising its regulations to, among other things, permit veterans' service offices affiliated with Tribal governments to be recognized by VA as Tribal organizations in a manner similar to State organizations (*see* 82 FR 6265 (Jan. 19, 2017)). VA, however, recognizes that there is still more that VA can do to advance equity in the access to representation for Native American Veterans on their VA benefit claims. Accordingly, to further facilitate access to culturally competent representation for Native American Veterans, and to honor the unique nature of the Federal government's Nation-to-Nation relationship with the Tribes, VA would like to collaborate with Tribal

governments to expand opportunities for claims representation where needed.

Through consultation, VA seeks to learn which Tribal communities have access to representation for VA benefit claims. VA is interested in learning which Tribal communities have access to representation that is provided by representatives of VA-recognized organizations. VA is also interested in learning which Tribal communities have access to representation by attorneys and agents. Moreover, VA also seeks to learn whether such representation is viewed in the Tribal community as culturally competent representation.

In addition, from the Tribal communities that self-identify as being underserved in terms of representation, VA seeks comments on whether their Tribal governments may be interested in collaborating with VA to provide an option for representation. Specifically, VA is interested in learning if there are Tribes that may be interested in identifying an individual who is affiliated with their government, is of good character and reputation, and, who, after proper training on VA benefits, would be fit to be authorized by the VA General Counsel to represent on VA benefit claims. The General Counsel then plans to use his discretionary authority, pursuant to 38 CFR 14.630, to specially authorize such individuals to prepare, present, and prosecute VA benefit claims before VA. In addition, to help ensure the fitness of these specially authorized individuals, VA is exploring the possibility of coordinating with VA-recognized organizations that have established veterans benefits training programs and that may be willing to make their training available to such individuals.

In addition, VA is seeking comments and recommendations from Tribal leaders and representatives of Tribal communities on any issues, concerns, or processes that should be addressed in T. REP to ensure that the project is successful in expanding access to representation for Native American Veterans on their VA benefit claims.

Accordingly, through this Tribal consultation, the Secretary seeks information on the questions listed below. Comments do not need to address every question and should focus on those that are relevant to the commenter's Tribal community. To the extent possible, please clearly indicate which questions you are addressing in your response and include any rationale or information that may be helpful to VA.

1. Are Native American Veterans in your community receiving any

assistance in pursuing their VA benefit claims? Are they being represented before VA on their VA benefit claims? Who is providing those services? For example, those claims services may be provided by: (a) A person employed by the Tribal government; (b) a member of your Tribe or Tribal community; (c) a VA-recognized organization or a representative of a VA-recognized organization; or (d) an agent or attorney. Please provide details as to the extent of the assistance provided and whom we may credit if your Tribal community currently has access to benefit claims assistance and/or representation before VA.

2. If Veterans within your Tribal community have access to representation for their VA benefit claims, do you consider the option(s) for representation to be culturally competent representation? Please explain.

3. If Veterans and their families within your Tribal community are not being adequately represented on their VA benefit claims, is there someone

employed by, or affiliated, with your Tribal government that is currently, or could be, positioned to serve Veterans? For example, such individual may currently be serving Veterans and their families as a Tribal Veterans Service Officer (TVSO) or as a Tribal Veterans Representative (TVR).

4. Are there barriers to Veterans and their family members within your Tribal community in accessing representation on their VA claims? For example, barriers may include: (a) Location or environmental obstacles; (b) language difficulties; (c) cultural differences; (d) distrust of the Federal or State government; (e) difficulties in finding training; (f) difficulties in securing office equipment and internet services; or (g) other circumstances.

5. Do you believe that your Tribal government may want to collaborate with VA to identify someone affiliated with your government to be authorized to represent Veterans and their families on benefit claims before VA?

6. Are you interested in being contacted by VA's Office of General Counsel to learn more about the project?

7. Are there issues, concerns, or processes that should be addressed in T. REP so that the project functions effectively in support of access to representation for Native American Veterans within your Tribal government and/or community? If so, how do you recommend VA address those matters in this project?

#### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on February 8, 2022 and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Luvenia Potts,**

*Regulation Development Coordinator Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.*

[FR Doc. 2022-03084 Filed 2-11-22; 8:45 am]

**BILLING CODE 8320-01-P**