

Department of Veterans Affairs Seeks Comments on Tribal Representation Expansion Project and Designation of Individuals to Represent AI/AN Veterans in VA Benefit Claims

Category: Policy Blog

written by Alexandra Payan | March 11, 2022

On February 14, the Department of Veterans Affairs (VA) [released a notice of Tribal consultation regarding the VA's Tribal Representation Expansion Project \(T.REP\)](#). Through this consultation and an additional written comment period, VA is seeking comments on three general areas. First, whether Tribal communities have access to representation for VA benefit claims. Second, for Tribes that are underserved in terms of representation, VA is also seeking comments regarding whether their Tribal government is interested in collaborating with VA to designate an individual within the community as authorized to prepare, present, and prosecute VA benefit claims. Third, VA is seeking comments and recommendations on any issues, concerns or processes Tribes believe should be addressed in T.REP to better ensure that it is successful in expanding access to representation for AI/N veterans on their benefit claims before VA.

In addition to these general areas, VA has posed the following seven questions to be addressed through written comments:

1. Are Native American Veterans in your community receiving any Start Printed Page 8343 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?

VA will be holding a 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 by March 30, 2022. Written comments may be submitted by email to tribalgovernmentconsultation@va.gov, as well as through other methods listed in the [Federal Register Notice](#). To access the virtual consultation session, participants must register by clicking [here](#).

Background

There is an urgent need to ensure that all AI/AN veterans have access to the benefits they earned through their service. According to a [2020 VA Report](#), AI/AN veterans served in the Pre-9/11 period at a higher percentage than veterans of other races. Despite a distinguished record of service, VA's statistics also show that AI/AN veterans were more likely to be unemployed, were more likely to lack health insurance, and were more likely to have a service-connected disability when compared to veterans of other races. In addition, in Fiscal Year 2017, AI/AN veterans used Veterans Benefits Administration (VBA) benefits or services at a lower percentage than veterans of other races.

In 2017, VA [amended its regulations](#) governing recognition of organizations permitted to provide assistance on VA benefit claims in 2017 to permit the VA Secretary to recognize Tribal organizations in a similar manner as state organizations. VA also amended its regulation to allow employees of Tribal governments to become accredited through recognized State organizations in a similar manner as a County Veterans' Service Officer. Despite a request that VA amend its regulations to also recognize UIOs, VA declined to do so. VA stated that UIOs should consider applying for VA recognition as a regional or local organization.

VA's T.REP represents VA's most recent effort to ensure that AI/AN veterans and their families have access to appropriate representation in the preparation, presentation, and prosecution of their VA benefit claims. [The aim of this program](#) is to focus on Tribal communities that are being underserved in terms of representation. VA's current T.REP focus is collaborating with Tribal governments to identify "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." According to VA, if a tribal government identifies such a person "[t]he 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."

Inclusion of UIOs in T.REP Would Benefit AI/ANs living in Urban Areas

NCUIH encourages UIOs to submit comments to VA by March 30, 2022 concerning T.REP, the needs of AI/AN veterans living in urban areas, and whether VA should consider including UIOs in T.REP. AI/AN veterans living in urban areas face many of the same barriers to accessing competent representation in VA claims that AI/AN veterans face on reservations. For example, VA cites cultural

and language barriers as being two of the main deterrents for AI/AN veterans seeking representation on VA benefit claims. AI/AN veterans living in urban areas also face cultural and language barriers when searching out representation on their claims.

Further, current estimates show that 67 percent of the veteran population identifying as AI/AN alone lives in metropolitan areas. UIOs currently serve six of the ten urban counties with the largest veteran AI/AN alone populations, including Maricopa County, Arizona; Los Angeles County, California; San Diego County, California; Bernalillo County, New Mexico; Oklahoma County, Oklahoma; and Tulsa County, Oklahoma. AI/AN veterans regularly prefer to see UIOs over other health care providers thanks to the provision of culturally competent care (including traditional healing services), community and familial relationships, shorter wait times, and shorter distance to travel. Given the large portion of the AI/AN veteran population living in urban areas and UIOs' ability to reach AI/AN veterans, inclusion of UIOs in T.REP would help VA accomplish its goal of "ensur[ing] 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."