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Comment On: NSF-2025-OGC-0001-0001
Request for Information: Development of a 2025 National Artificial Intelligence Research and Development Strategic Plan

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General Comment

Please see attached comment from the Habematolel Pomo of Upper Lake.

Attachments

HPUL comment to NSF AI 052925



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National Science Foundation

Submitted via www.regulations.gov

Re: RFI on the Development of a 2025 National Artificial Intelligence Research
and Development Strategic Plan
Docket ID no. NSF-2025-OGC-0001

The Habematolel Pomo of Upper Lake, a federally recognized Indian tribe (the "Tribe") appreciates the opportunity to provide comments on the above-noted request for information.

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Background

The Habematolel Pomo of Upper Lake descend from the Pomo tribes whose homelands historically spanned a wide geographic area in north-central California – from the Pacific coast to the Clear Lake region. Our ancestors called that area home as early as 6,000 B.C., and our people flourished until significant migration and settlement brought conflict and disease that – in one generation—slashed our population by 95%. The flawed federal policies that ensued subjected the Pomo tribes to enslavement, internment, horrific abuse, slaughter, and eventual termination. In 1850, the United States Cavalry nearly eradicated my Tribe's ancestors – predominantly the elderly, women, and children – in an aggressive military operation known as the "Bloody Island Massacre." In the mid-19th century, our ancestors were violently driven from their lands but we survived and returned. Eventually we amassed a land base of over 560 acres through piecemeal acquisitions, and in 1907 we were able to obtain federal recognition for a reservation. Again, we were confronted by adversity, this time in the form of an unjust, attempted legal termination by the federal

government. Again, we persevered. After prosecuting litigation that lasted nearly a decade to confirm the recognition of our Tribe, we prevailed, but were landless again. The effort to rebuild our land base has involved another long and onerous process. In 2008, the Department of the Interior finally accepted into trust a small, 11.24-acre tract of land for the benefit of our Tribe.

Tribal Interests in Artificial Intelligence

Without a large land base or significant resources or tax base, our Tribal government depends on the internet to provide economic development. The revenues used to fund our governmental services are generated by wholly owned economic development arms that provide financial products and services from our land in Upper Lake to consumers who choose to access our jurisdiction via the internet. As is the case with any modern e-commerce business, the operation of my Tribe's entities involves significant amounts of data, and we avail ourselves of cloud storage and processing in order to best use and protect this data. We are also aware of the great promise of AI, in the context of improving efficiencies and processes in our businesses and in the Tribal government itself. However, we caution that efficiency must never come at the expense of sovereignty. As artificial intelligence becomes increasingly integrated into critical infrastructure, commerce, and public services, the federal government must ensure that Tribal Nations are not merely users of AI technologies, but co-governors of the systems that affect their people, data, and jurisdiction.

Tribal Digital Sovereignty is central to the modern success of Tribal Nations. As the U.S. seeks to update its National AI R&D Strategic Plan, it is important that Tribal Digital Sovereignty and broader rights of Tribal Nations over data and digital infrastructure is recognized and respected. Just like Tribal Nations maintain the inherent sovereign authority to govern our land, resources, and people, so may we govern and control our digital assets. That sovereignty includes the right to determine the frameworks under which AI tools engage with, interpret, or act upon Tribal data, particularly in areas like health, education, energy, and economic development. Tribal data – whether it is our indigenous knowledge relating to our land, people, resources, language, and culture, or the data relating to our businesses including customer information, trade secrets, and intellectual property – belongs to the Tribe and is subject to Tribal jurisdiction. Just as we have the right to control what occurs physically in our jurisdiction, so do we have the right to manage and control our data in our digital jurisdiction.

Considerations in Updating the National AI R&D Plan

There are three especially salient issues related to Tribal Digital Sovereignty that we ask NSF to consider in any policy relating to artificial intelligence.

1) Use of Tribal Data in Public and Governmental Datasets Requires Tribal Consent

The U.S. must recognize Tribal Nations' strong ownership interest in our data and other digital assets. This means that, for example, if an artificial intelligence is to incorporate a wide range of data for training purposes, and if that data set includes any data belonging to an Indian tribe, then that tribe must be made aware of that use and the use may not proceed without the tribe's consent. There are notable instances in the recent past – such as the unauthorized reuse of blood samples belonging to members of the Havasupai Tribe – where data belonging to tribal populations was used for purposes beyond which the initial consent was obtained. Our inherent sovereignty gives us the right to control physical access to our jurisdiction in order to safeguard our land and our physical assets, and there should be no question that this sovereignty applies to our digital assets as well. Any actual or expected use of tribal data must be subject to full, informed consent by the tribe to which the data belongs. Federal systems and AI development initiatives must therefore incorporate clear protocols for tribal data governance, including opt-in mechanisms, data localization preferences, and algorithmic transparency requirements when AI systems are trained on or deployed within Tribal jurisdictions.

2) Clear and Nationally Recognized Regulatory Frameworks for Digital Jurisdiction, (Including Tribal Digital Jurisdiction) are Needed

Recognition and respect for Tribal digital jurisdiction is of paramount importance to tribes such as mine who operate e-commerce businesses in order to fund our Tribal treasury and provide needed governmental services to our members. Digital jurisdiction can be legally complex due to its geographically elastic nature – for example, the cloud and machine learning models involve myriad locations. Therefore, we would suggest that a key function of federal R&D will be to assess the physical location and regulatory jurisdiction of AI. And, as part of this framework, the U.S. must recognize Tribal digital jurisdiction.

A clear and predictable regulatory environment will drive AI R&D. We have witnessed this first hand. Our online businesses are most successful in regulatory environments that support, not thwart, electronic commerce. Those businesses' transactions are on-reservation activity conducted by businesses that are arms of the Tribe – i.e., entities formed and incorporated pursuant to Tribal law, owned and operated by the Tribe, and generating revenue for Tribal governmental purposes. The entities are headquartered on the Tribe's land, but (as NSF is surely aware) modern e-commerce businesses such as ours avail themselves of cloud computing and storage, due to its superior security and cost-

effectiveness as compared to physical servers. These benefits are significant, but the use of cloud infrastructure creates ambiguity as to “where” exactly the data exists, which poses issues for my Tribe’s businesses and any other business owned and operated by a sovereign. Cloud computing and infrastructure are deeply intertwined with artificial intelligence, and any actions taken by the NSF and the federal government should be aimed at advancing the use of these emerging technologies.

Beyond business operations, AI policy must also reflect the growing role of Tribes in deploying broadband networks, regulating digital platforms, and stewarding data infrastructure. The promise of AI cannot be realized equitably without meaningful investment in Tribal digital capacity – technical assistance, workforce training, and co-governance mechanisms that support Indigenous innovation. The National AI R&D Strategy must view Tribal Nations not as stakeholders, but as sovereigns – capable of shaping how emerging technologies serve their citizens.

We urge NSF to work closely with Tribal governments to co-develop AI policy frameworks that recognize the full scope of Tribal digital jurisdiction and align with principles of government-to-government consultation.

3) NSF Must Engage in Consultation with Tribal Nations to Develop a U.S. AI R&D Strategic Plan that Lives Up to the Federal Trust Obligations and Leverages Collaboration with Tribal Governments

Finally, we would encourage NSF to engage in government-to-government consultation with Tribal Nations. Consultation is essential to fulfill the Federal government’s trust obligation to Tribal Nations. As discussed above, Tribal digital resources are just as valuable and important as Tribal natural resources; data and cloud computing have as much relevance to contemporary Tribal Nations as our rivers, trees, languages, and lands. And just as the Federal government is the trustee for Tribal natural resources, so is it the trustee for those digital resources. Understanding how Federal policies, including the strategic plan, may impact Tribal digital resources is necessary due to the self-appointed role of trustee and as codified in federal treaties, laws, and policies, including EO 13175.

Even more, engaging in consultation will allow the Strategic Plan to include and leverage Tribal governments. Importantly, many of the previous plan’s strategies would benefit from Tribal collaboration – from developing shared public data sets to ensuring the safety and security of U.S. AI systems to deploying AI in rural and workforce development contexts. Tribal governments are a ready and willing ally to help the U.S. achieve its AI goals – but we must be included to do so. Consultation will help ensure this.

We would be happy to discuss any of these concerns on a government-to-government basis with NSF. We again appreciate the opportunity to comment. If NSF has any questions they are welcome to contact me directly.

Very truly yours,

Danielle Cirelli
Chairperson
Habematolet Pomo of Upper Lake