

V. Request for Services and Project Agreements

A. Overview. A Tribe can make a request to, and reach an agreement with, a Federal, State or local agency or government for these agencies/governments to perform all or parts of the Tribe's TTP project planning, preliminary engineering, and construction management.

A Project Agreement is a mutually negotiated written document between a Tribe and a Federal, State or local government or agency, usually put together for a specific project. This chapter focuses on the Project Agreement process. The first step in this process is for the Tribe to request an agency or government to perform the project-specific services.

B. Request for Services. If a Tribe is considering initiating a Project Agreement with a Federal agency (BIA, FHWA Federal Lands Highway (FLH), US Army Corps, etc.), the Tribe should fill out and submit a Tribal Request for Services form to the agency (See Appendix C - [Exhibit 5.1](#)).

C. Project Agreement. After a Tribe has requested TTP related work from a Federal, State or local government agency or government, and the agency or government has agreed to perform the work, it is recommended that the Tribe enter into a formal Project Agreement with the agency(s) or government that will perform the work. A Project Agreement is not required by law, but is strongly recommended.

Also, if a State or local government owns a road, trail or other transportation facility that is in a Tribe's TTP project, or the Tribe will be performing maintenance on such a facility, it is recommended that the Tribe enter into a Project Agreement with the State or local government that owns the facility.

The Project Agreement includes a list of project tasks, roles and responsibilities, costs, and a schedule to accomplish the tasks. Along with the Tribal Government, the partner agencies for a project may include FHWA, the BIA, State agencies, County or borough governments, and Federal land management agencies (NPS, BLM, USFWS, etc.) that are in the project area. A Project Agreement may also be called a "Memorandum of Understanding".

The Project Agreement describes who, what, when, where and how to perform a set of TTP related tasks. For example:

- **Who:** Who is doing what and under what circumstances? Who retains ownership rights over the product or service? Who is completing the project?
- **What:** What will happen in every step of the project? If problems arise, what should be done?
When: When and under what schedule should different portions of the project be developed?
- **Where:** Where and in what way will communication take place between the parties? By email, phone or in person?
- **How:** How will the project be completed? In a day, week or in a month? How many due dates? One due date or a couple in an effort to break the project down into manageable parts? How will disputes be settled if any should arise? What will be the costs paid by the Tribe to the agencies or governments performing the work?

Project Agreements should be authorized, approved, and signed by the Tribal Government and authorized signatories of the partner agencies involved in the project, and then distributed by the Tribe to those parties. In this way, the Project Agreement acts as an authoritative agreement to guide all the parties in work tasks and coordination requirements. A template for a Project Agreement to perform project design, construction, or construction administration work is in Appendix C - [Exhibit 5.2](#).

When a Project Agreement is drawn up and signed, a Memorandum of Agreement (MOA) or Memorandum of Understanding (MOU) should also be drawn up which summarizes the content of the Project Agreement, and which is signed by the same parties who are signing the Project Agreement.

The TC is responsible for assisting the Tribe in the development of the Project Agreement, and the MOA or MOU.

- D. Statutory/Regulatory Requirements.** Under the authority prescribed in 23 U.S.C. § 202, a Tribal government may request a Federal agency to perform all or parts of TTP project planning, preliminary engineering, and construction management.

A Tribe may also request state and local agencies to perform all or parts of those TTP responsibilities, subject to the limitations and requirements in the other agreements, contracts, MOUs, etc. that the Tribe may have with the BIA and/or FHWA.

- E. Guidelines/ Procedures.** The Tribe will determine if a Project Agreement is needed. It is recommended that the Tribe prepare the first draft of the Project Agreement to ensure that the Tribe's perspective on partner agency/government responsibilities is adequately represented. The Tribe should provide copies of the draft Project Agreement for review and comment to the agencies who have a significant role in development of the project.

The Project Agreement should be drafted well before any project activities are started, and it should be circulated to the project's partner agencies for review and comment. The Tribe may consider hosting a project review meeting of the partner agencies to discuss the proposed project, the draft Project Agreement, and the project coordination that will be required.

The agencies will perform the activities (listed for them in the approved Project Agreement) at the request of the Tribe. This will be a project cost requiring the Tribe to provide the funding, agreed to in the Project Agreement, to the agencies as they perform the designated work.