



Native American Hiring Provision Implementation Guide

for Tribal Governments



Wisconsin Department of Transportation
Tribal Affairs

Introduction

This guide outlines the process of implementing the Native American Hiring Provision (NAHP) from project identification through construction. The Wisconsin Department of Transportation (WisDOT), contractors, and the tribe each have specific roles and responsibilities with the NAHP. The purpose of this guide is to provide the tribe with key information that will help streamline communication and lead to successful implementation of the NAHP. This guide is for any tribal staff who will facilitate implementation of the hiring provision, including Tribal Leadership, Human Resources, Labor Development, and Roads Departments.

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Special thanks to Tribal Labor Advisory Committee (TLAC) for their work on developing the Native American Hiring Provision and to WisDOT Labor Compliance for their assistance in developing this guide.

About WisDOT Tribal Affairs

The WisDOT Tribal Affairs initiative works exclusively on tribal relations and all transportation related issues affecting tribal communities.

The United States government has a unique legal relationship with federally recognized Tribal Governments as set forth in the Constitution, treaties, statutes and court decisions. WisDOT has a responsibility and is committed to this unique government-to-government relationship that respects tribal sovereignty and self-determination.

Task Forces and Committees

Inter-Tribal Task Force (ITTF)

ITTF consists of representatives designated by tribal leaders and WisDOT staff to forge and enhance government-to-government relationships between the 11 Tribes and the state and federal transportation agencies.
wisdottribaltaskforce.org

Tribal Labor Advisory Committee (TLAC)

TLAC develops strategies to enhance Native American Labor opportunities on state and federal projects.

Tribal Historic Preservation Office (THPO)

THPO works to strengthen tribal participation in WisDOT programming and projects with a focus on historic preservation and environmental issues.

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The Native American Hiring Provision

The Native American Hiring Provision (NAHP) is a Standardized Special Provision (STSP), which will become part of a project contract, that requires the contractor on a construction project to provide information about hiring and employment opportunities for members of a Federally Recognized Tribe in Wisconsin. STSPs are directions and project specific requirements that are not otherwise stated explicitly in the department's current Standard Specifications for Highway and Structure Construction.

Identifying Projects

WisDOT has a process to scope each project for tribal lands of interest. This allows for early coordination during project development. To identify tribal interests, WisDOT Regional Tribal Liaisons use an ArcGIS online mapping tool which includes BIA data and any additional GIS data that tribes have willingly provided to WisDOT.

Additionally, WisDOT Tribal Affairs team communicates frequently with ITTF Tribal Representatives, THPOs, and members of Tribal leadership to identify tribal interests the Department may not be aware of. WisDOT also shares Six-Year Program maps with tribes so that tribal staff can proactively identify upcoming projects that may have impacts.

When does NAHP apply?

The NAHP applies when the project corridor is on, partially on, or directly adjacent to a reservation or land that maintains a reservation status. The provision also applies on projects that are off reservation if there is a tribally owned parcel held in trust directly adjacent to the right of way of the corridor of that project.

Coordination

In addition to coordinating with the tribe related to the hiring provision, WisDOT project staff will also coordinate with the tribe related to other community impacts. WisDOT project staff will make a concerted effort to understand any concerns, gather feedback about the project, and incorporate that feedback as it is feasible.

A variety of departments and staff may be involved in the coordination, including...

- Tribal Legislature or other elected officials
- Historic Preservation
- Environmental/Natural Resources
- Economic Development
- Roads Department
- Labor and Community Development and others

Early coordination and communication serve as an opportunity for the tribe to plan for labor opportunities and consider business impacts. The tribe can work with the Tribal Affairs Program and Project Managers to get a TrANS program in the area. The tribe can also begin to create a list of those from their community who are seeking employment in the transportation industry and develop a spreadsheet listing them and their skillset, so they are ready when contractors make contact during their bid process.

Meetings

Pre-Advertising Meeting

What is it?

A meeting with Tribal representatives and WisDOT project staff to collaborate on how to maximize opportunities throughout the NAHP process and inform the tribe when to expect contractor contacts (advertising date/timeline). This meeting is a chance for open communication to address any last-minute questions or concerns you may have about the project. It is also a time to identify key milestones and resources.

Timeline: At least 30-days before the project is advertised.¹

Who is involved?

- Tribal Leadership (if interested / applicable)
- Human Resources
- Labor / Workforce Development
- ITTF Representative
- Tribal Project Manager, if one has been assigned
- And any other staff as the tribe would want to invite
- WisDOT staff including the project manager, project engineer, Regional Tribal Liaison, State Tribal Affairs Managers (optional), and Regional Contract Compliance Specialist

What is discussed?

- Project overview
- NAHP overview
- Advertisement and let date
- List of contractors, prime and sub-contractors, who routinely work in region
- Discuss tribe's expectations for reporting from contractor
- Discuss optional [Tribal Outreach Meeting](#) and [Tribal Coordination Meeting](#)
- Roles and responsibilities for all parties
- Share best practices with tribe (if appropriate)

See [Appendix A](#) for Sample Agenda.

¹ Find dates for advertising and bid letting at <https://wisconsindot.gov/Pages/doing-bus/contractors/hcci/bid-let.aspx>

What is the pre-bid contact requirement?

Per the Native American Hiring Provision, all prime contractors are required to contact the tribal contact specified in the provision to provide information on hiring procedures and future employment opportunities and gather information on the tribal work force. Contractors must maintain documentation of all efforts made to communicate with the tribe using DT2400 Pre-Bid Contact Verification Form.

NATIVE AMERICAN HIRING PROVISION PRE-BID CONTACT VERIFICATION FORM		
 Wisconsin Department of Transportation DT2400 6/2020		
This contract requires that the contractor provide information on hiring procedures and employment opportunities to the tribe listed in the provision and gather information on the tribal workforce. This form is to be used as a record of communication with the designated tribe's assigned contact person. Please submit this form (DT2400) and any supporting documentation via email to DOT DTSD Highway Construction Contractors constplans.dtid@dot.wi.gov when you submit the bid request (DT1633) for the project.		
Contractor	Project Proposal ID #	
Work Type	Let Date	
PROJECT DESCRIPTION		
Road Name: Project Name: Project Type: County:		
ITEMS TO REQUEST FROM TRIBES	INFORMATION GIVEN TO TRIBES	
<input type="checkbox"/> Native American Owned Business List <input type="checkbox"/> Tribal Government Business Resources <input type="checkbox"/> Legal Requirements/Tribal Ordinances	<input type="checkbox"/> Hiring Procedures <input type="checkbox"/> Links to Applications <input type="checkbox"/> Employment Opportunities	
TRIBAL CONTACT HISTORY		
Name of Contact	Contact Type	Date of Contact
Name of Respondent	Response Type	Date of Response
Additional Response Information		

Contractors will use the Pre-Bid Contact Verification Form to report their pre-bid contract requirements with the tribe.

Optional Tribal Outreach Meeting

What is it?

The Tribal Outreach Meeting is an optional meeting that is entirely coordinated by the tribe. WisDOT encourages tribes to reach out to the industry representative to promote available tribal resources such as labor, materials, equipment, waste sites, etc. **This is considered part of the contractor bidding process and WisDOT personnel is not able to participate in these interactions.**

If a tribe chooses not to hold this meeting, pre-bid contact requirements can be met by requiring eligible bidders to send employment opportunity information via mail or email to the specified tribal contact. All pre-bid contact used to fulfill bid request requirements must be documented and verifiable.

Timeline: At least 5 business days before bids are due, as set by the tribe.

Who is involved?

- Tribe (lead) and any staff they deem pertinent such as Labor Development, Roads Manager, THPOs and Environmental staff
- All eligible bidders, prime contractors and sub-contractors

What is discussed?

Meeting content is entirely up to the tribe. This is a time for the tribe to promote available tribal resources such as labor, materials, and Native American DBEs. Upcoming tribal road projects can also be discussed to generate interest from contractors for these projects. This is also a time to discuss tribal ordinances and regulations that would impact construction and affect costs. See [Appendix B](#) for a sample Tribal Outreach Meeting agenda.

The tribes are encouraged to utilize information that is publicly available on the [Highway Construction Contract Information \(HCCI\)](#).² Each bid letting has a specific page that contains information about the proposals being let. Access bid letting pages on the WisDOT webpage through the [Construction Bid Letting - General Process Overview](#).³

- **Plans and Proposals** – all projects are posted on the WisDOT website at the time of advertisement, approximately 5 weeks prior to the bid letting, have a link to the plans and proposals for that letting.
- **Approved Eligible Bidders** – a list of approved eligible bidders is available on the bid letting page for each letting in the Reports section. The list provides the company name, email address, and phone number.
- **Plan Holders** – a list of approved eligible bidders is available on the bid letting page for each letting in the Reports section. The list provides the company name, email address, and phone number.

² <https://wisconsin.gov/Pages/doing-business/contractors/hcci/default.aspx>

³ <https://wisconsin.gov/Pages/doing-business/contractors/hcci/bid-let.aspx>

Tribal Coordination Meeting

What is it?

A required meeting organized by the prime contractor working with the tribe at a mutually acceptable location for the prime's project managing team, sub-contractors, WisDOT and tribal staff to discuss project details and coordination expectations. This meeting typically takes place at a tribal office or facility at the expense of the contractor.

This is also an opportunity for the Tribal Labor staff to bring anyone interested in applying for work with the bid winning contractors. There should be an opportunity for networking or speed interviews.

Timeline: Prior to the pre-construction meeting, but not on the same day.⁴

Who is involved?

Attendees for this meeting include:

- Tribal Leadership (optional)
- Tribe's ITTF Representative(s)
- Transportation / Roads
- Human Resources
- Workforce Development
- Historic Preservation
- Environmental / Natural Resources staff
- TrANS graduates and any other work applicants
- Businesses impacted by the construction (Casinos & tribal businesses)
- Contractors - prime and all sub-contractors
- WisDOT
 - Project Manager
 - Project Engineer
 - Regional Contract Compliance Specialist
 - Regional Tribal Liaison
 - State Tribal Affairs Managers, optional

What is discussed?

The contractor sets the agenda. See [Appendix C](#) for a sample agenda.

- Project overview, constructing timing/staging
- Details on hiring opportunity
- Ways to connect workforce to hiring opportunities
- Reporting requirements
- Communication preferences
- Any relevant tribal laws, procedures and programs that will affect the project
- Additional coordination needs or expectations from either party

⁴ Timeline may vary depending on when the let is.

Pre-Construction Meeting

What is it?

This is the normal pre-construction meeting held for every project, held at a WisDOT Regional Office or on a virtual platform. The tribal staff who attended the coordination meeting should be invited and are optional attendees.

Who is involved?

- Tribe's Main Project Coordinator
- Tribal staff (as needed)
 - Roads Department
 - THPOs
 - Environmental / Natural Resources staff
 - Labor staff
- Contractors – prime and all sub-contractors
- WisDOT
 - Project staff
 - Regional Contract Compliance Specialist
 - Regional Tribal Liaison

See [Appendix D](#) for a sample agenda for a pre-construction meeting. Regional Contract Compliance Specialists will cover state and federal contract requirements such as DBE, FHWA 1273, ASPs, payroll reporting, and more.

Construction Update Meetings (Optional)

What is it? As with any project, prime contractors may hold construction update meetings, but they are not required as part of the provision. The tribe may request a weekly, bi-weekly, or monthly meeting, as appropriate depending on the scope of the project.

****In order to streamline communication between the prime contractor and the tribe, it is highly recommended that one person serve as the point of contact. This person can relay the need to meet as necessary.**

Who is involved?

- Tribal representative(s)
- WisDOT project staff
- Contractor(s)

Labor Reporting

Labor reporting occurs throughout the life of the project. During project construction, the tribe and designated WisDOT staff will receive labor reports on the 15th of every month. Reporting for a NAHP project includes communication between the tribal labor office and the contractors and all hiring activity for the project. Contractors will use form [DT2405 Native American Hiring Provision Report](#) (Appendix E).

Who receives these reports? Tribal representative, WisDOT project staff, Regional Tribal liaison, and Regional Contract Compliance Specialist. Unless otherwise specified, the tribal representative receiving these reports will be the contact listed on the STSP.

Final Reporting and Documentation

Upon completion of the project, the prime should submit to the tribe, the WisDOT project manager, the Regional Tribal Liaison, the State Tribal Liaison, and the Regional Contract Compliance Specialist documentation summarizing all the communications held regarding job opportunities that occurred throughout the life of the project for themselves and all sub-contractors on the project.



WisDOT NATIVE AMERICAN HIRING PROVISION REPORT – DT2405
Wisconsin Department of Transportation
Updated 1/2022

Prime Contractor Company:		Project ID(s):					
Company Representative's Name/Title:		Reporting Period: _____ to _____					
Tribal Workforce Development Contact:		Report Type: Monthly <input type="checkbox"/> Due on the 15 th of each month during construction					
Name:		Final <input type="checkbox"/> Include project totals for all hires and submit on the 15 th of the month following all contract work completed					
Email Address:							
The prime contractor is responsible to collect, document and submit information under the Native American Hiring Provision. Use this template to fulfill that requirement for project hires including those from all subcontractors working during this reporting period. If there have been no Native Americans hired during this timeframe, please note the reason below.		*Reason for no Native American hires: (Use letter associated with reason in column below) A. No job openings B. No qualified applicants C. No applicants D. Other					

Individual's Name	Contractor/Subcontractor	Reason for no hires (see above)	Current Status: I.e. - Referred/Only/Not Hired/Hire/Laid-off/On different project	If hired, please complete: Trade Classification	Date of Hire	# Hours	OPTIONAL: Tribal Affiliation

Comments:

Prime Contractor:
The undersigned contractor hereby certifies that the listed information is true and correct as required by the WisDOT Special Provision 107-200 for Native American Employment for the prime contractor and all subcontractors.
Contractor Signature/Title: _____

*The prime contractors uses form **DT2405 Native American Hiring Provision Report** to report tribal labor information to the tribe and WisDOT.*

Frequently Asked Questions

What is the Native American Hiring Provision?

NAHP is a part of the project contract. It requires that the prime contractor and all sub-contractors on the construction project provide information about hiring and employment opportunities to the tribe identified in the provision. The provision covers Native American Labor, not businesses, but outreach to tribes may include inquiries about Native American owned DBE businesses. Doing so will help to fulfill the project's DBE percentage requirements.

Is NAHP like Tribal Preference?

No, the NAHP process differs. Tribal preference derives from a provision in the Indian Civil Rights Act (1968), which allows Tribes to provide preference in employment.

I've heard of Tribal Employment Rights Ordinance (TERO), is this also NAHP?

Unlike NAHP, TERO is an ordinance that Tribes may enact through their own governmental power, to give Tribal members "Indian preference", which gives Native Americans first consideration when applying for employment on or near reservations. The NAHP hiring provision is in lieu of TERO.

How is NAHP different from TERO?

NAHP is an initiative of WisDOT. TERO is a tribe-specific ordinance enacted by Tribes to offer preferential hiring on reservations by tribally owned businesses. Individual tribes may choose to enact their own TERO ordinances, although many tribes do not have TERO laws in force. The Native American Hiring Provision is enforced on tribal land by WisDOT contract specifications.

Who should you contact if issues with coordinating the NAHP arise?

If an issue arises, the tribe should contact the Regional Tribal Liaison. The Liaison will coordinate the appropriate staff to discuss and resolve the issue.

Conclusion

We look forward to working with you on the upcoming project and ensuring the full implementation of the NAHP at every stage of the construction process. Additional resources and information to assist you can be found below. Please feel free to reach out at any point if you have any questions.

For assistance coordinating with a project, please contact your Regional Tribal Liaisons or the State Tribal Affairs Managers. WisDOT Tribal Affairs team and Contract Compliance Specialists can help field staff implement and monitor compliance.

Contact Information



Sandy Stankevich, Tribal Affairs Program Manager
stankevich@dot.wi.gov
(715) 365-5784



Cyless Peterson, Tribal Affairs Project Manager
cyless.peterson@dot.wi.gov
(608) 261-0131

WisDOT Tribal Affairs Management
4822 Madison Yards Way, 4th Floor South
Madison, WI 53705

Regional Tribal Liaisons:

www.wisconsinstate.gov/Pages/doing-bus/civil-rights/tribalaffairs/contacts.aspx

Regional Contract Compliance Contacts:

<https://www.wisconsinstate.gov/Pages/doing-bus/civil-rights/labornwage/contacts.aspx>

Appendices

Appendix A: Pre-Advertising Meeting

9650-17-71 State Highway 47 Roundabout Project Meeting Agenda

Pre-advertising meeting – 9650-17-71 STH 47 Roundabout Project
1:30 pm 1/18/2018
Keshena, WI
Community Development Building

AGENDA:

- Introductions
- Project scope brief review of plan
- Timeline expectations, explain phases
- Review Native American Hiring Provision (NAHP)
- Bidding/Advertising procedures
- Outreach expectations
- Expectations for tribal coordination meeting, who does what
- THPO and environmental questions or concerns
- Any other tribal project coordination needs or requirements

Appendix B: Optional Tribal Outreach Meeting

Blank Agenda for a Tribal Outreach Meeting. The tribe is responsible for setting the agenda.

Tribe
Project Name / ID

Tribal Outreach Meeting

Date & Time

Location / Address

1. **Introductions**
2. **Project Overview**
3. **Other Upcoming Tribal Road Construction Projects**
Tribal Roads Manager
4. **Review of any relevant Tribal laws or preferences**
Tribal land management, labor, planning, roads, or other staff
5. **Tribal Cultural / Environmental Programs**
THPO and Environmental staff
6. **Questions**
7. **Meet and Greet**

Appendix C: Tribal Coordination Meeting

9231-08-70 - State Highway 47 – Tribal Coordination Meeting Agenda



DIVISION OF MATHY CONSTRUCTION CO

P.O. Box 98 Mosinee, WI 54455-0098 Phone: 715-693-5200
Fax: 715-693-5220

TRIBAL COORDINATION MEETING AGENDA THURSDAY, AUGUST 3, 2017 9:00 AM

Location: Lac du Flambeau Education Department
562 Peacepipe Road
Lac du Flambeau, WI 54538

Project: 9231-08-70 / WISC 2016 350
STH 47
Woodruff – Manitowish - Lower Sugar Bush Lane – USH 51
Iron County

TOPICS OF DISCUSSION

Native American Hiring Provision Overview / Background	Kelly Jackson
Presentation of Project and Timelines	Prime & Subcontractors
Presentation / Discussion	DOT Project Team
Available Employment Opportunities	Prime & Subcontractor
Employee Network Working	Kelly Jackson / Brooks BigJohn
Other Tribal Departments and Areas of Opportunity	Brooks BigJohn and Tribal Representatives

- Tribal Business / Roads
- Tribal Historic Preservation / Environmental Department
- Land Management
- Planning
- Leadership
- Education
- Water and Sewer
- Safety / Inspection

EEO/AA Employer

Appendix D: Pre-Construction Meeting

9231-07-70 – State Highway 47/55 Roundabout Pre-Con Meeting Agenda

"GRADING YOUR FUTURE WITH INTEGRITY"



605 Grossman Drive • Schofield, WI 54476 • TEL 715.359.4042 • FAX 715.359.4142 • www.integrityge.com

Meeting Agenda – TENTATIVE
Pre Construction / Pre Hire Meeting
Monday July 1, 2013 1pm
Tribal Council Room
William Wildcat Tribal Community Center

Come to know who is working on the project
Hwy 47 Vilas County, 9231-07-70

Introduction of attendees, and Sign In
Meet and Greet with Tribal Community Members and Sub Contractors

Overview – of the project

- WI DOT Project Manager - Jim Volkman
- Prime Contractor - Integrity Grading and Excavating, Inc. - Dan Weinkauff
Preconstruction meeting – Slated for tentative 07/08/13

Schedule -
Time line – Start _____ End _____
Expected Road Closure Dates _____

ECIP Plan
ECIP – was submitted on 06/21/2013 /
2 week leadtime – should hear back by 07/05/2013

- Sub Contractors –

Fencing Plus, Inc. -Erosion Control	Maines & Associates -Staking
Century Fence -Pavement Markings	Pieper Electric Inc. -Electric
ASTI Sawing -Saw Cutting	Northeast Asphalt -Asphalt
Rent-A-Flash -Traffic Control	Chippewa Concrete -Concrete

Presentation by Lac du Flambeau Tribal Member(s)

- Government Programs:
 - TERO - Hiring
 - Education
 - THPO - Tribal Historic Preservation Office ldfthpo@nnex.net (715) 588-2139
Sensitive work areas notify the engineer and (THPO)
 - Environmental
 - Planning
 - Roads
 - Water & Sewer
 - Land Management
- Other Upcoming Tribal projects that may require construction assistance

Speed Networking –Integrity Grading and Excavating, Inc.- Ruth Geier (Facilitator) (5 Minute intervals)



Site Development • Roadways • Environmental Clean-up • Excavation • Snow Removal



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TRIBAL AFFAIRS – WISCONSIN DEPARTMENT OF TRANSPORTATION

Appendix E: Native American Hiring Provision Report

DT2405 Native American Hiring Provision Report

This form is used by the contractor to report on Native American hiring activity.

