

CONSIDERATIONS WHEN DEALING WITH NATIVE AMERICANS & RFPs	
<p>NOTE: Native American Tribes are recognized as distinct <i>political entities</i> with inherent sovereignty in the United States, possessing the right to <i>self-governance</i> and establishing their own forms of government. This recognition stems from a <i>government-to-government relationship</i> between Tribal Nations and the U.S. federal government, with Tribes exercising their <i>Sovereignty</i> within the framework of federal law.</p>	
<p>When constructing Requests for Proposals (RFPs) that involve Native American individuals or entities, it is crucial to include specific <i>clauses</i> that respect Tribal Sovereignty, promote Indian Preference, and ensure Cultural Sensitivity, and it will demonstrate a commitment to respecting the rights and sovereignty of Native American populations and foster positive working relationships.</p>	
<p>Indian Preference:</p>	<p>Statement: Clearly state that Indian organizations and Indian-owned economic enterprises will receive preference in the award of contracts and subcontracts, in accordance with applicable laws like section 7(b) of Public Law 93-638 (25 U.S.C. 450e(b)).</p>
	<p>Definitions: Include definitions for "Indian organization" and "Indian-owned economic enterprise" as prescribed by relevant regulations.</p>
	<p>Subcontracting: Require contractors to use their best efforts to utilize Indian organizations and Indian-owned economic enterprises as subcontractors to the greatest extent feasible.</p>
	<p>Compliance: Explicitly state the contractor's obligation to comply with the provisions of section 7(b) of the Indian Act.</p>
<p>Tribal Consultation and Coordination:</p>	<p>Acknowledgement: Acknowledge the importance of consultation and coordination with affected Tribal governments.</p>
	<p>Process: Outline a process for meaningful and timely input by Tribal officials during the project's development and implementation.</p>
	<p>Cultural Sensitivity: Emphasize the need for sensitivity to and a working grasp of the unique cultural, historical, and political aspects of the specific Tribes involved.</p>
	<p>Data Collection: If data collection is involved, consider outlining how information on Native Americans will be collected and reported to ensure accurate representation and respect for data privacy.</p>

<p>Compliance with Tribal Law and Customs:</p>	<p>Jurisdiction: Tribal laws and customs, in addition to federal and state laws must be complied with when applicable.</p> <p><i>For example, the Indian Child Welfare Act (ICWA) is triggered when dealing with Native American children and families, in <i>state</i> jurisdictions. See 25 U.S.C. §§1901-63.</i></p> <p>Sovereign Immunity: Recognize Tribal Sovereign immunity and specify any agreed-upon waivers of immunity, if applicable, for contracting purposes.</p>
<p>Cultural Preservation:</p>	<p>Cultural Heritage: If the project involves cultural heritage, ensure clauses addressing the protection, preservation, and maintenance of tangible and intangible cultural heritage.</p>
<p>Training and Employment:</p>	<p>Prioritize training and employment opportunities for Indians to the greatest extent feasible.</p>
<p>Flow-Down Clauses:</p>	<p>Subcontracts: Require that these preference clauses and requirements be included in all subcontracts awarded under the contract.</p>

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