



Brownfields Procurement for Tribal Communities: Know the Rules and Win the Game!

Tuesday, May 19, 2026

www.tribaltab.org



Technical Notes

If you experience technical difficulties with your connection:



Dial 785.532.0783



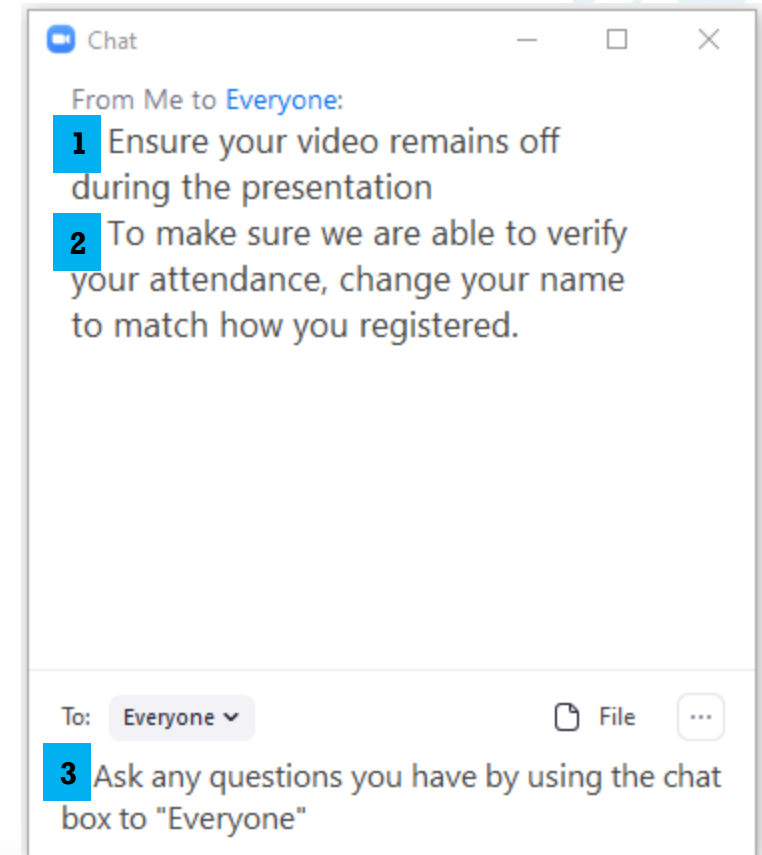
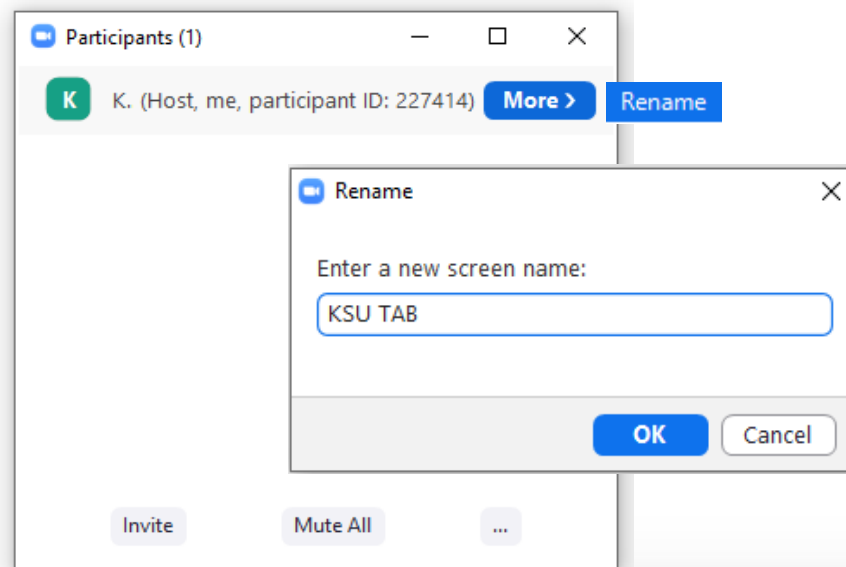
Email chsr@ksu.edu

Additionally, please note:



The presentation is being recorded and will be available on the website. The link has also been placed in the chat box.

Using Zoom – The Basics





The Tribal Technical Assistance to Brownfields (Tribal TAB) program supports Indigenous communities in protecting and restoring sacred lands.

Who We Are

Tribal TAB is a collaborative partnership between KSU, ITEP, and ANTHC.



What We Do

The Tribal TAB network provides free technical assistance to all federally recognized Tribes, Alaska Native Villages, and other Tribal entities.



Contact Us

Tribal-TAB@ksu.edu

How We Can Assist

- ❖ Help identifying & prioritizing brownfields
- ❖ Tribal Response Program resources
- ❖ Tribal Brownfields Knowledge Circle
- ❖ Identify potential funding
- ❖ Brownfields for renewable energy & energy sovereignty
- ❖ Incorporate culture & tradition in brownfields efforts
- ❖ Planning & redevelopment visioning
- ❖ Review of technical documents
- ❖ And much, much more



Michelle Spohnheimer

Planning Director

Adaapta

michelle@adaapta.com

C: 641.751.5480

adaapta

Agenda



1. Procurement Basics
2. How Procurement is Regulated
3. Procurement and Tribal Sovereignty
4. The Procurement Lifecycle
5. Common Questions and Pitfalls





The Procurement Basics

What is Procurement?

- The process of obtaining goods, equipment or services, from an outside source
- Involves planning, solicitation, evaluation, contracting and oversight
- Procurement is regulated by Tribal laws & federal requirements ([2 CFR Part 200](#))
- Means for ensuring open and fair competition



Why Procurement is Important

Procurement benefits the Tribe, potential vendors, community members & funders



Fair Competition



Maximizes Resources



Transparency



Builds Tribal Capacity





Fair Competition

- **Level playing field:** A clear procurement process ensures that all qualified contractors and vendors — Tribal, Native-owned, and non-Native alike — have a fair shot at providing services or goods.
- **Encouraging quality:** Fair competition pushes vendors to put forward their best pricing, staff, and approaches.
- **Avoiding favoritism and disputes:** Transparent rules prevent challenges or mistrust from community members or outside agencies.
- **Project Integrity:** Fair competition reinforces accountability to Tribal leadership, the community and funding agencies.



Transparency

- **Clear documentation:** RFPs, evaluation criteria, and scoring tools create an open record of how decisions are made, which helps protect the Tribe in the event of audits or grant compliance reviews.
- **Accountability to community and funders:** Transparent processes demonstrate that decisions are made fairly and consistently.



Maximizing Resources

- **Efficient use of funds:** Helps stretch grant and Tribal dollars across complex, multi-funding brownfields projects.
- **Better project outcomes:** Attracts vendors with the right technical expertise and cultural competency to deliver higher-quality results and not just the lowest bidder.
- **Leveraging partnerships:** Procurement can encourage match contributions, joint ventures, or added community benefits that expand project impact.
- **Supporting broader impact:** Well-structured contracts can align project delivery with long-term community and redevelopment goals.



Building Tribal Capacity

- **Skills transfer:** Contracts can include expectations for training, mentorship, or collaboration that builds internal expertise.
- **Growing Native-owned businesses:** Evaluation criteria or preferences can support Native-owned firms and strengthen Tribal economies.
- **Institutional strengthening:** Each procurement cycle improves staff experience, policies, and administrative systems.
- **Long-term resilience:** Strong procurement practices build capacity that extends beyond individual projects, supporting future development efforts.

Principals for Cost Allowability

Costs procured must meet the four principals for cost allowability



Eligible

Permitted by statute, program guidance, or regulations



Allocable

Benefits the EPA funded project or program and the costs are distributed in reasonable proportion to the benefits or if it is incurred specifically to carry out the project or program



Reasonable

Does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost



Allowable

Prohibited costs that may not be charged to EPA assistance agreements under any circumstances. Examples include alcoholic beverages, interest on borrowed funds, and lobbying or litigation

Current Competition Thresholds

Prior to beginning the procurement process identify the applicable threshold.

Micro Purchase: \$15,000*

Purchases are equitably distributed among suppliers to the extent practicable, taking DBE considerations into account, and the price is reasonable

**[2 CFR 200.320\(a\)\(1\)\(iv\)](#) defines provisions allowing for an increased threshold*

Simplified Acquisition: \$350,000

Allows for prices or quotes (e.g., by email or price list searches) from at least three qualified sources

Formal Competition: Greater than \$350,000

Includes two types of competition, sealed bids or competitive proposals (RFP/RFQ)

Noncompetition (Sole Source)

Much less common method of procurement and only allowed under certain circumstances



How Procurement is Regulated

Using the Code of Federal Regulations (CFR)



- 1. Identify the relevant parts:** The most referenced regulations are in [2 CFR Part 200](#) (Uniform Administrative Requirements, Cost Principles, and Audit Requirements).
- 2. Understand the hierarchy:** The CFR contains general provisions, cost principles, and specific prohibitions. Always check for both overarching rules and project-specific requirements.
- 3. Look for examples and guidance:** While the CFR sets the rules, EPA guidance documents and program-specific FAQs often provide examples that clarify how the rules are applied in practice.
- 4. Cross-reference with EPA policies:** Use the CFR together with EPA's program guidance, terms and conditions of the award, and any Tribal-specific procurement policies to ensure compliance.
- 5. Use the CFR to support documentation:** Citing relevant CFR sections helps demonstrate that purchases are allowable, allocable, eligible and reasonable, and that procurement followed federal rules.

Federal Requirements

- **2 CFR Part 200** - This section applies government-wide to all federal agencies issuing grants or cooperative agreements. It establishes standard rules for federal financial assistance, including:
 - Administrative requirements
 - Cost principles
 - Audit requirements for federal awards
- **2 CFR Part 1500** - This section includes EPA Implementation. It adopts and supplements 2 CFR Part 200 for EPA awards and provides EPA-specific policies and procedures for managing those awards.
- **40 CFR Part 33** - Establishes the EPA's Disadvantaged Business Enterprise (DBE) Program, which requires recipients of EPA financial assistance to provide fair opportunities for disadvantaged businesses to participate in contracting. Keep the bidding period open for **at least 30 days** for full and open competition.
- Keep up to date on **Policy and Guidance Documents, Orders, Recipient/Applicant Information Notice (RAIN), and Terms & Conditions** released: [EPA Grants Policy Resources | US EPA](#).
- EPA Resource Available: [Brownfields Grants: Guidance on Competitively Procuring a Contractor](#)

Tribal Procurement Policies

Under [2 CFR 200.317](#) - Procurements by State and Indian Tribes, when using federal funds, a State or Indian Tribe must:

- Follow its own written procurement policies and procedures when they exist and apply them consistently to both federal and non-federal funds.
- If no such policies **exist at the time of the award**, follow the federal procurement standards in [2 CFR 200.318](#) through [2 CFR 200.327](#).

In addition to Tribal or State procedures, the following federal standards always apply:

- [2 CFR 200.321](#) - Contracting with small, minority, women-owned, veteran-owned, and labor surplus area firms (encouraging equitable access to contracting opportunities)
- [2 CFR 200.322](#) - Domestic preferences for procurement (promoting U.S.-produced goods and materials where applicable)
- [2 CFR 200.323](#) - Procurement of recovered materials (supporting recycled and environmentally responsible purchasing)
- [2 CFR 200.327](#) - Contract provisions (required terms and conditions in contracts)



Procurement and Tribal Sovereignty

Protecting Tribal Interests

- Strong Tribal procurement policies ensure federal compliance while protecting sovereignty, so outside agencies and contractors respect Tribal law, traditions, and decision-making processes.
- Procurement choices and local policies can be used to safeguard cultural resources, natural resources, and community health.
- Transparent and well-structured procurement helps prevent exploitation or contracts that don't serve long-term community goals.



Economic Empowerment & Nation Building

- Procurement can be a driver of economic development:
 - Prioritizing Native-owned contractors and firms.
 - Creating opportunities for workforce development.
 - Building Tribal capacity to manage future projects independently.
- This ties redevelopment directly to community wealth building instead of outside profit.

**Community Wealth
Economic Development**



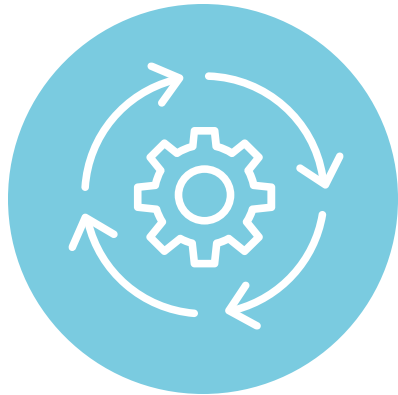
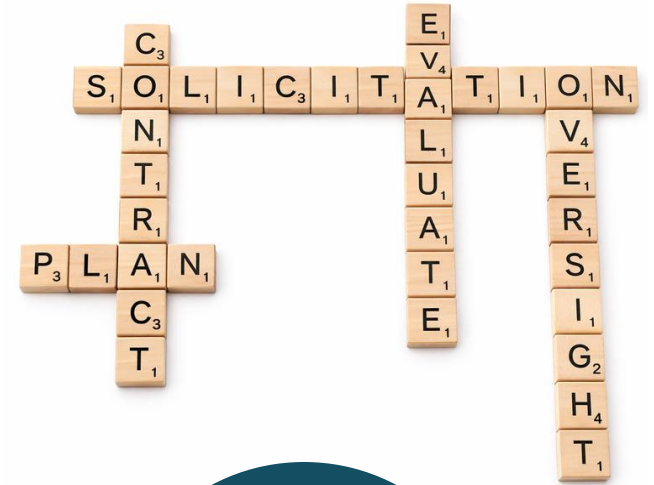
Reinforcing Self-Determination

- Tribes can design procurement policies that reflect their unique priorities rather than defaulting to outside templates.
- By setting their own evaluation criteria (e.g., local hire, Native-owned businesses, cultural sensitivity), Tribes determine who does the work and how it's done.
- Individual procurement policies must be approved by the Tribe prior to the award of funding.



The Procurement Lifecycle

The Procurement Lifecycle



Planning



Solicitation



Evaluation

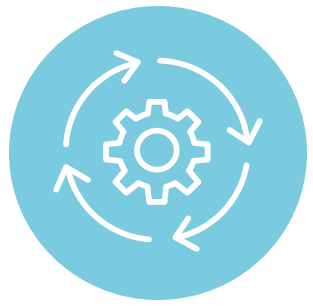


Contracting



Oversight





Planning: Define the Scope

- **Why it matters:** The scope drives everything — if it's too vague, costs balloon; if it's too rigid, opportunities are missed.
- **Brownfields angle:** Scopes often involve highly technical work (Phase I/II ESAs, remediation, demolition, reuse planning). Other brownfields scope items may include grant management support, community engagement or other specific related activities.
- **Tribal sovereignty connection:** The Tribe determines what is included in the scope beyond federal minimum requirements, ensuring the work reflects Tribal priorities, values, and long-term community goals.



Solicitation: Prepare & Issue the Request

- **Why it matters:** This step turns the scope into a formal request for vendors to respond. The solicitation method depends on the type of work and how you want to structure competition.
- **Brownfields angle:** Your brownfields project may require the solicitation of a contractor to perform cleanup of a site or a consulting firm to conduct community engagement. Understanding the type of work needed will help guide the method of procurement.
- **Tribal sovereignty connection:** The Tribe may incorporate specific attributes that encourage Tribal businesses or experience working with the Tribe.

Important considerations

- Include criteria that reflect Tribal priorities such as Native-owned firm preference, local hiring, and cultural competency expectations.
- Post solicitations on your website, through online bid-posting services, with local media outlets, through e-blasts or direct communication **if** sent to multiple vendors.
- Specify key dates in the solicitation including the date posted, date and time response are due, deadlines for submitting questions or dates for meetings such as a site walk-through, should be clearly stated.
- Clearly define acceptable forms of communication for questions. This includes who to contact and expectations to avoid an unfair advantage.
- Define the evaluation criteria and scoring method.
- Keep your solicitation open for at least 30 days is the recommended good practice.





Evaluation: Criteria Review & Selection

- **Process:** Score proposals based on pre-set criteria (technical expertise, cost, past performance, cultural competency).
- **Tools:** Use a scoring matrix to document decisions — protects fairness and transparency.
- **Brownfields angle:** Sometimes the “lowest bidder” isn’t the most advantageous to your program. Contractor experience and past performance related to program compliance or engagement can impact selection.
- **Tribal sovereignty:** Evaluation criteria can reflect community values.
- **Contractor eligibility:** Ensure the contractor is not suspended or debarred.



Contracting: Formalize the Terms

- **Essentials:** Contracts should clearly define deliverables, timelines, payment terms, compliance requirements, and reasons for termination.
- **Brownfields specifics:** Ensure contracts reference federal requirements tied to funding (EPA Brownfields, etc.).
- **Tribal protection:** Include clauses for protecting Tribal resources, confidentiality, dispute resolution under Tribal law, and cultural heritage safeguards.





Oversight: Compliance & Ongoing Monitoring

- **Why it matters:** Procurement doesn't end when the contract is signed. Oversight ensures the contractor performs as promised and follows all rules.
- **Brownfields compliance issues:**
 - Davis-Bacon Act (prevailing wages on construction/cleanup).
 - Build America, Buy American (BABA) requirements for certain federally funded materials.
 - Environmental safety standards (OSHA, EPA regs).
- **Tribal role:** Oversight is a chance to monitor quality, enforce cultural protections, and build staff knowledge by working alongside contractors.



Common Questions & Pitfalls

Avoid Procurement Pitfalls

- **Conflicts of Interest:** No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a **real** or **apparent** conflict of interest.
- **Avoid Unfair Competitive Advantages:**
 - Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.
 - Do not use sample language or templates from contractors planning to bid on the services
 - Imposing unreasonable competition requirements that are overly narrow creating a situation only one firm can meet.
 - Discouraging other contractors from submitting an offer by naming firms.
- **Maintain open and transparent communication:** Questions should be answered in a publicly available forum accessible by all interested parties.

Cost Reasonableness

- **Pricing Evaluation:**
 - Evaluate cost proposals alongside all other evaluation criteria.
 - Evaluate only the top two or more scoring proposals. Cost proposals may be submitted separate from the rest of the proposal.
 - EPA recommends that the cost/price reasonableness criterion is weighted at least 25%.
- **Document the Decision-making Process:** The lowest price does not have to be selected, but you must document the rationale and basis for the contract price. [2 CFR 200.318](#)
 - Utilize a scoring rubric.
 - Maintain records sufficient to detail the history of each procurement transaction. These records must include the rationale for the procurement method, contract type selection, contractor selection or rejection, and the basis for the contract price.

Questions and Discussion

While we enjoy an open discussion and answer questions, please provide feedback on today's event:

- ❖ Click the link provided in the chat box
- ❖ Scan this QR image from your smartphone





Thank You!!!

Michelle Spohnheimer

Planning Director
Adaapta, a Tribal TAB Partner
michelle@adaapta.com

641.751.5780

Jennifer Clancey

Tribal TAB Co-Director
Kansas State University
jmclancey@ksu.edu

319.270.3394

www.tribaltab.org

This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (TR-84085401) to Kansas State University. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the EPA endorse trade names or recommend the use of commercial products mentioned in this document.

