Project Construction Management & Documentation - What We Will Cover Today

- Preconstruction Activities
- Project Manager Duties
- Project Inspection
- Reports and Forms
- Project Reviews
- Project Close–out

Note: All of these apply to Force Account projects as well as Contractor built projects.
Preconstruction Conference:

- A recommended practice, not required by regulations;
- Held before construction begins.
- It is run by the Tribe’s Construction Manager:
  - Keeps records of who attended and what was covered;
- Also attended by: the Tribe’s Inspectors, the Contractor, the facility owner, and key stakeholders.
The Meeting covers these items:

- Delegation of Authority;
- Roles & responsibilities of the Tribe’s **Construction Manager** and **Inspectors**, and the **Contractor**;
  - The **PS&E** (plans, specifications and estimate);
  - Environmental permits and their requirements;
  - The Project schedule (provided by the **Contractor**);
  - Project issues with a risk:
    - Access to project, traffic management, etc.);
  - Electronic payment information.

**Preconstruction Activities - Preconstruction Conference** (cont’d.)
Before work starts, the Tribe’s Construction Manager should walk through and take photos or videos of the entire Project routes. Keep in the Project files.
Tribe’s **Construction Manager** should set up these Project File folders before work starts on project:

- **Inspector** Daily Reports (IDR’s);
- **Construction Manager**’s Daily Diary;
- Testing plan and testing reports;
- Fabrication approvals;
- Material certifications & bills of material;
- List of materials suppliers;
- Payroll / Labor records, Davis–Bacon pay list;
- **Contractor’s** Daily Reports (CDR’s); and…
Preconstruction Activities -
Project Files – Setting Them Up
(cont’d.)

• **Folders** (cont’d.)
  - **Contractor** submittals and record log of them;
  - **Contractor’s** project schedule;
  - Photographs/videos of Project;
  - EEO and TERO requirements;
  - Environmental & other permits;
  - Traffic control;
  - Construction phasing plan;
  - Access to project (haul roads);
  - Erosion control reports; and…
Preconstruction Activities -
 Project Files – Setting Them Up
 (cont’d.)

• **Folders** (cont’d.)
  - Progress Payments to Contractor;
  - Utility Relocations;
  - Right-of-way and property, driveways, etc.;
  - Waste / Borrow site Agreements
  - Contract modifications (CMs), IGEs;
  - Change Orders;
  - **Contractor** Claims and dispute resolutions;
  - Project modifications/design changes; and
  - Emails and other correspondence.
A Tribe should usually have a Field Office at the Project site:
- For the Tribe’s Construction Manager and Inspectors;
- To store Project Files, testing equipment, gear, etc.

Project files are required by 25 CFR § 170.472, and 25 CFR § 900.130-131 or 25 CFR §§ 1000.243 and 1000.249, as appropriate.
What is a **Construction Manager**?

- Employed or contracted by the **Tribe**;
- Also known as a Project Manager or Project Engineer;
- Oversees the setting up and operation of the project;
- Supervises Tribe’s **Inspectors** & Force account crew;
- Recommended duties are in the **Position Description (Example)** for a Construction Manager in your handout packet;
- May delegate some of his/her duties to the Tribe’s construction **Inspectors**, as appropriate.
• **Contractor’s Submittals:**
  - Find out the ones required, by reviewing the Project’s Plans, Specifications, & supplemental Specifications.
  - Obtain submittals early that need review by others;
  - Review the Contractor’s Construction Schedule.

• **Progress Payments** by Tribe.
  - Don’t pay 100% if work is not acceptable.

• **Progress Meetings** with Contractor’s Superintendent:
  - Tribe’s Construction Manager holds once per week, or more often for complex Projects.
  - May include Tribes Inspectors as applicable.
Progress Meeting – Example Agenda

• Here’s an example of an Agenda for the Progress Meeting.

• A copy is in your handout package.

Progress Meeting Agenda

1. Corrections to past Progress Meeting Minutes
2. Outstanding Issues
3. Safety
4. Work in Progress
   a. Prime Contractor
      i. In progress
      ii. Look ahead (time period)
   b. Sub Contractors
      i. In progress
      ii. Look ahead (time period)
5. Progress Schedule (Project Schedule)
   a. Current Schedule Update
   b. Critical Path Activities
   c. Current Completion Date
   d. Next Schedule Update
6. Critical Delays (work on critical path)
   a. Any delays since the last meeting?
   b. Current
      i. Excusable
      ii. Non-Excusable
      iii. Concurrent?
   c. Potential
      i. Excusable
      ii. Non-Excusable
      iii. Concurrent?
7. Non-Critical Delays (work NOT on critical path)
   a. Any delays since the last meeting?
   b. Current
   c. Potential
8. Time Extensions
   a. Requests by Contractor
   b. Compensable
      i. Granted
      ii. Pending
   c. Non-Compensable
      i. Granted
      ii. Pending
9. R/W and Utilities
10. Environmental
    a. Regulated Materials
       i. Stock Piles
       ii. Handling
       iii. MSDS/PPE
    b. Regulated Wastes
       i. Locations on Project
       ii. Handling
       iii. Documentation
    c. Regulatory Permits
       i. 404/401
       ii. NIPDES
       iii. Other Permits
11. Change Order Status
12. Maintenance of Traffic
    a. Upcoming Closures
    b. Other
13. Public Relations
    a. Complaints
    b. Other
14. Testing / Materials
15. Submittals
    a. Under Review
    b. To Be Submitted
16. Value Engineering Change Proposals (if required)
17. Request for Information
    a. Outstanding
    b. Upcoming
    c. Other
18. Completed Items & Agreement on Final Quantities
19. Dispute Resolution
    a. Disputes
       i. Current
       ii. Potential
    b. Claims
       i. Current
       ii. Potential
20. Estimates
21. EEO / Wages
22. Partnering
23. Contractor Issues
24. Open Discussion
25. Next Meeting
    a. Date
    b. Location
Construction Manager  
**Duties (cont’d.)**

- **Contract Modification (CM)**
  - Is a change to the project’s contract or design (PS&E) during construction;
  - Is proposed by the **Contractor** or the **Tribe’s Construction Manager**;

- A **CM** is caused by:
  - Differing site conditions,
  - “Value engineering” proposal, or
  - Deleting or adding to the Project.

- A Tribe may use FHWA’s **CM** forms at [https://flh.fhwa.dot.gov/resources/construction/forms/wfl/internal.htm](https://flh.fhwa.dot.gov/resources/construction/forms/wfl/internal.htm)
Construction Manager
Duties (cont’d.)

- **CM** (cont’d.):
  - Tribe’s **Construction Manager** checks the proposed **Contract Modification** to see if it violates:
    - The PS&E or environmental permits;
    - ROW, wetland, wildlife, or archeological resources;
    - Road closure and traffic delay schedules;
    - Project’s design guidelines (visual appearance etc.);
    - Financial constraint, available funding.
  - If no violations, then Tribe’s **Construction Manager** and Tribe’s Contracting Officer can approve the **CM**.
**Construction Manager Duties (cont’d.)**

**CMs** are these two types:

1. **Bilateral Modification** (aka “supplemental agreement”) is signed by the **Contractor** and Tribe’s Contracting Officer.

   **Bilateral Modifications** are used to:
   
   - Make negotiated adjustments that result from a change order;
   - Definitize letter contracts; and
   - Reflect other agreements of the parties modifying the terms of contracts.

*Note: These are for Federal contracts using FAR clauses. The terms in a Tribal Contract may be different.*
CMs are these two types (cont’d.):

2. **Unilateral Modification** is signed only by the Tribe’s Contracting Officer. The Contractor does not agree. The Tribe may determine the cost, but if the Contractor doesn’t agree with the cost, then the Contractor may file a claim.

**Unilateral Modifications** are used to:

- Make administrative changes;
- Issue change orders;
- Make changes authorized by clauses other than a changes clause (e.g. Property clause, Options clause, or Suspension of Work clause); and
- Issue contract termination notices.
Project Inspection

• **Performed by** the Tribe’s **Inspectors:**
  - Or by Tribe’s **Construction Manager** on small projects;
  - Their **Roles** in the Project should be spelled out at the Preconstruction Conference.

• **General Inspection Duties:**
  - Identify and document **Contractor’s** Daily Operations;
  - Know the Project plans and specifications;
  - Notify partners, residents etc. of major operations;
  - Perform other duties listed on the following slides;
• **Materials:**
  - Verify that **Contractor’s** certifications are available;
  - Check the materials and testing requirements in the Project’s specifications & supplemental specifications.
  - Verify materials being used are same as certifications;

• **Testing:**
  - Verify **material testing** is getting done by **Contractor’s** Quality Control people; Spot check the testing done;
Project Inspection (cont’d.)

• **Safety:**
  - Check the Project’s specifications for any specific safety requirements;
  - Tribe’s **Inspectors** or **Construction Manager** can’t replace Occupational Safety & Health Administration (OSHA);
  - However, if there is a life threatening safety issue, then you **stop** the Project work immediately.

• **Workmanship:**
  - Verify construction crew is experienced;
  - Make sure proper equipment/tools are being used.
• **Sediment & Erosion Control:**
  - Check devices once per week and after significant rain;
  - Some laws vary by State;
    - Make sure the Project stays in compliance.

• **Measurements/Daily quantities:**
  - Verify w/ **Contractor** the pay items & how to measure;
  - Come to agreement w/ **Contractor** on quantities daily;
  - Don’t pay 100% if work is not acceptable;
    - Check with the Project Contract specifications on payment withholding policy.
**Traffic Control:**

- Know the **MUTCD Manual** and the Traffic Control plan in the Project’s Plans and Specifications;
- Each day complete a Work Zone Traffic Control inspection;
- Report on the **IDR any** non-conformance with the MUTCD and Plans/Specifications.
- The **MUTCD** is available on-line from FHWA at [http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm](http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/pdf_index.htm)
• **Inspector’s Daily Report (IDR)**  
  ("Daily Diary")

  o Tribe’s **Inspector** fills it out daily;


  o A copy is in your handout package.

• **Construction Manager’s Daily Diary:**

  o This is the Construction Manager’s daily summation of the **Inspector’s Daily Reports** (IDRs);

  o A copy is in your handout package.
Some more reports and forms:

- **Testing Reports** from Tribe’s Inspector’s QA spot testing;
- **Weekly/Monthly Status Reports** by Tribe’s Inspector to verify Contractor’s request for Progress Payments;
- **Traffic Control Checks**;
- **Erosion Control Checks**.

- **Contractor’s Daily Report (CDR)**
  - Contractor and Subcontractors prepare & submit the CDR on same day as work performed;
  - The prime Contractor should assist the Subcontractors to do their CDRs.
- **Contractor’s CDR (cont’d.):**
  - Tribe’s **Construction Manager** reviews CDR every day to:
    - Verify **Contractor’s** progress vs. project schedule;
    - Estimate amount of work completed;
    - Assist in pricing fairly the contract modifications;
    - Compares it with **Inspector’s** Daily Reports, and inform **Contractor** of differences.
    - Help analyze **Contractor** Claims;
  - The optional **CDR** form also in your handout packet.
Scenarios:

• There was no gravel haul today because the Contractor did not get subgrade finished.

• Went and talked with the Contractor. He talked about his divorce for about an hour.
Scenarios:

• Contractor placed asphalt from station 32+00 to 34+00. Density was met, I think.

• John, the tester, checked the compaction of borrow at the culvert 19+25 but he didn’t know what the optimum moisture content or maximum density was.
Scenarios:

• I cleaned out my truck for about 2 hours today before going up to the project.

• There was only 3 trucks hauling rock today. The haul is about 4 miles and not having the trucks is slowing their production down substantially.
Scenarios:

• The Contractor asked for my direction on which trees to remove. I told him that he can remove the two trees to the right of the culvert inlet. When cutting down the trees they did it according to the special contract requirements, and the environmental permit requirements.

• Today at 10:00 am, it started raining. The Contractor said that the weather was ridiculous, and he should ask for extra working days. I think he should too.
Scenarios:

• I checked the subgrade stations from 52+45 to 60+80. The grade was in tolerance.

• At 1:00 pm Josh (flagging subcontractor foreman) stopped me and told me that the flagging signs are not getting put up and it’s out of his control. He said that he is appalled with the complete lack of communication with the Prime Contractor.
Intermediate Project Review(s):

- Held at the Project site.
- How often held depends on:
  - If FHWA or BIA Tribal Coordinator can attend;
  - Complexity of the Project;
- FHWA or BIA Tribal Coordinator, the Tribe’s Construction Manager, and the facility owner attend;
- If Project construction is more than 1 year, have Project Review at least once per year.
Project Closeout

• **Final Project Inspection:**
  - Held at the Project site when Project is “substantially complete” (~95%);
  - Tribe’s **Construction Manager**, the FHWA or BIA Tribal Coordinator, and the facility owner attend;
  - Purpose is to assure Project was built “in reasonable accordance” to the PS&E;
    • And **Contract modifications**, and design changes;
  - List the Work items not finished onto a “Punch List”.

U.S. Department of Transportation
Federal Highway Administration
Project Closeout (cont’d.)

Project Files at Closeout

- When the Project is completed, the Tribe’s Construction Manager submits the Project files to the Tribe.

- The Tribe keeps all the Project files after the project is finished;
  - U.S. DOT recommends the Tribe keep them 10 years.
Project Closeout (cont’d.)

**Project Files at Closeout** include:

- All the files listed in the **Preconstruction Activities** section earlier in this presentation;
- The Final Contract Modification;
- The Final Estimate;
- Contractor’s Project records;
- Letters of Acceptance:
  - From Tribe to Contractor,
  - From Facility owner to Tribe;

Optional **Project closeout** forms are available at [https://flh.fhwa.dot.gov/programs/ttp/guide/forms.htm](https://flh.fhwa.dot.gov/programs/ttp/guide/forms.htm)

- Prepared by the Tribe after:
  - Final Project Inspection;
  - Completion of required construction corrections ("Punch list" items); and
  - Final acceptance of the Project by the Tribe and the facility owner.

- Tribe submit Copies to the FHWA or BIA, & facility owner
  - Within 120 calendar days of Project acceptance by facility owner (in writing).
The **Final Project Closeout Report** includes:

- Summary of the construction Project records & files;
- Final amount of project construction cost;
- List of Contract Modifications;
- List of Contractor Claims;
- Letter(s) of Acceptance (from Tribe and Facility owner);
- Material Acceptance.
- Final as-built plans ("As-built drawings");
- Photographs.
• **Indian Employment Preference/Tribal Preference/TERO:**
  o See 25 CFR 170.911 through 25 CFR 170.917 at

• **Construction and Construction Monitoring:**
  o See 25 CFR 170.470 – 170.474 at
    https://www.law.cornell.edu/cfr/text/25/part-170/subpart-D

• **Tribe’s Written Policies**
• Construction Safety Regulations:
  
  o Tribe’s Written Safety Policies.
  
  o Occupational Safety and Health Administration (OSHA):
    
    • 29 CFR 1900, Labor – Construction Standards, based on the Occupational Safety and Health Act of 1970 (PL 91–596) as amended;

  o Mine Safety and Health Administration (MSHA) labor standards (as applicable):
    
Questions?
Contact & Program Info

- Karl Gleason  
  FHWA TTP Tribal Coordinator  
  (360) 619–7823  
  email: karl.gleason@dot.gov

- FHWA Office of Tribal Transportation (OTT) website:  
  http://flh fhwa dot gov/programs/ttp/

- FHWA OTT Program Delivery Guide:  
  http://flh fhwa dot gov/programs/ttp/guide