



Confederated Tribes of the Umatilla Indian Reservation (CTUIR)

Request for Proposals (RFP)

Archaeological Consultant Services

Department of Natural Resources
Cultural Resources Protection Program
46411 Timine Way
Pendleton, Oregon 97801
(541) 276-3165

Issued: September 27, 2023

Due: October 18, 2023, by 4:00 pm (Pacific Daylight Time)
Via email to: CulturalResources@ctuir.org

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) is soliciting proposals for a pool of archaeological firms to advise and assist the CTUIR's Cultural Resources Protection Program (CRPP) with cultural resources services. The CTUIR-CRPP seeks the services of archaeological professionals to assist with cultural resource report writing and technical review. It is anticipated that the delivery of services under the contract will begin on November 1, 2023.

1. INTRODUCTION

The CTUIR is a federally recognized Indian tribe, with a reservation in Northeast Oregon and ceded, aboriginal, and usual and accustomed areas in Oregon, Washington, Idaho, and other Northwest states. In 1855, predecessors to the CTUIR – ancestors with the Cayuse, Umatilla, and Walla Walla Tribes – negotiated and signed the Treaty of 1855 with the United States. The Treaty is a contract between sovereigns and is “the supreme Law of the Land” under the United States Constitution. In the Treaty the CTUIR ceded millions of acres of land to the federal government, and in exchange received assurances that various pre-existing tribal rights would be protected, and our interests would be respected, in perpetuity. A paramount objective in the Treaty was protecting and maintaining our tribal First Foods—water, fish, big game, roots, berries, and other plants—and the habitats and environmental conditions that support and sustain them, then, now, and forever. This remains a paramount objective of the CTUIR as we have a reciprocal responsibility to respectfully care for, harvest, share, and consume traditional foods, or the foods may be lost.

As noted, our Treaty of 1855 specifically reserves of our pre-existing right to access the First Foods, in Article 1, which states:

Provided, also, That the exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians, and at all other usual and accustomed stations in common with citizens of the United States, and of erecting suitable buildings for curing the same; the privilege of hunting, gathering roots and berries and pasturing their stock on unclaimed lands in common with citizens, is also secured to them.

The CTUIR Department of Natural Resources recognizes the importance of the protection and perpetuation of our First Foods as our mission statement asserts:

To protect, restore, and enhance the First Foods - water, salmon, deer, cous, and huckleberry - for the perpetual cultural, economic, and sovereign benefit of the CTUIR. We will accomplish this utilizing traditional ecological and cultural knowledge and science to inform: 1) population and habitat management goals and actions; and 2) natural resource policies and regulatory mechanisms.

The protection of our First Foods acknowledges the connection between our ancestral homelands and our ancestors and helps to ensure the perpetuation of practices which have occurred since time immemorial and continue to this day. These First Foods represent a physical and spiritual connection to our past just as archaeological sites are the physical connection we have to the lands our ancestors used. Many habitats where the First Foods are found are associated with archaeological sites for the very logical reason that tribal members needed these resources thousands of years ago just as they do today.

In 1987, the Cultural Resources Protection Program (CRPP) was created to actively work with federal agencies on archaeological decision-making processes on both tribal lands and lands ceded by the CTUIR to the U.S. in the Treaty of 1855. The CRPP also assumed Tribal Historic Preservation Office responsibilities in 1996. Over time, requests expanded to cover oral history/traditional use investigations, NAGPRA inventories, trainings, and geophysical investigations like ground penetrating radar. This led to an increasing number of requests to provide services to other governmental agencies and the private sector.

The CRPP was originally responsible for protecting resources on the Umatilla Indian Reservation, plus consulting and commenting on projects on the ceded and traditional cultural lands. In the early-1990s, the CRPP began taking on grants and contracts from federal, state, local, and private agencies for on and off-Reservation projects, growing to the point where most funding for the program came from the outside.

With the COVID-19 public health emergency the CTUIR and specifically the CRPP, has seen a decline in applicants applying for employment. The CRPP is actively recruiting for four archaeologist position vacancies but has been faced with challenges in obtaining prospective applicants to live in Eastern Oregon with most wanting to telework permanently or receiving other job offers. The current employment market for archaeologists is in high demand and competition is steep with many archaeological firms, state agencies and the federal government also seeking to hire archaeologists.

2. PURPOSE

The CTUIR-CRPP needs assistance with leading large cultural resource assessment projects, cultural resources report writing and technical review services of projects/undertakings under the National Historic Preservation Act Section 106, Oregon, and Washington archaeological laws, and under the CTUIR's Historic Preservation Code until vacant archaeologist positions are filled. Contractor(s) will provide professional cultural resources report writing, cultural resource review, comments, project guidance, and technical consultation assistance for the CRPP. The CRPP seeks to contract with an archaeological firm(s) for these services.

The purpose of this Request for Proposal (RFP) is to solicit proposals from qualified Contractors for the services described in Section 4, below; conduct a fair and extensive evaluation based on criteria listed herein and select the Contractor(s) who has the experience and personnel to successfully provide the required assistance to the CTUIR-CRPP.

3. PROPOSAL GUIDELINES

This RFP represents the requirements for an open and competitive process. Proposals will be accepted until 4:00 p.m. (Pacific Daylight Time) on October 18, 2023. Any proposals received after this date and time will not be considered. All proposals must be signed by an official, agent or representative of the Contractor submitting the proposal.

If the Contractor submitting a proposal must contract out any of the work to meet the requirements contained herein, this must be clearly stated in the proposal. Additionally, costs included in the

proposals must be all-inclusive and include any third party subcontracted work. Any proposals which call for contracting work to a third-party subcontractor must include the name and description of the person or third-party subcontractor.

Contract terms and conditions will be negotiated upon selection of the winning bidder for this Project. All contractual terms and conditions will be included in a Master Cultural Services Consulting Agreement (template attached) subject to review by the CTUIR's legal department and will include scope of work, budget, schedule, and other necessary items pertaining to the Project.

4. SCOPE OF SERVICES

Contractors can bid on one or more services listed below and are not required to bid on all services. The CTUIR-CRPP seeks a contractor(s) to assist with the following scope of services:

- 1) Professional cultural resources report writing to appropriate SHPO/THPO standards.
- 2) Assist with field project implementation.
- 3) Review and comment on National Historic Preservation Act consultation documents.
- 4) Review and comment on Oregon and Washington agency consultation documents.
- 5) Review and comment on proposed programmatic agreements, memoranda of agreement or understanding, guidelines, and policy documents.
- 6) Review and comment on other undertakings as requested by the CRPP.

5. SUBMITTALS

In addition to responding to the scope of services please include:

- 1) A history of your company including any names used previously and why your company is best suited to meet the requirements of the RFP.
- 2) A written statement verifying potential conflicts of interest with current clients or a list of current clients certifying that no such conflicts exist, and if a conflict of interest should arise, immediately inform the CTUIR-CRPP.
- 3) Experience and qualifications of the proposed key staff members assigned to each service to be provided. Please provide a detailed resume for each person. Specify where the staff will be located and identify the manager or supervisor.
- 4) Certify whether you are an Indian business or a member of an Indian Tribe.
- 5) An hourly cost proposal for the scope of services.
- 6) At least two writing samples, preference is for a professional report and comment document.
- 7) Three references.

6. TIMELINES AND TERM OF CONTRACT

All proposals in response to this RFP are due no later than 4:00 p.m. PST October 18, 2023.

Evaluation of proposals will be completed by October 30, 2023. If additional information or discussions are needed with any bidders during this period, the bidder(s) will be notified.

Upon notification, the contract negotiation with the winning bidder will begin immediately. Contract negotiations will be completed by November 1, 2023. Notifications to bidders who were not selected will be completed by November 1, 2023.

The Project Scope of Services will be completed by December 1, 2024; however, the contract may be extended at the option of the parties by written modification.

7. BIDDER QUALIFICATIONS

Bidders should also provide the following items as part of their proposal for consideration:

- 1) Letter(s) from Oregon State Historic Preservation Office stating Oregon Qualified Archaeologist for those personnel that may work on field projects in Oregon.
- 2) Knowledge of the States of Oregon and Washington cultural resource laws, processes, and compliance requirements.
- 3) Knowledge of federal cultural resources laws, processes, and compliance requirements.
- 4) Knowledge of the CTUIR.

8. PROPOSAL EVALUATION CRITERIA

CTUIR will evaluate all proposals based on the following criteria. Your proposal should follow the format below and should be less than 30 pages, single sided, minimum 12-point font. Writing samples and divider sheets (if needed) will not be included in the page count. All submissions must be submitted electronically via email to CulturalResources@ctuir.org as a PDF file attachment.

To ensure consideration for this Request for Proposal, your proposal should be complete and include all the following criteria in:

- 1) Firm History
- 2) Conflicts of Interest
- 3) Key Staff and Resumes
- 4) Relevant Experience
- 5) Writing Samples
- 6) References
- 7) Scope of Services and Cost Proposal
- 8) Indian preference applies. If you are claiming an Indian Contractor preference, provide documentation that the Contractor or third-party subcontractor is at least 51% Native-owned or that you or the third-party subcontractor is certified as Native-owned by the CTUIR TERO program.

9. RFP QUESTIONS

If you have any questions or need additional information regarding the requirements in this RFP, contact Teara Farrow Ferman, Cultural Resources Protection Program Manager, at TearaFarrowFerman@ctuir.org.

Each bidder must submit an electronic copy of their proposal by 4:00 p.m. PST on or before October 18, 2023, to the following email addresses:

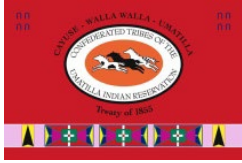
CulturalResources@ctuir.org

Attachments:

- 1) Master Cultural Services Consulting Agreement (Draft)

Attachment:

**Draft Master Cultural Services
Consulting Agreement**



MASTER CULTURAL SERVICES CONSULTING AGREEMENT

Master Agreement Cost Center: _____

This master cultural services consulting agreement is dated as of [insert month, day and year], and is between the Confederated Tribes of the Umatilla Indian Reservation, a federally recognized Indian tribe acting through its Cultural Resources Protection Program (the “COMPANY”), and [insert name] (the “CONSULTANT”).

1. Master Agreement

1.1 Scope of Work. This agreement will be implemented in the form of specific Task Orders issued by the COMPANY through its representative and performed by the CONSULTANT. Task Orders will be in writing and signed by both parties prior to beginning any of the work to be performed under a Task Order. Task Orders shall be issued in accordance with the general format outlined in **Schedule C**. The general services (“Services”) to be provided under this agreement and each issuing Task Order is detailed in **Schedule A**.

1.2 Payment. The COMPANY agrees to pay the CONSULTANT on a cost reimbursement basis in accordance with the terms outlined in **Schedule B** for work performed under each Task Order. Task Orders will specifically identify the work to be performed and the amount owed for performance of that work.

1.3 Term. This agreement commences on the date written above and terminates on **December 31, 2024** unless otherwise terminated earlier.

1.4 Designated Contact. The representative for the COMPANY is **Teara Farrow Ferman**. The representative for the CONSULTANT is [insert name].

2. Independent Contractor.

2.1 Independent Contractor. The CONSULTANT agrees to employ, at its own expense, all personnel reasonably necessary to perform the Services. These personnel are not employees of the COMPANY. The CONSULTANT shall ensure that all personnel engaged in performing Services are fully qualified to undertake the work in accordance with applicable tribal, state, or federal laws. The CONSULTANT is an independent contractor. The CONSULTANT is not an agent or employee of the COMPANY. The CONSULTANT and the COMPANY are not engaged in a joint venture or partnership. Neither party can represent or bind the other.

2.2 Subcontractors. In addition to personnel employed directly by CONSULTANT, CONSULTANT has the right to engage such subcontractors as it may deem necessary to perform the Services.

3. Representations, Warranties, and Duties

3.1 Professional Work. The CONSULTANT shall perform Services in a professional, thorough, and skillful manner consistent with their profession’s standards in the Pacific Northwest region.

3.2 Compliance with Laws. The CONSULTANT shall comply with all applicable tribal, state, local, and federal laws.

3.3 Safety. The CONSULTANT shall perform all work in a safe manner.

3.4 Information Necessary for Timely Performance. To permit CONSULTANT to render the Services, COMPANY shall, at its expense and in a timely manner:

3.4.1 Provide information concerning the Services as CONSULTANT may require from time to time to enable CONSULTANT to complete the Services;

3.4.2 Promptly inform CONSULTANT of any pending or confirmed changes in the Services;

3.4.3 Promptly review all documents and materials submitted to COMPANY by CONSULTANT for COMPANY’S comment to avoid unreasonable delays in the progress of the Services; and

3.4.4 Promptly notify CONSULTANT of any fault or defect in the Services provided.

3.5 No Other Warranties. CONSULTANT provides no warranty, representation, or certification whether expressed or implied other than those specifically stated in section 3 of this Agreement.

4. Mutual Indemnification

4.1 Indemnification. Each party shall defend, hold harmless, and indemnify the other party and their officers, employees, and agents (the “Indemnified Party”) against all losses, liabilities, claims, damages, costs or expenses, including reasonable attorney’s fees and expenses (collectively, “Claim”) that are brought against the Indemnified Party arising out of or related to (1) any personal injury, death or property damage caused by any act, omission, error, fault, mistake or negligence of the indemnifying party or its employees, agents, or subcontractors related to this agreement, (2) any act or omission by the indemnifying party that constitutes a non-trivial (from the perspective of a reasonable person in the position of the Indemnified Party) breach of this agreement including, without limitation, any misrepresentation or breach of warranty, or (3) the infringement of any patent, copyright, trade secret or other proprietary right arising from delivery, use, or performance of the Services. This duty includes costs incurred by the Indemnified Party in assuming their own defense. The CONSULTANT’S obligation under this section shall not extend to any Claim primarily caused by (1) the negligent or intentional misconduct of an Indemnified Party, or (2) the COMPANY’S modification of goods or services without the CONSULTANT’S approval and in a manner inconsistent with the purpose and proper use of those goods or services.

4.2 Written Authorization. Any legal counsel purporting to represent the interests of an Indemnified Party shall first obtain written authorization from the Indemnified Party. The Indemnified Party may assume their own defense at any time when it

determines in its sole discretion that (1) proposed counsel is prohibited from the particular representation contemplated; (2) counsel's representation is inadequate; (3) important party interests are at stake; or (4) it is in the best interest of the Indemnified Party.

5. Document Ownership

5.1 Ownership. The COMPANY shall own all reports provided it pursuant to this agreement. All information contained within any such report that pertains to information concerning the location of archaeological sites or objects shall be kept confidential as a trade secret of CONSULTANT ("Confidential Information"). All other intellectual property, including but not limited to work product, shall be the property of the COMPANY.

5.2 Authority to Publish. COMPANY has unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or part, any reports, data, plans, or any other material prepared by CONSULTANT.

5.3 Trade Secret. Some information and technology of the COMPANY is confidential, proprietary, or otherwise a trade secret, including but not limited to reports produced under this agreement, information concerning the location of archaeological sites or objects, other cultural resources, oral histories of COMPANY'S members, and compilations of information not generally known or reasonably ascertainable to the public.

5.4 COMPANY'S Withholding of Information. Any information may be withheld by the COMPANY if, in their sole discretion, they believe it may be subject to public disclosure under the public disclosure act(s) of CONSULTANT, if any, notwithstanding the consequences of withholding the information.

5.5 CONSULTANT'S Non-disclosure of Information. If applicable, the CONSULTANT shall withhold from public disclosure any and all information obtained from the COMPANY that is subject to an exclusion under the CONSULTANT'S state or federal public disclosure act(s). Specifically, all oral histories, stories, archeological or cultural resource information pertaining to specific sites or objects, and any other information that is not generally known or ascertainable, shall be considered trade secrets of the Tribes as that term is defined in the Uniform Trade Secrets Act, and the CONSULTANT shall assert that as a basis for exemption in any request for information. In addition, the CONSULTANT shall withhold from public disclosure all records, maps or other information identifying the location of any and all archaeological sites including information related to the study being conducted.

5.6 Disclosure to Employees. CONSULTANT shall restrict access to the Confidential Information provided to it only to employees of the CONSULTANT who clearly need such access in order to obtain any and all necessary permits and authorizations from any state or federal governmental entity for the operation of the project provided the employee has been instructed to comply with the terms of this agreement.

5.7 Discovery. If the CONSULTANT receives a discovery request to disclose Confidential Information, CONSULTANT shall immediately notify COMPANY. In the event of a discovery request CONSULTANT shall work with COMPANY to prevent disclosure, whether by agreement with third parties or by seeking a court protective order, on the ground that the Confidential Information is a trade secret of COMPANY and contains sensitive cultural resource information.

6. Insurance

6.1 Generally. CONSULTANT shall maintain the following insurance:

- (a) Commercial General Liability Insurance in the amount of one million dollars each occurrence and two million dollars aggregate.
- (b) Commercial Automobile Liability Insurance in an amount equal to one million dollars for all vehicles used in performance of the Services.
- (c) Worker's Compensation Insurance as required by applicable law.

7. Termination

7.1 For Convenience. Either party may terminate this agreement by giving to the other party 10 days' prior written notice. The notice shall specify the effective date of termination. Termination will not alter payment terms or give rise to any equitable claim for reimbursement.

7.2 Breach of Agreement. Either party may immediately terminate this agreement by written notice following a material breach by the other party.

8. General Terms

8.1 Choice of Law. The laws of the State in which the Services are being performed shall govern this agreement.

8.2 Severability. Any provision of this agreement held to be unenforceable will not affect the enforceability of any other provision.

8.3 Terminology. The words "include," "includes," and "including" are to be read as if they were followed by the phrase "without limitation to". The word "or" is not exclusive. Headings are provided for convenience and do not affect meaning. Any reference to a time of day is to the time in Pendleton, Oregon.

8.4 Notices. Notices must be in writing. Delivery occurs when the other party receives notice through certified mail or a reputable overnight courier. Representative addresses are as follows:

The COMPANY:

CTUIR
Cultural Resources Protection Program
46411 Timine Way
Pendleton, Oregon 97801
Attention:
Telephone: (541) 276-3447
Facsimile: (541) 429-7203
Email:

The CONSULTANT:

[COMPANY'S Name]
[ADDRESS]
Attention:
Telephone:
Facsimile:
Email:

8.5 Entire Agreement. This agreement supersedes all prior or contemporaneous oral or written agreements between the parties.

8.6 Amendments. No change, amendment or modification of this agreement is valid unless it is in writing and executed by the parties.

8.7 Assignment. This agreement is not assignable by the CONSULTANT and binds any successor.

8.8 Survival. The requirements of Sections 3, 4 and 5 survive termination of this agreement.

8.9 No General Waiver. The waiver or failure to enforce, insist upon, or comply with any term in this agreement does not constitute a general waiver or relinquishment of that term.

8.10 No Construction Against Drafter. Each party has participated in negotiating and drafting this agreement. If any ambiguity or question of intent or interpretation arises, this agreement is to be construed as if the parties had drafted it jointly, as opposed to being construed against a party because it was responsible for drafting one or more provisions of this agreement.

8.11 Sovereign Rights. Nothing in this Agreement constitutes a waiver of CONSULTANT'S rights as a sovereign.

This agreement is signed as of the date stated in the introductory clause and may be executed in counterparts or by facsimile.

**CONFEDERATED TRIBES OF THE
UMATILLA INDIAN RESERVATION,
CULTURAL RESOURCE
PROTECTION PROGRAM
(COMPANY)**

[INSERT COMPANY'S NAME]

By: _____
Donald G. Sampson
Executive Director

By: _____
[Name, Title]

Attachments:

**Schedule A, Scope of Work
Schedule B, Project Budget
Schedule C, Task Order Form**

SCHEDULE A: Scope of Work

1. Background.

The COMPANY needs assistance with leading large cultural resource assessment projects, archaeological report writing and technical review services of projects/undertakings under the National Historic Preservation Act Section 106, and Oregon and Washington archaeological laws until vacant archaeologist positions are filled. CONSULTANT will provide professional cultural resources report writing, cultural resource review, comments, project guidance, and technical consultation assistance for the COMPANY.

2. Scope.

CONSULTANT to provide services for the following scope of services:

[insert all that apply]

- 2.1 Professional cultural resources report writing to appropriate SHPO/THPO standards.
- 2.2 Assist with field project implementation.
- 2.3 Review and comment on National Historic Preservation Act consultation documents.
- 2.4 Review and comment on Oregon and Washington agency consultation documents.
- 2.5 Review and comment on proposed programmatic agreements, memoranda of agreement or understanding, guidelines, and policy documents.
- 2.6 Review and comment on other undertakings as requested by the CRPP.

3. Applicable Documents.

[Insert if necessary – may not need an “Applicable Documents” section. However, if the scope of work involves use of, or reference to, outside documents, list them here. Identify each document with relative precision, including relevant subsections.]

- 3.1 CONTRACTOR will provide Applicable Documents to CONSULTANT for review and comment. The documents will include but not be limited to archaeological permits, National Historic Preservation Act (NHPA) Section 106 consultation documents, archaeological reports, contract documents, and other necessary documents to complete the task.
- 3.2 Tribal Documents. The following Tribal documents are hereby incorporated into this agreement and CONSULTANT acknowledges receipt thereof:
 - 3.2.1 CONTRACTOR’s Computer Policy.
 - 3.2.2 CONTRACTOR’s Fiscal Management Policy.

4. Requirements.

See individual task orders.

SCHEDULE B: Project Budget

I. PAYMENT TERMS. COMPANY shall reimburse CONSULTANT for services performed consistent with the following budget.

[insert budget hourly rates/overhead costs/etc]

Each Task Order will indicate the total amount to be reimbursed for that task.

II. PAYMENT PROCEDURES.

- A. CONSULTANT shall submit invoices for reimbursement of work performed on a **monthly or quarterly** basis for each Task Order issued to: payables@ctuir.org
- B. Invoices must clearly list appropriate task order number.
- C. The COMPANY will reimburse the CONSULTANT for invoices within thirty-five (35) days of receipt.



SCHEDULE C

Task Order Form

Task Order #: **XXX**

Master Agreement Cost Center: **XXX**

Task Order Cost Center: **XXX**

*This is a Task Order issued pursuant to a Master Cultural Services Consulting Agreement entered into on **June 30, 2023**. All terms and conditions of the Master Agreement are in full force and effect for this Task Order document.*

Task Schedule

Task Start Date: **XXX**

Task End Date: **XXX**

Project Name

XXX

Scope of Task Order

1. CONSULTANT to attend meetings with COMPANY and **XXX** as necessary.
2. CONSULTANT to prepare a draft archaeological report and all necessary site or isolate find forms and submit them to COMPANY for review.
3. After COMPANY has provided CONSULTANT with comment, CONSULTANT will implement comments into a final archaeological report.
4. CONSULTANT will submit final archaeological report to Oregon State Historic Preservation Office on behalf of COMPANY.

Task Cost

The rate to perform the necessary work is estimated at **\$XXX**. An itemized cost estimate is attached and by reference made part of this task assignment.

Consultant Information

Name: **XXX**

Contact: **XXX**

Address: **XXX**

Phone: **XXX**

Approval Signatures

**Confederated Tribes of the Umatilla Indian
Reservation**

[INSERT COMPANY NAME]

Donald G. Sampson, Executive Director

[Insert Name/Title]

Date: _____

Date: _____

SCHEDULE C: Budget
Task Order #: XXX
Task Order Cost Center: XXX

I. PAYMENT TERMS. COMPANY shall reimburse CONSULTANT for services performed consistent with the following Task Order Budget.

[insert detailed budget]

TOTAL: \$XXX

The budget is valid until XXX.

Budget is based upon a 10-hour work day.