



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Request for Proposals—August 14, 2024

Consultation with State, Local, and Tribal Governments in Regulatory Policymaking

The Administrative Conference of the United States (ACUS) is accepting proposals from individuals interested in serving as a consultant(s) to conduct a study of agency policies and practices for consulting with state, local, and tribal governments in regulatory policymaking. The study will support the development of a recommendation for action by federal agencies, the President, and/or Congress.

About ACUS

ACUS is an independent federal agency in the executive branch charged with identifying and promoting improvements in the efficiency, adequacy, and fairness of the procedures by which federal agencies conduct administrative processes.

Many of the hundreds of recommendations ACUS has issued since 1968 have resulted in reforms by federal agencies, the President, Congress, and the Judicial Conference of the United States. All are available at acus.gov/recommendations.

Recommendations are issued by the Conference, which consists of a Chair appointed by the President and confirmed by the Senate; ten presidential appointees; 50 senior federal officials designated by the heads of participating agencies; and 40 leading academics, practitioners, and other private-sector experts. Except for the Chair, all members are unpaid.

Recommendations are typically informed by a report prepared by one or more consultants. Consultants also work closely with committees of Conference members and the full Conference membership to develop the recommendations. Previous consultant reports are available at acus.gov/reports.

Project Description

Federal agencies are required to consult with state and local governments when they develop regulatory policies that have “federalism implications”¹ and with tribal governments when they develop regulatory policies that have “tribal implications.”² Agencies have adopted a range of policies and practices for consulting with state, local, and tribal governments in regulatory

¹ Exec. Order No. 13132, *Federalism*, 65 Fed. Reg. 43,255 (Aug. 4, 1999); *see also* 2 U.S.C. § 1534.

² Exec. Order No. 13175, *Consultation and Coordination with Indian Tribal Governments*, 65 Fed. Reg. 67,249 (Nov. 9, 2000).

policymaking. Consultation is important for reasons of federalism and tribal sovereignty as well as to ensure effective coordination between governments, improve the quality of agency decision making, and enhance the legitimacy and accountability of agency decisions.

ACUS is undertaking a project to examine when and how agencies consult with state, local, and tribal officials on regulatory policymaking. Among other topics, the project will address:

- Agency policies and procedures for consulting with state, local, and tribal governments;
- Agencies' approaches to identifying and engaging with appropriate state, local, and tribal officials;
- Methods for utilizing feedback from state, local, and tribal governments in agency decision making; and
- Common issues and challenges that agencies face in developing and implementing accountable processes for consultation.

The project will consist of a report prepared by a consultant(s) and, it is expected, a recommendation adopted by the Conference. Both the report and recommendation will identify agency best practices for promoting meaningful collaboration with state, local, and tribal governments and, if warranted, reforms for consideration by agencies, the President and/or Congress.

Consultant Responsibilities

The consultant(s) will complete a draft report by February 2025. The consultant(s) will work with Conference staff to finalize the draft report, which will be provided to a committee of Conference members and made publicly available on the ACUS website.

During spring 2025, the consultant(s) will work with Conference staff and the committee to develop a proposed recommendation. Committees typically meet two to three times per project; meetings are conducted virtually and typically last about three hours.

The consultant(s) will work with Conference staff to complete a final report by May 2025, which will be provided to the full Conference and made publicly available on the ACUS website. The consultant(s) will also work with Conference staff and the full Conference membership to consider the committee-proposed recommendation at a plenary session of the Conference, likely in June 2025.

The Conference may select a single consultant or assemble a team of consultants depending on the proposals it receives. Consultants will receive between \$8,000 and \$25,000, plus a budget for related expenses, depending on the number of consultants and allocation of responsibilities. The total value of consulting fees for this project will not exceed \$25,000, to be apportioned in accordance with the number of consultants and division of responsibilities.

Submitting a Proposal and Evaluation Criteria

If you are interested in serving as a consultant for the report, send an email to Becaja Caldwell (bcaldwell@acus.gov) with the phrase “ACUS Project Proposal” in the subject line. Attach your curriculum vitae to the email, along with a short statement (ideally no more than two pages) that:

- Addresses your interest in this study,
- Describes specific topics you would be interested in researching (e.g., consultation with state and local governments and/or consultation with tribal governments),
- Describes the methodologies you might employ to researching these topics, and
- Identifies any relevant scholarship you have published.

All responsible sources must submit a proposal by 5:00 p.m. Eastern Time on September 15, 2024, in order to be guaranteed consideration by the agency.

Proposals will be evaluated based on quality, clarity, and the proposer’s qualifications. The Conference has a strong preference for consultants who have previously authored scholarly work on federal agency consultation with state, local, and/or tribal governments.