

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
UNITED STATES DEPARTMENT OF AGRICULTURE,  
RURAL UTILITIES SERVICE  
AND  
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
INDIAN HEALTH SERVICE**

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This Memorandum of Understanding (MOU) is made and entered into by the Rural Utilities Service, hereinafter referred to as RUS, an Agency of the Rural Development Mission Area, United States Department of Agriculture, and the Indian Health Service, hereinafter referred to as IHS, an Operating Division within the United States Department of Health and Human Services.

**I. PURPOSE**

The purpose of this MOU is to establish the framework of partnering between the RUS and the IHS in providing assistance to American Indians and Alaska Natives in the development and operation of water, waste water, and solid waste facilities. American Indian and Alaskan Native communities often have significant needs for water and waste disposal facilities that cannot be financed with their own resources. The agencies share a common goal to assist Tribes in improving their living environment through the delivery of quality infrastructure. This goal can be more readily achieved with an efficient and integrated utilization of available resources.

This agreement establishes a general foundation for this cooperative effort. The MOU will be supplemented, as necessary, by individual Memorandums of Agreement (MOA) developed between local decision-makers and the specific federal agencies assisting in the development of the projects.

**II. AUTHORITY**

The MOU is entered into pursuant to the authority of P.L. 86-121, "The Indian Sanitation Facilities Act," and the "Consolidated Farm and Rural Development Act," as amended (7 U.S.C. 1926).

**III MISSION STATEMENTS**

RUS Water and Environmental Programs provide financial and technical assistance for the development and operation of safe and affordable drinking water and waste disposal (including solid waste and storm drainage) systems. Loans and grants are available to rural areas and towns of 10,000 or less people for the construction, replacement, expansion, or other improvements of such facilities. RUS loans and grants are made to public bodies, not-for-profit corporations including cooperatives and Indian Tribes. Applicants must own and operate the facilities financed; however, this does not preclude

applicants contracting for the operation and maintenance so long as they retain the ultimate control of the facility being financed. Applicants must be unable to finance their needs with their own resources or through credit from commercial sources. The programs are administered at the local levels by USDA's Rural Development State Offices and Area Offices.

The mission of the IHS is to raise the health status of the American Indian and Alaska Native people to the highest possible level. To carry out this mission, the IHS provides a comprehensive primary and preventative health care delivery system for American Indians and Alaska Natives. The Sanitation Facilities Construction (SFC) program is the environmental engineering component of the IHS health delivery system. The SFC program provides technical and financial assistance to Indian tribes and Alaska Native communities for the cooperative development and continuing operation of safe water, waste water, and solid waste systems and related support facilities including the construction of these facilities. IHS engineering services also include health care systems analysis, health care facilities design and construction, facilities management, and clinical engineering. The IHS SFC Program continues to seek supplemental funds from non-IHS sources to meet the backlog of identified needs. The IHS SFC Program assists tribes in securing loans and grants from the Department of Agriculture as well as other Federal agencies.

#### IV. OPERATIONAL PROCEDURES - STANDARD PRACTICES

##### Delivery of RUS Services

- The RUS funds are routinely delivered to the Tribe as needed. RUS loan funds are advanced first. Generally, the funds are advanced periodically after the beginning of construction to pay eligible costs.
- Prior to the beginning of construction, RUS enters into an agreement with the Tribe and other sources of funding which states when and how funds will be advanced. When jointly funding projects, funds are normally disbursed as needed – usually monthly.
- The procurement method for most construction contracts encouraged by RUS is competitive sealed bids (formal advertising).
- Loans and grants must be closed prior to advancing any funds, i.e., executed promissory notes, grant agreements, and/or bonds issued by the applicant/borrower.

##### Delivery of IHS Services

The IHS SFC delivers project construction services to tribes by two general methods. Services may either be provided directly to tribes (direct service), or the IHS can provide funds to tribes so that the tribes can carry out the services under P.L. 93-638, "Indian Self

Determination and Education Assistance Act, as amended.” Projects are funded based on the request of a tribe and their status on either the Sanitation Deficiency System for existing homes or the Housing Priority System for new homes. The responsibilities for each party are listed and agreed to in a Memorandum of Agreement (MOA), which is signed by the tribe, IHS, and others involved in the funding or carrying out the project.

- Direct Service:

Under direct service, the SFC program performs the planning, design and construction management activities with its staff and accomplishes the construction by federal force account, federal government contract under Federal Acquisition Regulations (FAR), tribal force account or tribal procurement. In the case of procurement by federal government contract, the IHS requires funds to be available in an IHS account prior to award of a contract.

- P.L. 93-638:

Under P.L. 93-638 agreements, tribes can be responsible for providing any and all functions of the IHS SFC Program including the planning, design, construction management activities and project construction through either a Self Determination Contract (Title I) or a Self Governance Compact (Title III). In the case of a subpart J construction contract, the IHS requires funds to be available in the IHS account prior to award of a contract.

## V. UNDERSTANDINGS

- RUS and IHS will work together, with the Tribes, to provide assistance to Tribes in facilities planning, design, construction, and operations. Assistance shall be provided within the authorities and resources available to each Agency.
- RUS, IHS, and Tribes will work together during the planning phases of a project to identify and address the needs of the entire community for engineering, design and performance requirements, environmental considerations, and operational needs, by taking a comprehensive community and public health approach. Constraints due to construction seasons and funding cycles may require that projects be completed in phases.
- A goal of the RUS/IHS interactions, and in conjunction with the development of an overall project plan addressing the entire water or wastewater system, will be to prepare an environmental review document to cover all proposed phases of the entire system. This goal seeks to minimize duplication of effort and to increase the efficiency of project planning for both environmental and engineering requirements. Environmental review documents may be jointly prepared or prepared by the Agency who is designated as a lead Agency (in the context of 40 CFR, Sec. 1501.5, Lead agencies. - reference refers to all environmental review documents equally). Where

so designated, a lead Agency's requirements will normally suffice; however, each Agency may take agency-specific supplemental actions to further promote the intent of the National Environmental Policy Act and its regulations. The Agency which is not the lead Agency shall be responsible to take actions not taken by the lead Agency but deemed necessary by the other Agency.

- When IHS procures construction services under the Federal Acquisition Regulations (FAR), RUS funds may be advanced to the Tribe just prior to the execution of the construction contract(s). Upon the written request from the Tribe, RUS funds may be electronically transferred to their bank account or they may designate that the funds be transferred to another account such as an IHS account. IHS will not award any contract under FAR until 100 percent of the contract amount is available in the appropriate IHS account.
  - If IHS is providing assistance to a Tribe under a method other than the FAR method, RUS funds may be advanced when needed by the Tribe and in accordance with RUS procedures.
  - A Memorandum of Agreement (MOA) will be developed and executed by representatives of the participating agencies and the Tribe for each specific project. The MOA will spell out the roles and responsibilities of each party to the agreement for each project.
  - It is the responsibility of the RUS Rural Development-Program Manager and the IHS Area Sanitation Facilities Program Director to agree on what is necessary to successfully complete each project in which they are jointly involved. The items listed below could be used in developing the project's specific MOA.
- The specific method of service delivery by the IHS will be described, including whether it will be by direct service or under a P.L. 93-638 agreement, and the means of construction administration which will be utilized.
- When IHS is the manager of the funds, IHS will establish accounts and records reflecting all funds received from all sources. IHS and RUS field staff should agree on the reporting frequency.
  - Representatives of the Tribe, RUS, and IHS shall agree on the frequency of construction inspections and conduct a joint final inspection.
  - All parties will provide concurrence that the planning and design phases have been satisfactorily completed and pertinent Federal regulations/requirements have been met prior to proceeding to the next phase.
  - When IHS is the manager of the funds and the project is complete, IHS will prepare a project completion package, including a final report and a complete financial summary to close out the project. Copies will be furnished to the Tribe

and all funding agencies. All original project files will be retained by IHS and the Tribe in accordance with IHS audit requirements.

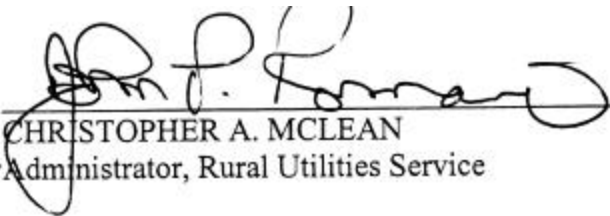
- To ensure improved communications between the agencies, meetings will be held at the National, Regional, State and local levels at least annually to discuss their respective programs, budgets, priorities, concerns, changes in policy, etc.
- To further enhance the partnership between RUS and IHS, each Agency will provide access to data such as their priority lists and related information. The sharing of this data will enable RUS and IHS to meet the needs of the Tribes more effectively and efficiently.

VI. DURATION AND MODIFICATION OF AGREEMENT

This MOU, or any revision hereto, becomes effective when signed by the two parties. This MOU shall remain in effect unless terminated by either party after 60-days prior written notice to the other party.

APPROVALS:

UNITED STATES DEPARTMENT OF AGRICULTURE,  
RURAL UTILITIES SERVICE

*for*   
CHRISTOPHER A. MCLEAN  
Administrator, Rural Utilities Service

Oct. 20 2000  
Date

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
INDIAN HEALTH SERVICE

  
Director, Indian Health Service

10-18-00  
Date