

**Department of the Interior
MEMORANDUM OF UNDERSTANDING**

Between

**THE BUREAU OF INDIAN AFFAIRS (BIA)
THE OFFICE OF FACILITIES MANAGEMENT AND CONSTRUCTION
(OFMC)**

and

**THE BUREAU OF INDIAN AFFAIRS (BIA)
OFFICE OF INDIAN SERVICES (OIS)**

For

***[PUBLIC LAW 93-638, as amended,]*
INDIAN SELF-DETERMINATION CONTRACT PROGRAM**

I. Preamble

The Bureau of Indian Affairs (BIA) through the Office of Indian Services (OIS) certifies Awarding Officials who award and administer P.L. 93-638, the Indian Self-Determination and Education Assistance Act of 1975, contracts, grants and cooperative agreements with tribal governments on behalf of the Federal government.

Presently, several tribal governments operate self-determination contracts awarded by BIA Awarding Officials for the performance of the OFMC projects.

II. Purpose and Scope

It is the purpose of this Memorandum of Understanding (MOU) to ensure that tribal self-determination contracts for OFMC projects are executed in an accurate and timely manner. This will require close coordination and cooperation between BIA OIS and BIA OFMC.

The OIS will provide OFMC a Level II Awarding Official from the Great Plains, Western and Navajo Regional Offices. The three BIA Regions will be responsible for awarding OFMC construction contracts by using the Level II Awarding Officials at each region. The awarding officials will appoint the appropriate regional OFMC staff as the Awarding Official Technical Representative (AOTR) for each construction contract. The BIA will provide training for the AOTR's annually and be responsible for all awarding functions.

III. Clarification of Outstanding Issues:

Work Load Distribution: Each Region will be responsible for all OFMC Contracts within three designated areas.

Great Plains Region: Will be responsible for all OFMC Construction P.L. 93-638 contracts geographically located in the Great Plains, Rocky Mountain and Midwest Regions.

Navajo Region: Will be responsible for all OFMC Construction P.L. 93-638 contracts geographically located in the Navajo, Southwest, Northwest and Eastern Oklahoma Regions.

Western Region: Will be responsible for all OFMC Construction P.L. 93-638 contracts geographically located in the Western, Pacific, Southern Plains and Eastern Regions.

All Existing contracts not completed by November 1, 2010 shall stay with current Awarding Officials until project is completed and closed out.

OFMC will provide \$210,000.00 annually to the OIS for P.L. 93-638 contracting services in FY 2011. OFMC will also provide to Regional Awarding Officials travel expenses occurred for contracts located outside their region but identified as other regions of identified responsibility.

OFMC Deputy Director will be the Approving Official on all OFMC Contracts unless the Deputy Director of OFMC appoints an alternate Approving Official and submits a written designation letter to the appropriate awarding official who the Approving Official will be. This MOU identified which Region will be responsible for awarding the OFMC contracts.

Upon the written approval of a contract proposal by the Approving Official, the OIS Awarding Official, with input from the AOTR, will negotiate and award the contract. OFMC will provide the appropriate accounting code(s) to the OIS; and, the OIS Awarding Official will in-turn modify the contract and transmit the funds to the contractor in compliance with the terms of the contract.

IV. Duties and Responsibilities

A. OFMC Approving Officials will have the following duties and responsibilities

Note: The Deputy Director of OFMC is the Approving Official unless the Deputy Director of OFMC appoints an alternate Approving Official. The Approving Official is to perform the functions as defined in 13 IAM, Chapter 2.2 (E) (1-6). The following information identifies the duties of the Approving Official.

1. Provide OIS with names of OFMC program staff with the potential to perform the duties of Awarding Official Technical Representative (AOTR) for a particular construction project.
2. Approve or disapprove contract proposals submitted by recognized contracting entities; Approving Official may seek Technical Assistance from the Awarding Official as necessary.
3. Inform and forward a copy of all contract proposals or renewals to the appropriate Awarding Official or Self-Determination office. Date stamp the proposal when received.
4. Approve or decline the proposal in writing. When the proposal is approved submit contract proposal to the awarding official.
5. Determine award amount in conjunction with the OIS, if necessary.
6. Provide appropriate financial and payment information between OIS, OFMC and contractors. Issue the appropriate funding documents and/or requisitions when necessary.
7. Assist OIS Awarding Officials in negotiation of contracts with contractor as requested by the awarding official.
8. Require all AOTR's to attend training courses in P.L. 93-638, as amended, the Law; 25 CFR Part 900, the Regulations; and in AOTR responsibilities.

B. BIA Awarding Officials will have the following duties and responsibilities:

1. Provide OFMC with the names of Awarding Officials responsible for awarding contracts.
2. Oversee and evaluate contract performance with assistance from the OFMC AOTRs.
3. Notify OFMC Approving Official of any contractor requests to Awarding Officials for proposed new contracts, renewals or modifications of contracts for OFMC construction projects.
4. In consultation with Approving Official appoint AOTR and notify in writing of the appointment to the Approving Official.
5. In coordination with the Approving Official, negotiate 638 contracts with contractors; award contract and obligate funds.

6. Provide prompt payment to contractors in the allowable contract amount upon OFMC transmittal of funding codes to OIS or in accordance with the contract.
7. Provide notice to the OFMC Approving Official when negotiating contracts and when payment is made.
8. All other duties of the Awarding Official shall be carried out in accordance with 13 IAM, 5 IAM and 25 CFR.

V. Duration

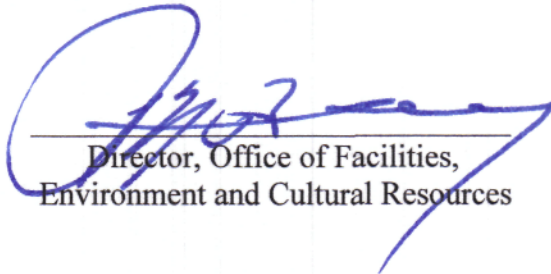
This Memorandum of Understanding shall expire on October 30, 2012. Any modifications(s) will be mutually agreed to in writing by the designated representatives of BIA OIS and BIA OFMC. Each party must respond to request for modification(s) within thirty (30) days of receipt.

VI. Signature

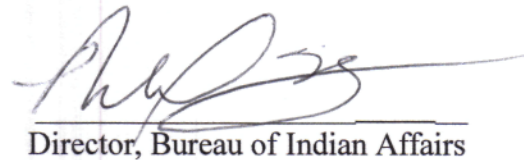
This MOU becomes effective on the 1st day of November, 2010.

Office of Facilities Management and Construction

Bureau of Indian Affairs



Director, Office of Facilities,
Environment and Cultural Resources



Director, Bureau of Indian Affairs

Date: 10/20/10

Date: 10/22/10