

**Department of the Interior
MEMORANDUM OF UNDERSTANDING**

BETWEEN

**THE OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS
and
THE BUREAU OF INDIAN AFFAIRS
for**

**PUBLIC LAW 93-638, as amended,
INDIAN SELF-DETERMINATION CONTRACT AWARDS**

A Memorandum of Understanding (MOU), with the above-captioned title, was executed on February 16, 2005 (hereafter "2005 MOU"). The 2005 MOU subsequently was amended by Modification Number 1, which was executed on January 31, 2006 (hereafter "January 2006 MOU"). The January 2006 MOU was amended by Modification 2 in May 2006 (hereafter "May 2006 MOU") to change the term of the MOU to Remain in effect until further notice.

I. Preamble

The Department of the Interior (DOI) is the trustee-designee regarding Indian lands and resources held and maintained in trust or restricted status for Indian tribes and individual Indians. The Office of the Special Trustee for American Indians (OST) was created, pursuant to the American Indian Trust Fund Management Reform Act of 1994, P.L. 103-412, to oversee and coordinate Departmental reforms of practices relating to the management and discharge of the Secretary of the Interior's trust responsibilities to Indian tribes and individual Indians.

The Bureau of Indian Affairs (BIA) is responsible for the management, collection and maintenance of information documenting trust asset land ownership, lease and other beneficial use relating to Indian trust and restricted lands and assets.

OST currently has responsibility and funding for two programs that may be assumed by tribes through self-determination contracts: the appraisal

services program and the beneficiary processes program (individual Indian money (IIM) Technician functions). Tribes and the United States government enter into such self-determination contracts pursuant to P.L. 93-638, the Indian Self-Determination and Education Assistance Act of 1975, as amended, 25 U.S.C. § 450 *et seq.*

In Fiscal Year (FY) 2002, BIA transferred the management and operation of the appraisal service program to OST. In FY 2005, BIA transferred funding for the appraisal services program to OST.

Before BIA transferred the appraisal services program to OST, BIA signed, administered and funded self-determination contracts with tribes on behalf of the United States. Presently, several tribes are operating under self-determination contracts signed by BIA for the performance of the appraisal services program. Tribes performing the beneficiary processes functions provide trust fund services for the Individual Indian Money (IIM) account holders of the tribe.

II. Purpose and Scope

It is the purpose of the Memorandum of Understanding (MOU) to ensure that tribal self-determination contracts for the Real Estate Appraisal Services and the Beneficiary Processes programs are executed and funded in an accurate and timely manner. This will require close coordination and cooperation between BIA and OST. OST will coordinate with BIA Awarding Officials to provide technical reviews and advice on contract proposals and to recommend the appointment of the Awarding Official Technical Representative (AOTR). Upon the written approval of the Director, OST Office of External Affairs, the BIA Awarding Officials will negotiate and award the appraisal services or beneficiary processes program contracts, transmit funds to the self-determination tribes, and administer the contracts. OST will transfer to BIA the amounts negotiated with the tribes to meet the funding requirements of the contracts. BIA shall transmit all funds to the tribes in accordance with the terms of the contracts.

III. Duties and Responsibilities

- A. Both BIA Awarding Official and OST Approving Official and Awarding Official Technical Representative will share the following duties and responsibilities:
 - 1. BIA will provide to OST the names of the Awarding Officials responsible for awarding contracts; and OST will provide to BIA the names of the recommended appointees who will serve as AOTRs;

2. Negotiate self-determination contracts with tribes for the appraisal services and beneficiary processes functions;
3. Oversee and evaluate contract performance;
4. Schedule and provide the necessary training and dissemination of information relative to this MOU to all affected BIA regional agency and OST offices, program staff, Awarding Officials and AOTRs within ninety days after signing this MOU.

B. OST will have the following duties and responsibilities:

1. Upon receiving any of the following written documents from a Tribe, date stamp the document and inform the BIA Awarding Official or Self-Determination Office and the local Office of the Solicitor (as appropriate) of:
 - a. a new or renewal contract proposal
 - b. a request for amendments to an existing contract
 - c. a request to redesign a program.
2. Maintain a log that contains the following information:
 - a. Type of proposal received by OST:
 - i) new contract with specific program, function, service, or activity that the Tribe intends to contract;
 - ii) renewal of contract;
 - iii) modification to existing contract, i.e. changed statement of work, program standards, redesign;
 - b. name of tribe submitting proposal;
 - c. date proposal received; and
 - d. printed name and signature of person receiving the proposal.
3. Within two days of receipt, notify the applicant in writing that the proposal has been received in accordance with 25 CFR § 900.15;
4. Provide the Awarding Official the original contract proposal and a copy of the two-day acknowledgement letter; and provide a copy of both the contract proposal and the two-day acknowledgement letter to the Superintendent and the local Office of the Solicitor (as appropriate);

5. Review proposed contracts, as well as proposed modifications of program standards, advise the Awarding Official of any declination issues, and provide technical assistance to applicants as necessary to overcome objections to contracting.
6. Provide information to BIA to respond to applicants' requests for lists of Federal property currently in use in carrying out the appraisal or beneficiary process programs (see 25 C.F.R § 900.10).
7. Advise BIA on responding to waiver applications and provide technical assistance to applicants to overcome objections to a waiver (see 25 C.F.R § 900.140 - 900.147).
8. Provide technical support to BIA in the event of appeals, retrocessions or reassumptions (see 25 C.F.R Part 900, Subparts L – Appeals and P – Retrocession and Reassumption Procedures).
9. Inform appropriate BIA Superintendent(s), Awarding Officials and the local Office of the Solicitor of self-determination contract information meetings;
10. Determine the tribal share or award amount, and any pass-through amounts (i.e., payments to subcontractors);
11. Coordinate the exchange of financial and payment information between BIA, OST and the tribes, including issuance of the appropriate funding documents and/or requisitions when necessary;
12. Recommend an Awarding Official Technical Representative (AOTR) to the BIA Awarding Official;
13. Require the line officer, the AOTRs and OST negotiators to attend the following Public Law 93-638 training courses, which will be provided by the BIA Office of Tribal Services:
 - a. P.L. 93-638, as amended and 25 CFR Part 900 (The Law and the Regulations);
 - b. Awarding Official Technical Representative Roles and Responsibilities

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

1. Notify the OST AOTR and the local Office of the Solicitor of any tribal requests for proposed new contracts, renewals or modifications of contracts for OST programs that are made directly to Awarding Officials;

2. Notify the OST AOTR when any existing contract is nearing its expiration date and take appropriate action in accordance with Pub. L.93-638 as amended, and 25 CFR Part 900, to avoid operating programs under expired contracts;
3. Within 15 days of receipt of the contract proposal, notify the applicant in writing of any missing items required by 25 C.F.R § 900.8 and request that the items be submitted within 15 days of receipt of notification.
4. Inform the OST AOTR about contract negotiation meetings;
5. Negotiate with the tribes, award, modify and/or renew contracts, obligate funds, and confirm the availability and transfer of any indirect costs and /or startup costs;
6. In consultation with OST, appoint the AOTR and provide a copy of the appointment letter to the OST Line Officer;
7. Provide prompt payment to tribes in the full contract amount upon OST transmittal of funding to BIA and in accordance with the contract and /or annual funding agreement;
8. Provide notice to the OST AOTR when contract payment is made;
9. Maintain records of contract and contract payments consistent with DOI's policy on fiduciary trust records management;
10. Issue findings and determination on contract matters when necessary;
11. Represent the government on contract matters in the event of appeals or litigation;
12. Prepare financial documentation associated with contract closeouts.

IV. Duration

This Memorandum of Understanding shall remain in effect until further notice. Any modifications(s) will be mutually agreed to in writing by the designated representatives of BIA and OST.

Each party must respond to request for modification(s) within thirty (30) days of receipt.

V. Signatures

Modification Number 3 to this MOU becomes effective on the 7th day of
March, 2011.

Signed by:



Designated Official
Bureau of Indian Affairs

Date: 3/2/11



Designated Official
Office of the Special Trustee for
American Indians

Date: 3/7/11