

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AND
THE DEPARTMENT OF THE ARMY

ARTICLE I - PURPOSE AND AUTHORITY

This Memorandum of Agreement ("MOA") is entered into by and between the U.S. Department of the Army ("DA") and the U.S. Department of Housing and Urban Development ("HUD") ("the parties") for the purpose of establishing a mutual framework governing the respective responsibilities of the parties for the provision of DA technical assistance and related goods and services in connection with the HUD public and Indian housing modernization programs. This MOA is entered into pursuant to the Economy in Government Act (31 U.S.C. § 1535) and the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, Appropriations Act, 1993 (Public Law 102-389, 106 Stat. 1571, 1582-84 (1992)).

ARTICLE II - SCOPE

Goods and services which the DA may provide under this MOA include inspection of Public Housing Agency and Indian Housing Authority (jointly referred to as "HAs") modernization and reports of findings, evaluation and report of HA contract administration, annual report of inspection findings and program improvement recommendations, and such other related goods or services as may be mutually agreed upon in the future.

Nothing in this MOA shall be construed to require the HUD to use the DA or to require the DA to provide any goods or services to the HUD, except as may be set forth in Work Orders ("WOs").

ARTICLE III - INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the DA and the HUD, each party shall appoint a Principal Representative at respective agency headquarters to serve as its central point of contact on matters relating to this MOA. Additional representatives may also be appointed to serve as points of contact on WOs.

ARTICLE IV - IMPLEMENTING INSTRUCTIONS

The DA and the HUD shall develop mutually agreed upon, written implementing instructions. These implementing

instructions will provide guidance for executing the requested assistance and shall include the following:

- funding arrangements, including method of billings, and accounting procedures;
- identification of HUD Regional and Indian Programs Office representatives and DA Division representatives;
- matching of HUD Regional and Indian Programs offices and respective U.S. Army Corps of Engineers Division offices;
- identification of which party is to be responsible for government-furnished equipment, contract administration, records maintenance, rights to data, software and intellectual property, and contract audits;
- the HUD's fund citation and the date upon which the cited funds expire for obligation purposes;
- procedures for work plan development between HUD Regional and Indian Programs offices and associated U.S. Army Corps of Engineers Division offices;
- procedures for amending or modifying WOs;
- identification of the HUD contracting officers authorized to sign work orders;
- types and frequencies of reports;
- construction inspection report format and contents;
- HA contract administration evaluation reports and format and contents; and
- such other particulars as are necessary to describe clearly the procedures used for implementing requested assistance.

In the event of conflict between this MOA and any implementing instructions, this MOA shall control.

ARTICLE V - WORK PLANS

The DA Division offices and the HUD Regional and Indian Programs offices shall develop mutually agreed upon, written, annual work plans which shall describe the work to be executed each fiscal year and associated funding. The work plans shall include the following:

- projection of funds for each Regional and Indian Programs office broken down into amount of funds to be used for construction inspections, amount of funds to be used to evaluate HA contract administration procedures, and amount of funds for other work as is requested;
- number and location of inspection sites and frequency of inspections; and
- number and location of sites for which HA contract administration evaluation reports are to be prepared.

These work plans shall be for planning purposes only, and shall not bind either party.

ARTICLE VI - WORK ORDERS

In response to requests from the HUD for DA assistance under this MOA and on the basis of mutually agreed upon work plans, the DA and the HUD shall conclude mutually agreed upon written WOs for project specific work, which shall include the following:

- a detailed scope of work statement;
- schedules;
- identification of the HUD and DA points of contact for work execution;
- the amount of funds required and available to accomplish the scope of work as stated above;
- frequency of inspections;
- such other particulars as are necessary to describe clearly the obligations of the parties with respect to the requested goods and services.

Goods or services shall be provided under this MOA only after an appropriate WO has been signed by a representative of each party authorized to execute that WO. Upon signature by each party's representative, a WO shall constitute a valid Economy in Government Act order. In the case of conflict between this MOA, or any implementing instructions and a WO, this MOA or the implementing instructions shall control.

ARTICLE VII - RESPONSIBILITIES OF THE PARTIES

A. Responsibilities of the Department of the Army

The DA shall provide the HUD with goods or services in accordance with the purpose, terms, and conditions of this MOA, the implementing instructions, work plans, and with specific requirements set forth in WOs.

The DA shall ensure that only authorized DA representatives sign WOs, implementing instructions, and work plans.

The DA shall use its best efforts to provide goods or services by in-house effort.

The DA shall provide detailed periodic progress, financial and other reports to the HUD as agreed to in the implementing instructions. Financial reports shall include information on all funds received, obligated, and expended, and on forecast obligations and expenditures.

The DA shall ensure that the dress of DA personnel on site will be civilian attire and no military uniforms will be worn by DA personnel nor will vehicles with military markings be used when on construction sites or visiting the HAs at any time.

The DA shall contact the HUD point of contact for work execution to obtain plans and specifications if DA does not receive them from the HA point of contact in the time stipulated in the WOs.

B. Responsibilities of the HUD

The HUD shall certify, prior to the execution of each WO under this MOA, that the WO complies with the requirements of the Economy in Government Act.

The HUD shall pay all costs associated with the DA's provisions of goods or services under this MOA.

The HUD shall ensure that only authorized HUD contracting officers sign WOs and that only authorized HUD representatives sign implementing instructions and work plans.

The HUD shall develop draft WOs to include scope of work statements.

The HUD shall certify, at the time of signature of a WO, the availability of funds necessary to accomplish that WO.

The HUD shall obtain for the DA necessary access to all work sites and support facilities.

The HUD field office shall direct the HAs to provide plans and specifications necessary for DA to provide necessary services. The HUD will identify the HUD field office points of contact to be contacted if the DA does not receive plans and specifications from the HAs in the time stipulated in the WOs.

ARTICLE VIII - FUNDING

The HUD shall pay all costs associated with the DA's provision of goods or services under this MOA. The HUD shall transfer an initial lump sum of funds to the DA using Standard Form ("SF") 1151, Nonexpenditure Transfer Authorization. The SF 1151 shall be prepared and forwarded by the HUD through the U.S. Treasury to CDR HQUSACE (CERM-FC) Washington, D.C. 20314-1000 for allotment. Individual WOs shall state the amount of funds authorized or provided to accomplish the scope of work specified in that WO. The DA shall make monthly reports on the execution of

the work accomplished on WOs using SF 133, Report on Budget Execution.

If the DA forecasts its actual costs under a WO to exceed the amount of funds available under that WO, it shall promptly notify the HUD of the amount of additional funds necessary to complete the work under that WO. The HUD shall either provide or authorize the additional funds to the DA, or require that the scope of work be limited to that which can be paid for by the then-available funds, or direct termination of the work under that WO.

Within 60 days of completing the work under a WO, the DA shall conduct a final accounting to determine the actual costs of the work. Within 30 days of completion of this accounting, the DA shall notify the HUD of any funds advanced in excess of the actual costs as then known, or the HUD shall provide or authorize any additional funds necessary to cover the actual costs as then known. Such a final accounting shall in no way limit the HUD's duty in accordance with Article XI (Liability) to pay for any costs which may become known after the final accounting.

ARTICLE IX - APPLICABLE LAWS

This MOA and all documents and actions pursuant to it shall be governed by the applicable statutes, regulations, directives, and procedures of the United States.

ARTICLE X - DISPUTE RESOLUTION

The parties agree that, in the event of a dispute between the parties, the HUD and the DA shall use their best efforts to resolve that dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties. The parties agree that, in the event such measures fail to resolve the dispute, they shall refer it for resolution to the Office of Management and Budget.

ARTICLE XI - LIABILITY

As between the parties to this MOA, if liability of any kind is imposed on the United States relating to the DA's provision of goods or services under this MOA, the parties shall be responsible for providing and, when necessary, seeking funds to discharge any such liability in accordance with the following: the DA shall be responsible for any such liability payable by the DA under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, and attributable to the incidental activities of its employees, associated with but not directly part of goods and services provided to the HUD; and the HUD shall be responsible for any other such liability payable

by the HUD under applicable law. This Article only apportions between the DA and the HUD the responsibility to pay for the United States' liabilities under this MOA; neither this Article nor any other provision of this MOA imposes or may be construed to impose on either the DA or the HUD any new duty or liability to any third party.

ARTICLE XII - PUBLIC INFORMATION

Justification and explanation of the HUD's programs before Congress and other agencies, departments, and offices of the federal Executive Branch shall be the responsibility of the HUD. The DA may provide, upon request, any assistance necessary to support the HUD's justification or explanations of the HUD's programs conducted under this MOA. In general, the HUD is responsible for all public information. The HUD or the DA shall make its best efforts to give the other party advance notice before making any public statement regarding work contemplated, undertaken, or completed pursuant to WOs under this MOA.

ARTICLE XIII - MISCELLANEOUS

A. Other Relationships or Obligations

This MOA shall not affect any pre-existing or independent relationships or obligations between the HUD and the DA.

B. Survival

The provisions of this MOA which require performance after the expiration or termination of this MOA shall remain in force notwithstanding the expiration or termination of this MOA.

C. Severability

If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

ARTICLE XIV - AMENDMENT AND TERMINATION

This MOA may be modified or amended only by written, mutual agreement of the parties. Either party may revoke this MOA at any time by written notice if such revocation is required to accommodate legitimate needs of the Federal Government, DA, or the HUD. Either party may terminate this MOA with thirty days notice, or such lesser time as is reasonable under the circumstances, if either party determines that exigent circumstances exist. Either party, for any reason, may terminate this MOA with sixty days notice. All notices required under this Article must be in writing and shall be

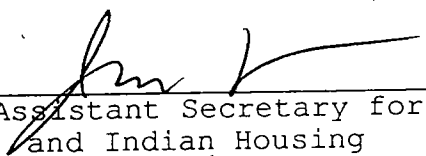
delivered to the undersigned representatives of the parties. In the event of termination, the HUD shall continue to be responsible for all costs incurred by the DA under this MOA, to the extent provided in this MOA, and for the cost of closing out or transferring any on-going WOs.

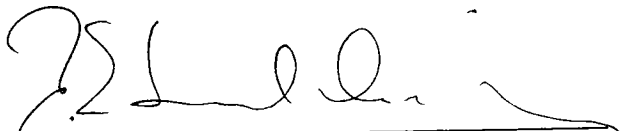
ARTICLE XV - EFFECTIVE DATE

This MOA shall become effective when signed by both the HUD and the DA.

U.S. Department of Housing and
Urban Development

U.S. Department of the Army


Assistant Secretary for Public
and Indian Housing


Acting Assistant Secretary of
the Army (Civil Works)

DATE: 9/22/53

DATE: 9/24/53