



**MEMORANDUM OF UNDERSTANDING
AMONG
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
AND
UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT**

**RELATIVE TO
PLANNING AND IMPLEMENTING UNITED STATES DEPARTMENT OF
AGRICULTURE PROGRAMS ON INDIAN LANDS**

This Memorandum of Understanding (MOU) is made and entered into among the Department of the Interior (DOI), Bureau of Indian Affairs (BIA) and the Department of Agriculture (USDA) Rural Development (RD).

I. PURPOSE

The BIA and RD have common objectives of communication, collaboration, cooperation, and consultation with agricultural producers, Indian landowners, and Indian tribes for the development, conservation, and sustainable use of natural resources; and for promoting housing, business, utilities, infrastructure, and other development on Indian lands. The parties, therefore, enter into this MOU for the coordination, planning, and implementation of USDA programs on Indian lands in an environmentally, culturally, and economically sound manner. This MOU identifies the respective Federal responsibilities that must be coordinated. It also recognizes the role of Indians and Indian tribes as landowners, land users, and as sovereign governmental entities with authority and responsibility for the development and administration of natural resources, community development, infrastructure development, and economic development programs on Indian lands.

The parties recognize that Indian tribes may have assumed Federal functions of OST and BIA pursuant to the Indian Self Determination and Education Assistance Act, such as appraisals, realty or land titles and records, and the tribes may be acting on behalf of OST and BIA in implementing programs on Indian land.

The parties to this MOU recognize the variability of and degree to which the respective Agencies are organized, staffed and funded to carry out their trust responsibilities to tribes through a government-to-government relationship with tribes, which varies from region to region and from tribe to tribe. While this in no way diminishes those trust responsibilities, it is mutually acknowledged that the nature in which this MOU is carried out will be subject to these variables, including the respective Tribal Consultation policies of DOI and USDA.

Definitions for the purposes of this MOU:

1. *BIA* means the Bureau of Indian Affairs within the Department of the Interior.
2. *Indian* means an individual who is a member, or eligible to become a member, of an Indian tribe, band, nation, or other group.
3. *Indian lands* means all:
 - a. Lands held in trust by the United States for individual Indians or Indian tribes; or
 - b. Lands, the title to which is held by individual Indians or Indian tribes subject to Federal restrictions against alienation or encumbrance; or
 - c. A combination of one or more of the lands listed above.
4. *Indian tribe* means an Indian tribe, band, nation, pueblo, rancheria or other organized community, including any Alaska Native Village, Regional Corporation, or Village Corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. § 688) [43 U.S.C.A § 1601 et seq.], that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians.
5. *OST* means the Office of the Special Trustee for American Indians within the Department of the Interior.
6. *RD* means the U.S. Department of Agriculture Rural Development agencies.

II. BACKGROUND

The BIA provides services directly or through contracts, grants, or compacts to a service population of approximately 1.9 million American Indians and Alaska Natives who are enrolled members of 566 federally recognized tribes. The BIA administers approximately 55.7 million acres of land held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. The BIA assists Indian landowners in the management, development, and protection of Indian lands and associated natural resources. Assistance may include approval of leases and rights-of-way on Indian lands, protection of water and land rights, and support for infrastructure and economic development. Federal statutes and regulations generally require BIA approval of encumbrances to title of Indian lands.

The RD is a Mission Area within USDA that is committed to helping improve the economy and quality of life in rural America through three separate Agencies; Rural Housing Service, Rural Utilities Service (RUS) and Rural Business Service. The RD forges partnerships with rural communities, funding projects that bring housing, community facilities, business guarantees, utilities, and other services to rural America. The USDA provides technical assistance and financial backing for rural businesses and cooperatives to create quality jobs in rural areas. The RD promotes the President's National Energy Policy and ultimately the Nation's energy security by engaging the entrepreneurial spirit of rural America in the development of renewable energy

and energy efficiency improvements. The RD works with low-income individuals, state, local and Indian tribal governments, as well as private and nonprofit organizations and user-owned cooperatives. This MOU establishes a foundation to improve assistance to American Indians and Alaska Natives in identifying and addressing the comprehensive economic needs of rural American Indian and Alaska Native rural communities. Assistance shall be provided within the authorities and resources available to each Agency.

III. STATEMENT OF MUTUAL BENEFIT

The BIA and RD have common objectives of consulting with Indian landowners and Indian tribes, promoting the best management/conservation practices for Indian lands and assisting in the economic development of tribal communities, including the development of rural business, farming and animal management, grazing and ranching and related food and agricultural operations on Indian lands, and supporting housing and infrastructure development. These objectives are carried out through a government-to-government relations and tribal consultation process.

This Agreement is made and entered into by and amongst the BIA and RD to:

1. Ensure a clear understanding of the applicable Federal and tribal laws and regulations and to define the role and responsibilities of the signatory parties.
2. Define those areas of mutual interest and assistance relative to the delivery of programs of the Federal Government administered by the BIA and RD.
3. Effectively utilize to the extent feasible and authorized the available resources of each signatory such as personnel, time, technology, equipment, office space, and funds which may be made available for the delivery of programs and services on Indian lands.
4. Increase efficiency and reduce redundancy by sharing pertinent data identified by the parties as allowable by law, to facilitate management and development on Indian land.

Therefore, the BIA and RD find it mutually beneficial to cooperate in this undertaking and hereby agree as follows:

IV. RESPONSIBILITIES

A. . The BIA will:

1. Upon request advise RD of existing programs, leases, rights-of-way, or other encumbrances which may affect proposed projects on Indian lands.
2. Advise RD of existing BIA programs and provide training as requested.
3. Notify RD of any changes in tribal or Federal law that may affect implementation of existing USDA programs, to the extent that BIA is aware of such changes.

4. Provide training to BIA staff on USDA programs. This training may be conducted as a joint effort by the signatory parties to this agreement.
5. Strive to conduct regular meetings between USDA field staff, BIA representatives, and tribal leadership.
6. Work with RD to provide housing development and related housing assistance to all sectors of the Indian communities within the authorities and resources available to each Agency. Work collaboratively with the Agencies of RD and the Office of Indian Energy and Economic Development within the Department of the Interior to identify and address the housing, economic development, infrastructure, and utility needs of Indian communities
7. Will work with RD in establishing an expedited process in obtaining title status reports for encumbrances subject to existing statutory, regulatory and administrative requirements and policies.
8. Will provide training to staff of the RD agencies, tribes, lenders and other interested entities on the leasing, mortgage approval, and recordation processes.

B. The RD will:

1. Advise BIA personnel of available programs and technical requirements for the delivery of RD programs to American Indians, Alaska Natives, and Indian tribes.
2. Receive or attend training on land ownership of Indian lands. This training may be conducted as a joint effort by the signatory parties to this Agreement.
3. Strive to conduct regular meetings between their field staff, BIA representatives, and tribal leadership.
4. Provide technical assistance to the BIA agency, regional and headquarter staff upon request, consistent with RD's mission, goals, objectives, legal authorities, funding availability, programs and priorities. Technical assistance may include in-depth explanation of RD programs, regulations and authorities, explaining Rural Development's organizational structure and associated delegations of authority, and providing industry specific guidance across the wide range of RD staff functions and responsibilities (i.e. loan specialists, architects, environmental coordinators, RUS General Field representatives, etc.,). Give joint projects between the signatories of this MOU a high priority for the use of available personnel, time, equipment, materials, and funding. The RD will help facilitate the implementation of joint agency projects.
5. Maintain a record of RD funded projects on Indian lands. The RD will share these records with BIA staff upon request.

6. Foster a strong working relationship between BIA and the RUS staff to effectively implement and administer the Substantially Underserved Trust Areas (SUTA) provisions of the 2008 Farm Bill. The SUTA provisions are designed to increase the affordability and availability of RUS funding resources on Indian lands that are determined to be in high need of RUS infrastructure programs. Effective collaboration will include the timely sharing of project information to ensure projects are on Indian lands and are in high need of RUS program assistance.
7. Work collaboratively with the appropriate BIA and OST staff to increase knowledge of RD programs and the corresponding appraisal and land use laws, regulations, and processes. The RD agrees to train its field personnel, as resources permit, including General Field Representatives (GFRs) and borrowers, on borrower/awardee responsibilities. RD will also seek to identify regulatory, policy and application/NOFA amendments to better inform potential awardees of their responsibilities if a project is taking place on, or is planned to cross, Indian lands.
8. Foster collaboration between the Department of the Interior's Office of Indian Energy and Economic Development (OIEED) and Rural Business and Cooperative Service (RBCS) staff to leverage loan, guaranteed loan and grant opportunities for economic development, renewable energy development, business development and job creation on Indian lands. This may include: cross-referral of projects in need of financing, cross training of Agency staff, developing opportunities with new (and approved) lenders, and continued partnership through various inter-agency working groups.
9. The RD staff will seek opportunities to collaborate and cross train RD and BIA staff on each agency's environmental review responsibilities, processes, and contacts – including regulatory requirements under the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (NHPA), the Native American Graves Protection and Repatriation Act (NAGPRA), and the Endangered Species Act.
10. Foster collaboration between BIA and Rural Housing Service program staff to increase home ownership and home repair and rehabilitation opportunities and to assist in the development of strategies for increased energy efficiency and sustainability of new construction on Indian lands. This may include: increased collaboration with BIA and Tribal Land Title and Records Offices (LTROs), identifying and addressing barriers to leasing, mortgage approval and lien perfection, identifying and eliminating duplicative efforts (appraisals, title insurance, under writing), identifying strategies to facilitate the review and approval of tribal mortgage codes and foreclosure ordinances, working with tribes to ensure systematic transfers or foreclosures as necessary, cross training of Agency staff, developing opportunities with new (and approved) lenders, and continued partnership through various inter-agency working groups.
11. Collaborate with BIA staff to better understand each Agency's requirements and responsibilities under the Indian Self Determination, Education and Assistance Act. This may include such topics as: Indian preference and Tribal Employment Rights Ordinances (TERO), compacting and contracting, reporting and other related topics as they arise. All

collaboration, communication, and training opportunities should be structured to provide Agency staff with a deeper understanding and appreciation of the different authorities, missions and allowable activities of each respective Agency and where certain authorities intersect.

12. Collaborate to develop, distribute, and market tribal success stories to illustrate best practices for providing homeownership, economic development and infrastructure development on Indian lands – financed with assistance from RD programs.

V. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND AMONG THE PARTIES THAT:

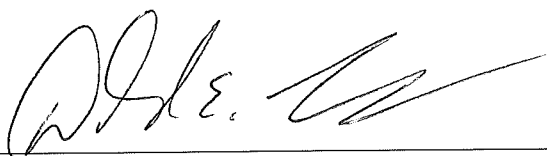
1. The parties will communicate, collaborate, cooperate, and consult to ensure that RD programs comply with all applicable Federal laws and regulations. The parties mutually agree that the purpose of this MOU is to improve, make more effective and efficient, and ensure the improvement of program delivery by all signatories on Indian lands, for the benefit of Indian people, their communities, and their tribal governments, and in furtherance of the government-to-government relationship between the United States and Indian tribes and trust responsibilities owed by the Federal Government to Indian tribes and individual Indians.
2. The RD State Offices will seek opportunities to collaborate and cross train with BIA staff on each agency's historic preservation responsibilities, policies, procedures, consultation agreements and contracts. Tribal Historic Preservation Officers and tribal cultural heritage directors and their staffs will be asked to collaborate on and participate in these training sessions. They each shall make up to date lists of contracts available to tribal governments in the Area.
3. The BIA and RD will work with the Tribal Technical Assistance Network coordinated by the Intertribal Agriculture Council and funded through the USDA Office of Tribal Relations to improve service delivery of programs on Indian lands.
4. The BIA and RD will jointly review this MOU annually to determine if changes are needed to meet new policy, laws, regulations, and arrangements. The Agency signatories will delegate a lead point of contact for each Agency with regard to implementation of this Agreement and those points of contact will coordinate periodic meetings between program staff of all signatory Agencies at the national level, to augment field office-level regular meetings between applicable staff, as resources permit.
5. Although not a signatory to this agency-level agreement, the BIA and RD will work jointly by and through the Office of Tribal Relations within the USDA Office of the Secretary to facilitate and support the full implementation of this Agreement.
6. None of the provisions of this MOU shall affect other programs and activities carried out by the BIA and RD.

7. The signatories to this MOU encourage the development of supplementary cooperative working agreements between tribal governments, BIA, and state-level RD agency offices.
8. The parties to this Agreement will consider joint consultation with tribal governments on program issues related to this Agreement and consider coordinating consultation schedules among the agencies to improve delivery of programs related to this MOU. This joint consultation shall not substitute for other project or program government to government consultation responsibilities. (such as under Section 106 of the NHPA , NEPA, or E.O. 13175).
9. The BIA and RD will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing respective Agency objectives that are supportive of the purpose of the MOU. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
10. The Agencies will work together with tribes and their tribally designated housing entities to provide housing development and related housing assistance to Indian communities within the authorities and resources available to each Agency.
11. The Agencies will work together to assist American Indians, Indian tribes, and Alaska Natives in identifying and addressing the comprehensive needs of their communities.
12. In full cooperation, each Agency agrees to provide training to staff of the Agencies, tribes, lenders, and other interested parties regarding the statutory, regulatory, and administrative requirements and policies of each Agency, upon request, as resources allow.
13. To foster and enhance the partnership between Agencies, meetings should be held at least annually to discuss programs, budgets, priorities, concerns, policies, and relevant experiences affecting this MOU.
14. The parties to this Agreement will entertain opportunities such as personnel short-term details and inter-agency personnel agreements to foster career advancement opportunities and better understanding of each Agency's mission, responsibilities, and work load.
15. All signatory parties will use their best efforts to efficiently and effectively coordinate the delivery of programs on Indian lands, including the prioritization of approval and review mechanisms between the two Departments and among the various signatory Agencies. The signatory parties will strive to identify and eradicate duplicative administrative requirements, and where possible, to streamline and add flexibility to program delivery on Indian lands.
16. Nothing in this MOU shall obligate BIA or RD to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the Agencies will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by

appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

17. This MOU takes effect upon the signatures of the Assistant Secretary – Indian Affairs and the Undersecretary of Rural Development and shall remain in effect for 5 years from the date of execution. This MOU may be extended or modified upon written request of either of the Agencies and the subsequent written concurrence of the other(s). The BIA or RD may terminate this MOU with a 60-day written notice to the other(s).
18. This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

APPROVAL:



Donald E. Laverdure
Acting Assistant Secretary – Indian Affairs
U.S. Department of the Interior

Date: **SEP 13 2012**



Dallas Fonsager
Under Secretary, Rural Development
U.S. Department of Agriculture

Date: **9/18/12**