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APPENDIX E

Indian Self-Determination Contracting

Excerpts from Public Law 93-638 and
the Federal Register

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Title I, Section 102(a)(1) of the Indian Self-Determination Act states that

“The Secretary is directed, upon the request of any Indian tribe by tribal resolution, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs or portions thereof, including construction programs—

....(B) which the Secretary is authorized to administer for the benefit of Indians under the Act of November 2, 1921 (42 Stat. 208) [25 U.S.C. § 13], and any Act subsequent thereto;

....(D) administered by the Secretary for the benefit of Indians for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior; and

(E) for the benefit of Indians because of their status as Indians without regard to the Agency or Office of the Department of Health and Human Services or the Department of the Interior within which it is performed.”

The Federal Register, Part 2, 25 CFR § 900.112 dated Monday, June 24, 1996 states:

§900.112 What are construction phases?

(a) Construction programs generally include the following activities in phases which can vary by funding source (an Indian tribe or tribal organization should contact its funding source for more information regarding the conduct of its program):

(1) *The preplanning phase.* The phase during which an initial assessment and determination of project need is made and supporting information collected for presentation in a project application. This project application process is explained in more detail in §900.122;

(2) *The planning phase.* The phase during which planning services are provided. This phase can include conducting and preparing a detailed needs assessment, developing justification documents, completing and/or verifying master plans, conducting predesign site investigations and selection, developing budget cost estimates, conducting feasibility studies, and developing a project Program of Requirements (POR);

(3) *The design phase.* The phase during which licensed design professional(s) using the POR as the basis for design of the project, prepare project plans, specifications, and other documents that are a part of the construction documents used to build the project. Site investigation and selection activities are completed in this phase if not conducted as part of the planning phase.

(4) *The construction phase.* The phase during which the project is constructed. The construction phase includes providing the labor, materials, equipment and services necessary to complete the work in accordance with the

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construction documents prepared as part of the design phase.

(b) The following activities may be part of phases described in paragraphs (a)(2), (a)(3), and d(a)(4) of this section:

- (1) Management; and
- (2) Environmental, archeological, cultural resource, historic preservation, and similar assessments and associated activities.