

MEMORANDUM OF UNDERSTANDING BETWEEN THE ____ TRIBE

AND

THE DEPARTMENT OF THE INTERIOR

APPRAISAL AND VALUATION SERVICES OFFICE (AVSO)

FOR

REAL ESTATE APPRAISAL SERVICES FISCAL/CALENDAR YEAR 2021

I. AUTHORITY

This Memorandum of Understanding (MOU) between _____ (Tribe) and the Department of the Interior (DOI), Appraisal and Valuation Services Office (AVSO) is entered into pursuant to a compact initiated under Title IV of the Indian Self-Determination and Education Assistance Act (P.L. 93-638), as amended.

II. PURPOSE

The purpose of this MOU is to detail the coordination, implementation, duties and responsibilities of each party for the Tribe's operation of the AVSO Real Estate Appraisal Program for [SELECT: FY/CY (Fiscal/Calendar Year)] 2021 and subsequent years as provided herein. This MOU is prepared using applicable statutory, regulatory, and real property appraisal industry standards to Self-Governance Tribes and Tribal consortia (referred collectively as Tribes and Tribal consortia (referred to collectively as "Tribes" in this document) conditions to effectively carry out the Real Estate Appraisal Services program. This MOU is an attachment to the FY/CY 2021_ SELECT [AFA/MFA] and is incorporated into and made a part of the FY/CY 2021_ SELECT AFA/MFA as if set out in full in the SELECT [AFA/MFA].

III. THE TRIBE'S DUTIES AND RESPONSIBILITIES IN PERFORMING REAL ESTATE APPRAISAL SERVICES

A. Program Guidance

B. Real estate appraisal services shall be provided in accordance with published

authority contained in the Code of Federal Regulations, Title 25 and 43; appraisal standards contained in the current edition of the Uniform Standards of Professional Appraisal Practice (USPAP) [Financial Institutions Reform, Recovery, and Enforcement Act, P.L. 101-73] , and Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) [Uniform Relocation Assistance and Real Property Acquisition Act, P.L. 91-646], as applicable, including updates and revisions; and use of appraisal industry recognized valuation methods and techniques. With a written request from the Tribe, the AVSO, Indian Trust Property Valuation Division (AVSO-ITPVD), Regional Supervisory Appraiser (RSA) will provide guidance for the interpretation and use of these standards.

The [**SELECT:** Tribe OR Consortium] must obtain from AVSO, Indian Trust Property Valuation Division (AVSO-ITPVD), Regional Supervisory Appraiser (RSA) a Statement of Work (SOW) for all appraisal services, which may be completed in-house by a staff appraiser or by contract. The RSA will contact the Tribe to establish information necessary for the appraisal problem identification and obtain from the Tribe any additional relevant or special information about the property and proposed real estate transaction.

C. Program Responsibilities

1. Appraisal Procedures

- a. The Tribe agrees to conduct appraisal services herein identified, as required to support real estate transactions on trust or restricted property.
- b. Appraisals must:
 - i) Identify AVSO and the Tribe as the Client in all appraisal reports of trust/restricted property;
 - ii) Identify the Bureau of Indian Affairs (BIA), AVSO and the Tribe as Intended Users in the body of the appraisal report; and
 - iii) Identify any other Intended Users of the report e.g., Agencies, individual Indians, etc.

- c. The appraiser(s) of record must not disclose confidential information or assignment results prepared for the trust landowner to anyone other than the Client(s), Intended Users or persons specifically authorized by the Client(s).
- d. As provided in 43 CFR section 100.301(b), AVSO-ITPVD must review and approve all appraisals and valuations submitted by the Tribe for use in trust transactions, with the exception of appraisals and valuations that meet the requirements of 43 CFR section 100.301(a).
- e. The minimum level of state appraiser certification licensure for fee appraisers preparing valuation products for use by the Department of the Interior is Certified General Appraiser, unless waived in writing by the Deputy Director of the AVSO-ITPVD. As provided in 43 CFR section 100.202, the Secretary (BIA, Secretary delegate) will verify the appraiser's qualifications to determine whether the appraiser meets the requirements of 43 CFR section 100.200
- f. Once an appraisal report is reviewed by the AVSO-ITPVD RSA, the RSA will obtain from the Tribe one (1) original appraisal report with original signatures, which will include a copy of the appraisal request and/or SOW, if contracted, in each appraisal report. Alternatively, the Tribe may provide an encrypted electronic copy of the appraisal report, appraisal request and SOW.
- g. The Tribe must submit the completed appraisal report to the AVSO-ITPVD RSA for review within 120 calendar days of receipt of the valid appraisal request, which will be the due date, or provide written notice to the AVSO-ITPVD RSA before the expiration of the 120 days to extend the due date, provided the complexity of the appraisal, or other extenuating circumstances, warrants extending this time, including that the Tribal appraisal program, and the Client(s), have agreed to such extension, if possible. Such written agreement between the Client(s) and the tribal appraisal program should be contained in the appraisal work file.
- h. Appraisals must be submitted to the AVSO-ITPVD RSA as an "Appraisal Report" pursuant to USPAP Standard Rule 2-2(a). If questions/concerns

arise from the review of the “Appraisal Report,” AVSO-ITPVD may request additional information from the Tribe in the form of the appraisal work file.

- i. Evaluation Services (Consultation Reports, Market Studies and application of other Evaluation Methodologies) fall outside the scope of normal appraisal practice. These reports will not be reviewed by AVSO ITPVD. A SOW is recommended for credible assignment results.

2. Appraisal Log

- a. The Tribe will maintain an appraisal tracking log of all appraisal requests received. The appraisal log must be available for review by the AVSO-ITPVD RSA for reporting purposes. The Tribe will submit the appraisal log to the AVSO-ITPVD RSA no later than October 15 each year for the previous four quarters ending September 30. See Section III. B. 7. b.
- b. At a minimum, the appraisal tracking log shall contain:
 - i) Appraisal request number
 - ii) Allotment or tribal tracking number
 - iii) Due date, i.e., the date the appraisal product is due to the client 120th calendar day of receipt of a complete and valid appraisal request.
 - iv) Purpose of appraisal
 - v) Legal description(s)
 - vi) Size of property appraised
 - vii) Intended use of appraisal
 - viii) Effective date of appraisal
 - ix) Owner/ Grantor information
 - x) Name of Appraiser of record
 - xi) Approval date of the appraisal
 - xii) Conclusion of value
 - xiii) Date complete and valid appraisal request is received by the Tribe
 - xiv) Date appraisal report is transmitted to the AVSO.
- c. The Tribe will provide to the AVSO-ITPVD RSA a report on the backlog of the tribal appraisal workload on a quarterly basis on January 15, April 15, July 15, and October 15. Tribal backlog is considered to be any request

that has not been completed and provided to the AVSO-ITPVD RSA for review within 120 calendar days of receiving a complete and valid appraisal request, unless the due date is extended by negotiation.

3. Conflict of Interest

- a.** To avoid a conflict of interest or the appearance of a conflict of interest, neither a Tribal appraiser employed, nor a fee appraiser contracted, by the Tribe shall complete an appraisal on land owned by the appraiser or by an immediate relative, as defined by Tribal law and policy.
- b.** When the Tribe is conducting an appraisal for trust and restricted property that an individual landowner has offered for sale to the Tribe, the Tribe's appraiser, whether an employee or a contract appraiser, shall disclose such potential conflict of interest to AVSO-ITPVD with a request for review and approval.

4. Appraisal Contracts

Appraisals provided by the Tribe's contractors shall meet the requirements of this MOU.

5. Valuation of Fee Properties

- a.** Fee to trust parcels in which the Regional/Field Solicitor needs a value to determine if DOI's review authority has been exceeded and review goes to the Department of Justice.¹ Title insurance and purchase agreement both provide an estimate of value for the fee property; therefore, an appraisal by the AVSO Real Property Appraisal program is not needed.

The Deputy Commissioner of Indian Affairs (DCIA) directive dated February 26, 1999 disallowed conducting appraisals of fee property except for restricted fee property. This directive was primarily for the

¹ Policy directive dated December 14, 2001 from the Deputy Commissioner of Indian Affairs

purpose of discontinuance of conducting appraisals for fee to trust transactions. As there are other circumstances in which appraisals of fee properties are justified, the previous directive was clarified by the December 2001 DCIA directive.

- b. The following is a list of circumstances in which the AVSO Regional Appraiser may either conduct the appraisal, contract for appraisal services, or perform an appraisal review of work from other appraisers on fee properties.
 - i) Fee/trust exchanges, where trust/restricted fee lands are proposed to be exchanged for fee property.
 - ii) Instances in which an appraisal is needed or required for fee land when federal funds are used to acquire such properties, such as for road right-of-ways and condemnation.
 - iii) Special projects that are mandated by Congress.

6. Administrative

- a. In the event of a security related incident (i.e. information exposure, theft, network compromise), the Tribe will take all prudent steps necessary to secure confidentiality, integrity and availability of Personally Identifiable Information, as required by the Privacy Act of 1974 (5 U.S.C. § 55a) and by subsequent OMB memoranda. The Tribe will notify the AVSO by calling 505-816-1318, within 24 hours of discovery of the incident or emailing **AVSO_info@ios.doi.gov**.
- b. When employees no longer require access to DOI network, the Tribe will notify AVSO at 505-816-1318 within 24 hours or by emailing AVSO at **AVSO_info@ios.doi.gov**.
- c. The Tribe will follow the requirements in the AFA/MFA for records management, system security access, reports, compliance with OMB Circulars and compliance with the Single Audit Act.

d. Performance Indicators

The [SELECT: Tribe OR Consortium] will provide:

- i) Real Estate Appraisals that meet national appraisal standards and industry recognized valuation methodologies and techniques.
- ii) An annual performance report to the AVSO-ITPVD RSA from workload data in an appraisal management log, indicating the number of appraisals completed by the Tribe. (This tribal workload data is essential for calculation of future funding.) The Tribe agrees to submit the appraisal log to the AVSO-ITPVD RSA no later than October 15 each year, for the previous fiscal year ending September 30.
- iii) Each calendar quarter, project planning and performance updates, including estimated expenditures, sequencing and schedules.

IV. AVSO DUTIES AND RESPONSIBILITIES

- A. The AVSO will notify the Tribe of training provided or hosted by AVSO, related to management of the Tribe's appraisal program.
- B. The AVSO-ITPVD Region will provide an appraisal review within 45 calendar days after AVSO-ITPVD receives an appraisal report unless a longer time is required and negotiated between the parties.
- C. Once an appraisal report is approved by AVSO, the AVSO - RSA will transmit the approved appraisal review report with original signatures and one (1) copy of the appraisal report to the client for processing. Alternatively, ITPVD may provide an encrypted electronic copy of the appraisal review package.
- D. If AVSO cannot approve the appraisal report, the AVSO-RSA will contact the Tribe in writing, and the appraiser of record, within five business days of identifying the deficiency, in an attempt to resolve any concerns.
 - 1. AVSO agrees to cover the cost of security clearances for up to three tribal employee appraisers per year. In accordance with the DOI's current Departmental Manual, Part 441, contracted appraisers who perform work for less than 180 days are not required to have background investigations. If this standard changes after execution of this MOU, during Fiscal/Calendar Year 2021 or thereafter, the AVSO agrees to renegotiate this provision.

V. Non-Federal Party Appraisals

- A. Non-Federal party appraisals are those procured by non-Federal parties, including individual Indian landowners, commercial enterprises, utility and energy

development companies, state departments of transportation or an Indian Tribe or Tribal organization acting as a non-Federal party.

- B.** Upon request by the appropriate real estate services program (Federal or 638 Tribal) and/or BIA line officer, AVSO-ITPVD shall review a non-Federal party appraisal if:
1. The SOW identifies the AVSO as the client or co-client. The non-Federal party appraisal report must identify AVSO as an Intended User. The SOW for appraisal development and reporting may be coordinated with the non-Federal party, but ultimate responsibility for the document remains with AVSO;
 2. Before a Tribe or Consortium obtains an appraisal from a non-Federal party appraiser, it will obtain a SOW and a list of potential contract appraisers from the AVSO-ITPVD RSA. The non-Federal party is highly encouraged to attend the pre-work conference. If the non-Federal party appraiser elects not to attend the pre-work conference, then a written declination of the pre-work conference will be provided to the Tribe and AVSO-ITPVD RSA.

VI. SIGNATURES

This MOU will become effective on [**SELECT**: October 1, 2020/January 1, 2021] and will remain in effect, unless modified in writing, for [**SELECT**: FY 2021/ CY 2021].

TRIBE

Designated Tribal Official's signature

Print name

Title

Date

APPRAISAL AND VALUATION SERVICES OFFICE

Associate Deputy Director, AVSO, (Secretary Delegate)

Eldred F. Lesansee

Print Name

Date