

GUIDELINES

DIVISION OF SANITATION FACILITIES CONSTRUCTION

Office of Environmental Health and Engineering
Navajo Area Indian Health Service
Window Rock, Arizona

CHAPTER 3--Documents

Section 2: Planning Agreements
Guideline No. 3.2 (99-15)
October 1, 1999

Supersedes: G 3.2 (95-4), 3.2 (88-16)

Distribution: Standard List

Planning Agreements allow for funds to be expended on a project before the development of a Project Summary and Memorandum of Agreement. No funds can be obligated on any project until a Planning Agreement or Memorandum of Agreement has been approved by all parties and the NAIHS Financial Management Office has credited the appropriate project account¹. Planning funds are used to accomplish tasks such as obtaining archaeological clearances and rights-of-way, performing T&E species surveys and soils testing, developing a water source, preparing construction drawings, and/or other pre-construction activities. These funds are not to be used to provide direct service or perform construction unless it is necessary to the determination of a project's viability (e.g. water well).

If funds are available a Planning Agreement can be initiated for "Regular" or "Housing" projects that are anticipated to be funded the next year. If a project requires substantial planning activities or delays are expected, it is possible to initiate planning agreements for projects that will not be funded for more than one funding cycle.

¹

For IHS funds, this will be approximately one month after the Project Manager receives a copy of the signed Project Approval Form (PAF). For contributed funds (non-IHS funds), this will be after the District Engineer receives a copy of the Advice of Allowance. If unsure of the availability of project funds contact the Accounting Section, DSFC.

Attached are copies of a Planning Agreement and Justification Memorandum. Both documents are developed at the Area Office. To initiate a Planning Agreement the Project Manager should develop a cost estimate for the planning activities that are required. The cost estimate needs to be separated by the entity that will be performing the work (Navajo Engineering and Construction Authority (NECA), Navajo Tribal Utility Authority, etc.). At this time, archaeology can be performed either through NECA or by the Navajo Nation Archaeology Department (NNAD). The determination of how archaeological services will be procured is made when the archaeology survey is requested. The archeological obligation must, therefore, be listed separate from the other obligations. All funds do not need to be obligated. Some funding can be retained as unobligated for purchases or contracts. In addition to the funds required for planning activities, 12% of the planning activity cost should be added for the 028 overhead account. The cost break down and the number of homes to be served by each project should be forwarded to the Director, DSFC, through the District Engineer.

To the extent feasible, the Area Office will attempt to put multiple projects on one Planning Agreement to reduce document production time and tracking of multiple Planning Agreements through the approval process. Therefore, the Area Office will solicit requests for projects requiring planning funds from the District Engineers at least once a year.

APPROVED BY:



Jeffrey J. Nolte, P.E., Acting Director
Division of Sanitation Facilities Construction

Attachment A - Example Planning Agreement
Attachment B - Example Justification Memo



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Office of Environmental Health
and Engineering

(DATE)

Navajo Area
Indian Health Service
P.O. Box 9020
Window Rock, Arizona 86515-9020

Mr. Albert Hale, President
The Navajo Nation
P.O. Box 9000
Window Rock, Arizona 86515

Attachment A
G. 3.2
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Mr. Larry Clayton, General Manager
Navajo Engineering and Construction Authority
P.O. Box 969
Shiprock, New Mexico 87420

Gentlemen:

Based on the provisions of Public Law 86-121 and requests from the affected chapters, the Indian Health Service (IHS) proposes to initiate planning of water supply and waste disposal facilities for the communities and chapters listed in Table I below:

TABLE I

IHS Proj. Number	Project Name	Chapter	SDS Number	# of Homes	IHS Plng Funds
TOTALS					

A copy of our justification memorandum for planning dated (date of just. memo), is attached. It lists some of the activities necessary and estimates the costs to the IHS to provide these services.

To accomplish planning of these facilities the parties mutually agree:

1. The Navajo Nation will make available to the IHS and its representatives, upon request, all information that they have available on ground water, land status, and other pertinent information concerning the project area(s).
2. The Navajo Nation hereby grants permission to the IHS and its representatives to enter upon and across Tribal lands for the purpose of conducting engineering feasibility studies for Public Law 86-121 projects. This includes exploration for water, soil evaluation, preliminary archaeological, topographical, and right-of-way surveying/acquisition, and other planning functions. Further, the Navajo Nation will waive all claims which may arise by reason of such entry upon Tribal lands, except for those claims which may be recognized under the Federal Tort Claims Act.
3. Archaeological surveys and reports for each project will be accomplished through the NECA as described in paragraph 4 or by the NNAD as described in paragraph 5. The IHS District Engineer shall make the determination of which entity will perform the archaeology for each project based on the NECA and NNAD workload at the time each archaeological survey is requested.

4. The Navajo Engineering and Construction Authority (NECA) may provide some of the required services enumerated in item two. The IHS will make a monetary contribution to the NECA, not to exceed the NECA contribution amounts listed in Table II for each prospective project for the actual costs to perform the services. On projects where the NECA contracts for archaeology, the NECA contribution shall not exceed the sum of the NECA and Archaeology contributions, for the respective project, listed in Table II. Contributions from the IHS to the NECA shall be for actual services provided for each respective project as evidenced by itemized invoices submitted to the IHS by the NECA. Under no circumstances shall the NECA perform any services nor incur any expenses associated with any one of the listed projects that will exceed the amount listed in Table II for that project without the written concurrence of the IHS.
5. The Navajo Nation Archaeology Department (NNAD) may provide archaeological surveys and reports in accordance with the Memorandum of Understanding between the IHS and the Navajo Nation which was executed by its last signature on September 12, 1990. The IHS will make monetary contributions to the NNAD, not to exceed the amount listed for archaeology in Table II for each respective project for the actual costs to perform the services. Contributions from the IHS to the NNAD shall be for actual services provided for each respective project as evidenced by itemized invoices submitted to the IHS by the NNAD. Under no circumstances shall the NNAD perform any services nor incur any expenses associated with any one of the listed projects that will exceed the amount listed for archaeology in Table II for that project without the written concurrence of the IHS.
6. The IHS will obtain all rights-of-way on or over Tribal lands that in the judgment of the IHS may be necessary for the provision and operation of any facilities provided or being planned for under this Agreement or future agreements that may be entered into in conjunction with these projects. Further, the Navajo Nation waives any claims for compensation and damages for said rights-of-way.
7. The IHS and its representatives will comply with all applicable Federal and Tribal laws and regulations.
8. When completed, the IHS will make copies of all findings and recommendations available to the Navajo Nation.
9. This Agreement is for planning only. Actual construction of the water supply and waste disposal facilities will be based on funding availability and project feasibility.

TABLE II

IHS Proj. Number	Project Name	Maximum IHS Contribution to NECA	Maximum IHS Contribution for Archeology

If you concur, please sign and return all originals to this office. Upon execution by all parties, an original of this Agreement will be furnished to the Navajo Nation; and copies will be provided to other interested parties.

Sincerely yours,

John Hubbard, Jr.
Area Director
Navajo Area Indian Health Service

C O N C U R R E N C E :

President, The Navajo Nation

Date

General Manager, Navajo Engineering
and Construction Authority

Date



Memorandum

Date (DATE) Attachment B
From Director, DSFC, OEHE, NAIHS G. 3.2
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Subject Justification for Planning Activities for Potential FY(year) P.
L. 86-121 Construction Projects
To The Record

The Navajo Area Indian Health Service (NAIHS) receives funding from the Congress under the authority of Public Law 86-121 to construct sanitation facilities for Native American homes. [The NAIHS maintains a database called the Sanitation Deficiency System (SDS) in which sanitation facilities needs of Indian homes on the Navajo Reservation are identified as discreet sanitation facilities construction projects. The SDS contains a rating methodology which is used to determine which projects will be funded with the next year's appropriation from Congress.]¹

Past experiences in performing pre-construction activities for P. L. 86-121 projects on the Navajo Reservation have indicated that from one to two years are required to perform right-of-way, archaeological, and T&E species surveys, to prepare construction drawings, to obtain and issue clearances for the compliance with the various Federal laws that affect construction projects, and to obtain rights-of-way. In order to expend appropriated construction funds in a timely manner, i.e. within three to four years, and to allow for an orderly time frame for carrying out construction including efficient use of construction crews and equipment, it is desirable to initiate planning activities in advance of the receipt of the construction funding.

[After the funding of FY(year) regular projects, the projects listed in the table below are the highest scoring projects remaining in the Navajo Area SDS.]¹ {The projects listed in the table below are being developed to support local and tribal housing construction and renovation activities.}² The NAIHS proposes to conduct engineering and archaeological surveys, soils evaluations, exploration for ground water, preparation of right-of-way, clearance, and project documents, performance of design activities, preparation of construction drawings, and other planning activities for the listed sanitation facilities

¹[] For "Regular" Project Planning Agreements.

²{ } For "Housing" Project Planning Agreements.

projects. The estimated costs to perform these planning activities is also listed in the table below.

<i>IHS Proj. Number</i>	<i>Project Name</i>	<i>Chapter</i>	<i>SDS Number</i>	<i># of Homes</i>	<i>IHS Plng Funds</i>
<i>TOTALS</i>					

Upon execution of a Planning Agreement among the NAIHS, the Navajo Nation, and the Navajo Engineering and Construction Authority, the NAIHS will place planning funds into each respective project in the amounts designated in the table above to allow the various planning activities to begin.

C. Lewis Fox, Jr., P.E.