



**RESOLUTION OF THE GOVERNING BODY
OF THE
THREE AFFILIATED TRIBES
OF THE
FORT BERTHOLD INDIAN RESERVATION**

A Resolution entitled, "Approval of Memorandum of Understanding between the Three Affiliated Tribes and United States Department of Health and Human Services, Indian Health Service for RPMS Access at the Parshall and White Shield Clinics."

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted and Constitution and By-laws pursuant to said Act; and

WHEREAS, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribe; and

WHEREAS, The Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article V, Section 5 (d) authorizes and empowers the Tribal Business Council to negotiate with the federal government; and

WHEREAS, the Three Affiliated Tribes has constructed, operates and owns tribal health clinics in the Parshall Segment and the White Shield Segment which are free standing wholly owned tribal clinics;

WHEREAS, the Indian Health Service maintains protected health care information in the Resource and Patient Management System (RPMS) and the Three Affiliated Tribes have requested that the Parshall and White Shield Clinics be authorized to access such information to provide more efficient and convenient health care services to its members and to facilitate billing of third party resources; and

WHEREAS, the Indian Health Service has agreed to authorize such access provided that such access is granted through a Memorandum of Understanding between the parties that will ensure that records that are accessed are protected and that the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, 45 CFR Parts 160 and 164, Subparts A and E (Privacy Rule) are complied with; and

WHEREAS, the Indian Health Service has agreed to enter into said Memorandum of Understanding with the Tribes through a modification to the Tribes' Self Determination Contract # 241-02-0007 with the Indian Health Service; and



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Reference: AAO/DAGM-Tribal Contracts Section
Contract No. 241-02-0007

Aberdeen Area
Indian Health Service
Federal Building, Room 309
Aberdeen, SD 57401

JUL 02 2004

Honorable Tex Hall, Tribal Chairman
Three Affiliated Tribes
HC3, Box 2
New Town, North Dakota 58763-9402

Dear Mr. Hall:

Enclosed are two originals of proposed modification no. twenty-three (23) to Contract no. 241-02-0007, for the purpose of providing a Comprehensive Health Care Services program on the Fort Berthold Indian Reservation.

The purpose of this modification is to incorporate Attachment III, Memorandum of Understanding and Addendum A, between Three Affiliated Tribes and the United States of America, Department of Health and Human Services, Indian Health Service.

Before this agreement can be executed the Tribe must submit a resolution in support of the Memorandum of Understanding.

Please review the documents. If they meet with your approval, please have the appropriate official sign page 7 of the Memorandum of Understanding documents, and page 2 of the modification documents. Return the two original Memorandum of Understanding and the two modification documents to our office for execution and one will be returned to your office upon completion.

If you have any questions, please direct them to John Bercier, Contract Specialist at telephone number (605) 226-7567. Thank you for your cooperation.

Sincerely,

Allen L. Davis
Senior Contracting Officer

Enclosures

cc: Iva Gillies, Contract Specialist, TAT
Deborah Thompson, Health Director, TAT
Pat Wilkinson, Acting Programs Manager, TAT

SELF-DETERMINATION AGREEMENT

**BETWEEN THE SECRETARY OF
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

AND

THE THREE AFFILIATED TRIBES

CONTRACT NUMBER: 241-02-0007
DATE ISSUED: 07/02/2004

MODIFICATION NUMBER: Twenty-three (23)
REQUISITION NUMBER:

OMB Number: 0990-0115

AUTHORITY: 25 U.S.C. 450(g)

The Self-Determination Agreement between the Secretary of the Department of Health and Human Services and the Three Affiliated Tribes, is hereby modified as follows:

1. Change the Model Agreement as follows:
 - a. Change the Model Agreement to incorporate Attachment III, **MEMORANDUM OF UNDERSTANDING, and Addendum A**, between Three Affiliated Tribes and the United States of America, Department of Health and Human Services, Indian Health Service.

The purpose of the documents is to allow the Tribe access to Aberdeen Area Indian Health Service RPMS to provide more efficient and convenient health care services to eligible patients and facilitate billing of third party resources for reimbursement for physician services at the White Shield and Parshall clinics.

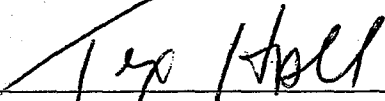
2. Delete the current Attachment A to the Annual Funding Agreement and insert the revised Attachment A to the Annual Funding Agreement.
3. Total contract amount hereby remains the same at \$8,435,961.00, by reason of this modification.
4. There are no other changes made by reason of this modification.

EFFECTIVE DATE:

The effective date of modification number Twenty-three (23), is upon signature of the Contracting Officer.

DATED THIS 8th DAY OF July, 2004

Three Affiliated Tribes

By: 
Tex Hall, Chairman
New Town, North Dakota 58763

Department of Health and Human Services
Indian Health Service

By: _____
Allen L. Davis

(Date): _____

Contracting Officer CO-04-004
Aberdeen Area Indian Health Service
Aberdeen, South Dakota 57401

ANNUAL FUNDING AGREEMENT
ATTACHMENT A

BETWEEN THE SECRETARY OF
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

AND
THE THREE AFFILIATED TRIBES

FUNDING PERIOD: 10/01/2001 THROUGH 09/30/2004

A. SUPPLIES OR SERVICES AND PRICES/COSTS:

1. PROGRAM COST:

PROGRAM DESCRIPTION	Estimated Cost for 10/01/2001 - 9/30/2002	Estimated Cost for 10/01/2002 - 9/30/2003	Estimated Cost for 10/01/2003 - 9/30/2004	Estimated Cost for xx/xx/xx - xx/xx/xx	Estimated Cost for xx/xx/xx - xx/xx/xx	Estimated Total Cost
Hospitals & Clinics	\$ 923,655.00	\$ 1,002,406.00	\$ 1,495,763.00	\$ -	\$ -	\$ 3,421,824.00
Dialysis	\$ 493,750.00	\$ 493,750.00	\$ -	\$ -	\$ -	\$ 987,500.00
Public Law 94-437	\$ 257,544.00	\$ 264,576.00	\$ 266,472.00	\$ -	\$ -	\$ 788,592.00
Public Law 99-570	\$ 45,478.00	\$ 45,478.00	\$ 45,478.00	\$ -	\$ -	\$ 136,434.00
Public Law 100-690	\$ 22,178.00	\$ 22,178.00	\$ 22,178.00	\$ -	\$ -	\$ 66,534.00
Comm Hlth Rep	\$ 297,051.00	\$ 298,959.00	\$ 301,916.00	\$ -	\$ -	\$ 897,926.00
Equipment	\$ 79,476.00	\$ 69,995.00	\$ -	\$ -	\$ -	\$ 149,471.00
RIM	\$ 2,122.00	\$ -	\$ -	\$ -	\$ -	\$ 2,122.00
Tribal Shares	\$ 8,182.00	\$ 10,048.00	\$ 10,048.00	\$ -	\$ -	\$ 28,278.00
Contract Support	\$ 46,179.00	\$ 46,179.00	\$ 46,179.00	\$ -	\$ -	\$ 138,537.00
M&I	\$ -	\$ 2,122.00	\$ 10,592.00	\$ -	\$ -	\$ 12,714.00
Indirect Cost	\$ 603,287.00	\$ 603,287.00	\$ 599,455.00	\$ -	\$ -	\$ 1,806,029.00
Estimated Total Cost	\$ 2,778,902.00	\$ 2,858,978.00	\$ 2,798,081.00	\$ -	\$ -	\$ 8,435,961.00

2. INDIRECT COST CALCULATIONS:a. For the period of 10/01/2001 - 09/30/2002:

Total Direct Costs	\$ 2,175,615.00	
Less Pass Through Funds	\$ <u>81,598.00</u>	RIM, Equipment
Total Direct Cost Base	\$2,094,017.00	
Times Indirect Cost Rate	<u>44.26%</u>	
Total Indirect Cost	\$926,811.93	
Less Funded Amount	\$ <u>603,287.00</u>	
Indirect Cost Shortfall (Overage)	\$323,524.93	

b. For the period of 10/01/2002 - 09/30/2003:

Total Direct Costs	\$ 2,255,691.00	
Less Pass Through Funds	\$ <u>69,995.00</u>	RIM, Equipment
Total Direct Cost Base	\$2,185,696.00	
Times Indirect Cost Rate	<u>44.26%</u>	
Total Indirect Cost	\$967,389.05	
Less Funded Amount	\$ <u>603,287.00</u>	
Indirect Cost Shortfall (Overage)	\$364,102.05	

c. For the period of 10/01/2003 - 09/30/2004:

Total Direct Costs	\$ 2,198,626.00	
Less Pass Through Funds	\$ <u>-</u>	RIM, Equipment
Total Direct Cost Base	\$2,198,626.00	
Times Indirect Cost Rate	<u>44.26%</u>	
Total Indirect Cost	\$973,111.87	
Less Funded Amount	\$ <u>599,455.00</u>	
Indirect Cost Shortfall (Overage)	\$373,656.87	

a. **Source of Funds for Funding Period 10/01/2001 - 09/30/2002:**

Program	Appropriation	Can Number	FY- Allowance	Object Class	Location	Amount	(DECREASE) INCREASE
FY-2002:							
H&C	7520390	J452482	2-39145.61	41.8B	38.822	\$ 923,655.00	
DIALYSIS	7520390	J452430	2-39145.61	41.8B	38.822	\$ 493,750.00	
@P.L. 94-437	7520390	J452470	2-39145.64	41.8B	38.822	\$ 257,544.00	
P.L. 99-570	7520390	J452442	2-39145.64	41.8B	38.822	\$ 45,478.00	
P.L. 100-690	7520390	J452441	2-39145.64	41.8B	38.822	\$ 22,178.00	
@CHR	7520390	J452479	2-39245.74	41.8B	38.822	\$ 297,051.00	
CSC	7520390	J450585	2-39845.61	41.8B	38.822	\$ 46,179.00	
@IDC	7520390	J450585	2-39845.61	41.8E	38.822	\$ 603,287.00	
@RIM	75X0391	J453314	2-29041.76	41.8B	38.822	\$ 2,122.00	
@EQUIPMENT	75X0391	J457477	2-29645.71	41.8B	38.822	\$ 79,476.00	
Total FY-2002						\$ 2,770,720.00	

Program	Appropriation	Can Number	FY- Allowance	Object Class	Location	Amount	(DECREASE) INCREASE
FY-2002: NON-RECURRING TRIBAL SHARES:							
H&C	7520390	J452482	2-39145.61	41.8B	38.822	\$ 8,182.00	
Total FY-2002						\$ 8,182.00	

@ Non-recurring funds:

Indirect Cost	\$	603,287.00		RIM	\$	2,122.00
P.L. 94-437	\$	51,495.00		Equipment	\$	79,476.00
CHR	\$	2,700.00		IDC	\$	7,177.00
Tribal Shares	\$	8,182.00				

Total Contract Amount from 10/01/2001 through 09/30/2002						\$ 2,778,902.00	
---	--	--	--	--	--	------------------------	--

b. Source of Funds for Funding Period 10/01/2002 - 09/30/2003:

Program	Appropriation	Can Number	FY- Allowance	Object Class	Location	Amount	(DECREASE) INCREASE
FY-2003:							
H&C	7530390	J452482	3-39145.61	41.8B	38.822	\$ 1,002,406.00	
DIALYSIS	7530390	J452430	3-39145.61	41.8B	38.822	\$ 493,750.00	
@P.L. 94-437	7530390	J452470	3-39145.64	41.8B	38.822	\$ 264,576.00	
P.L. 99-570	7530390	J452442	3-39145.64	41.8B	38.822	\$ 45,478.00	
P.L. 100-690	7530390	J452441	3-39145.64	41.8B	38.822	\$ 22,178.00	
CHR	7530390	J452479	3-39245.74	41.8B	38.822	\$ 298,959.00	
CSC	7530390	J450585	3-39845.61	41.8B	38.822	\$ 46,179.00	
@M&I	75X0391	J453314	3-29041.76	41.8B	38.822	\$ 2,122.00	
@EQUIPMENT	75X0391	J457477	3-29645.71	41.8B	38.822	\$ 69,995.00	
@IDC	7530390	J450585	3-39845.61	41.8E	38.822	\$ 603,287.00	
Total FY-2003						\$ 2,848,930.00	

Program	Appropriation	Can Number	FY- Allowance	Object Class	Location	Amount	(DECREASE) INCREASE
FY-2003: NON-RECURRING TRIBAL SHARES:							
H&C	7530390	J452482	3-39145.61	41.8B	38.822	\$ 10,048.00	
Total FY-2003						\$ 10,048.00	

@ Non-recurring funds:

IDC	\$ 603,287.00	M&I	\$ 2,122.00
EQUIPMENT	\$ 69,995.00	TRIBAL SHARES	\$ 10,048.00
P.L. 94-437	\$ 1,734.00	H&C	\$ 393.00

Total Contract Amount from 10/01/2002 through 09/30/2003						\$ 2,858,978.00	
---	--	--	--	--	--	------------------------	--

c. Source of Funds for Funding Period 10/01/2003 - 09/30/2004:

Program	Appropriation	Can Number	FY- Allowance	Object Class	Location	Amount	(DECREASE) INCREASE
FY-2004:							
H&C	7540390	J452482	4-39145.61	41.8B	38.822	\$ 1,495,763.00	
P.L. 94-437	7540390	J452470	4-39145.64	41.8B	38.822	\$ 266,472.00	
P.L. 99-570	7540390	J452442	4-39145.64	41.8B	38.822	\$ 45,478.00	
P.L. 100-690	7540390	J452441	4-39145.64	41.8B	38.822	\$ 22,178.00	
CHR	7540390	J452479	4-39245.74	41.8B	38.822	\$ 301,916.00	
@CSC	7540390	J450585	4-39845.61	41.8B	38.822	\$ 46,179.00	
@M & I	75X0391	J453314	4-29041.76	41.8B	38.822	\$ 10,592.00	
@IDC	7540390	J450585	4-39845.61	41.8E	38.822	\$ 599,455.00	
Total FY-2004						\$ 2,788,033.00	\$ -

Program	Appropriation	Can Number	FY- Allowance	Object Class	Location	Amount	(DECREASE) INCREASE
FY-2004: NON-RECURRING TRIBAL SHARES:							
H&C	7540390	J452482	4-39145.61	41.8B	38.822	\$ 10,048.00	
Total FY-2004						\$ 10,048.00	\$ -

@ Non-recurring funds:

IDC	\$ 599,455.00	M & I	\$ 10,592.00
TRIBAL SHARES	\$ 10,048.00	CSC	\$ 46,179.00

Total Contract Amount from 10/01/2003 through 09/30/2004	\$ 2,798,081.00	\$ -
---	------------------------	-------------

Total Contract Amount	\$ 8,435,961.00	\$ -
------------------------------	------------------------	-------------

2. Total contract amount hereby remains the same \$8,435,961.00, by reason of this modification.

3 There are no other changes made by reason of this modification.

MEMORANDUM OF UNDERSTANDING
BETWEEN THREE AFFILIATED TRIBES
AND THE
UNITED STATES OF AMERICA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
INDIAN HEALTH SERVICE

Preamble

This Memorandum of Understanding (MOU) between the Aberdeen Area Indian Health Service, an agency of the United States Department of Health and Human Services, (IHS), and Three Affiliated Tribes (TRIBE) shall be effective upon signature of both parties.

The IHS and the TRIBE (Parties), as independent, sovereign governments, are entering into this MOU to appropriately safeguard Protected Health Information (PHI) that the TRIBE will access, use, disclose, maintain and/or create when performing functions, activities or services pursuant to the self-determination contract for physician services authorized by P.L. 93-638 (Contract No. 241-02-0007) or in the operation of clinics that are owned and operated by the TRIBE at White Shield, N.D. and Parshall, N.D. (Services), in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and its regulations implementing the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and E (Privacy Rule).

The IHS maintains PHI in the Resource and Patient Management System (RPMS) database, in the ordinary course of its business at the Ft. Berthold PHS Indian Health Center, which includes satellite clinics at Twin Buttes, N.D. and Mandaree, N.D. The TRIBE owns and operates a health care clinic at White Shield, N.D. and has recently constructed an additional health care center in Parshall, N.D for the purpose of providing health care services to its members residing in the Parshall/Lucky Mound Segment of the Fort Berthold Reservation. The Parshall Health Care Center and the White Shield clinic are free standing clinics, owned, operated and maintained by the TRIBE. Through its self-determination contract, Contract No. 241-02-0007, the TRIBE provides physician services at the Ft. Berthold PHS Indian Health Center, the Mandaree and Twin Buttes satellite clinics and at the White Shield and Parshall Clinics. The TRIBE desires to access the RPMS in order to provide more efficient and convenient health care services to eligible patients and facilitate billing of third party resources for reimbursement for physician services at the White Shield and Parshall clinics. To provide for such access, the parties agree as follows:

Definitions

Terms used in this MOU, but not otherwise defined, shall have the same meaning as those terms contained within the Privacy Rule.

1. Business Associate: Business Associate shall mean the TRIBE to the extent that it

- is performing services under this MOU;
2. Covered Entity: Covered Entity shall mean the IHS;
 3. Designated Record Set: Designated record set shall have the same meaning as the term Designated record set in 45 C.F.R. ' 164.501;
 4. Individual: Individual shall have the same meaning as the term Individual in 45 C.F.R. ' 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. ' 164.502(g);
 5. Privacy Rule: Privacy Rule shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, Subparts A and E;
 6. Protected Health Information: Protected Health Information shall have the same meaning as the term protected health information in 45 C.F.R. ' 164.501;
 7. Required By Law: Required By Law shall have the same meaning as the term required by law in 45 C.F.R. ' 164.501;
 8. Secretary: Secretary shall mean the Secretary of the United States Department of Health and Human Services or his designee.

Agreement Terms

Section 1 – Authorized Use of the RPMS

The TRIBE agrees to comply with all of the requirements set forth in **Addendum A** prior to RPMS access being granted to employees of the TRIBE. The TRIBE further agrees that compliance with the requirements set forth in **Addendum A** shall be ongoing and that the TRIBE shall provide written assurance of such compliance to the IHS on an annual basis. Access and use of the RPMS shall be restricted to the following employees of the TRIBE:

- A. Medical Officers;
- B. Professional Nursing staff;
- C. Medical records personnel;
- D. Billing personnel; and

Authorized users shall be required to sign any use authorization documents required by the IHS. Upon completion of training and other requirements for authorized users as set forth in **Addendum A**, the IHS shall grant each authorized user a security code to access the system. Authorized users shall have access to the following information located within the RPMS data base:

- * Patient Care Component
- * Patient registration

* Third-party Billing System

The authorized users shall be allowed to exchange and share information through the RPMS with IHS authorized users.

Section 2 - Privacy Rule Compliance

The TRIBE agrees to comply with the Business Associate requirements under the Privacy Rule and the provisions of this MOU throughout the term of this MOU. The TRIBE further agrees that it will require all of its agents, employees and subcontractors, to whom the TRIBE provides PHI, or who create or receive PHI on behalf of the TRIBE from the IHS, to provide the same restrictions, terms and conditions as set forth in this MOU.

Section 3 - Permitted Uses and Disclosures

The TRIBE shall not use or disclose PHI except as permitted by this MOU or as required by other applicable law. The TRIBE may use or disclose PHI to perform the Services provided that such use or disclosure would not violate the Privacy Rule if done by the IHS.

Section 4 - Services for which TRIBE does not maintain or create PHI

If performing Services requires the TRIBE to access PHI maintained by the IHS, and does not require the TRIBE to maintain or create PHI to perform the Services, then the TRIBE agrees not to further use, disclose, create, or maintain any PHI so accessed.

Section 5 – Safeguards

The IHS shall develop and use appropriate administrative, physical and technical safeguards to protect against the use or disclosure of any PHI that it creates or maintains, as provided for in this MOU and the Privacy Rule. The IHS will limit any use, disclosure or request for use or disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure or request in accordance with the requirements of the Privacy Rule. Attached as **Addendum A** to this MOU is a summary of the requirements for the use, operation, safety and security of the RPMS. All orientation and training that is required of employees of the TRIBE pursuant to the requirements set forth in **Addendum A** shall be made available to be provided by the IHS.

Section 6 - Safeguards for Electronic PHI

The TRIBE shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any electronic PHI that it creates, receives, maintains, or transmits from or on behalf of the IHS under this MOU to the extent required by 45 C.F.R. part 164, subpart C, Security Standards for the Protection of

Electronic Health Information. The TRIBE agrees to take the steps that are necessary, in cooperation with the IHS, to comply with all of the requirements for the use, operation, safety and security of the RPMS set forth in **Addendum A**.

Section 7 - Reporting of Disclosure

The TRIBE shall report to the IHS when the TRIBE has any knowledge of uses or disclosures of PHI that are not in accordance with this MOU.

Section 8 - Records; Access By TRIBE

The TRIBE shall maintain records of PHI and shall document and account for disclosures with respect to PHI pursuant to the Privacy Rule and other applicable law.

Section 9 – Disclosure for Compliance Purposes

Upon request, the TRIBE shall make available an accounting of disclosures of PHI with respect to and in compliance with the Privacy rule.

Section 10 - Amendments of Information

The TRIBE shall forward any requests for amendments or corrections to PHI created by another facility to that place of origin. Documentation will be corrected at the place of origin.

Section 11 - Obligations of the TRIBE

The Tribe shall provide the IHS with the Tribe's Notice of Privacy Practices produced under 45 C.F.R. ' 164.520 and any changes to the Notice.

Section 12- Material Breach

If the TRIBE breaches a material obligation of this MOU, the IHS shall notify the TRIBE of the breach and give the TRIBE an opportunity to cure the breach. The TRIBE shall use due diligence to cure the breach within ninety calendar days. If the parties determine that it is not feasible to cure the breach within ninety calendar days, the IHS shall take appropriate action to terminate the provision of access to the RPMS provided by this MOU until such time as the breach can be cured. If the parties determine that such a termination of the TRIBE's access to the RPMS is not feasible, then the IHS shall report the material breach to the Secretary.

Section 13 - Termination; Return or Destruction of Information

In the event that the relationship between the parties materially changes, as determined by the parties, such that the terms of this MOU no longer apply to the relationship between the parties,

then this MOU shall automatically terminate with respect to any future sharing of PHI between the parties. At the IHS's option, upon such termination, the TRIBE shall either return to the IHS, or destroy, all PHI in its possession, and keep no copies of PHI except as requested by the IHS or otherwise required by law. If the TRIBE or its agent or subcontractor destroys any PHI pursuant to this section, then the TRIBE will provide the IHS with documentation evidencing such destruction. Any PHI maintained by the TRIBE shall continue to be extended the same protections set forth in this MOU for as long as it is maintained.

Section 14 - Term

The term of this MOU shall begin on the date that appears at the end of the MOU and shall terminate when: (1) all of the PHI provided by the IHS to the TRIBE, or created or received by the TRIBE on behalf of the IHS, is destroyed or returned to the IHS, or (2) if it is unfeasible to return or destroy the PHI, when the TRIBE has developed and implemented protections for the PHI in accordance with 45 C.F.R. ' 164.504(e)(2)(ii)(I), or (3) mutually agreed to by the parties.

Section 15 - Amendment of MOU

After the date of execution of this MOU and after learning that material changes have been made to the Privacy Rule, the parties agree to amend this MOU to ensure that it complies with the Privacy Rule and to ensure that the IHS may continue to comply with the Privacy Rule. The parties may also agree to amend this MOU, as necessary, to accommodate changes in the relationship of the parties. Amendments to this MOU shall be in writing.

Section 16 - Miscellaneous Provisions

- (1) All notices under this MOU to any party shall be in writing;
- (2) The headings of the various sections of this MOU are for reference only and are not part of the MOU and shall be ignored in construing the MOU;
- (3) This MOU constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter of this MOU;
- (4) If a court of competent jurisdiction deems any provision of this MOU unenforceable, such provision shall be severed from this MOU and every other provision of the MOU shall remain in full force and effect;
- (5) Any ambiguity in this MOU shall be resolved to bring the MOU into compliance with the then most current version of the Privacy Rule;
- (6) Unless previously furnished to the IHS, the resolution of the Three Affiliated

Tribes authorizing the Tribe to contract with the IHS as provided for above, is attached to this MOU as **Addendum B**.

- (7) This MOU creates no private rights of action, and does not further waive the sovereign immunity of either party.
- (8) The dispute and appeal provisions of the Indian Self-Determination Act do not apply to this MOU.

THE FOREGOING PROVISIONS OF THIS MEMORANDUM OF UNDERSTANDING ARE HEREBY AGREED TO ON THE DATES INSCRIBED BELOW.

Dated This 8th Day of July, 2004.

THREE AFFILIATED TRIBES

By Tex G. Hall
Tex G. Hall
Chairman

(Having been duly authorized to enter into this MOU on behalf of the Tribe,
as evidenced by the attached copy of the resolution made by the
Three Affiliated Tribes (Addendum B))

**UNITED STATES OF AMERICA, DEPARTMENT OF HEALTH AND HUMAN
SERVICES, INDIAN HEALTH SERVICE**

By _____
Don Lee
Area Director
Aberdeen Area Indian Health Service
United States Department of Health and Human Services

By _____
Allen L. Davis
Contracting Officer CO-04-004
Aberdeen Area Indian Health Service
Aberdeen, South Dakota 57401

Attachments: Addendum A – Accessing RPMS
Addendum B – [_____]

Addendum A to the MOU between the AAIHS and the Three Affiliated Tribes

Accessing RPMS

The Resource and Patient Management System (RPMS) is an automated information system developed by the Indian Health Service to enhance the provision of patient care. It has been designed to support administrative and clinical decisions at the facility level and to facilitate the transmission of a core set of data to a national database maintained on a central computer in Albuquerque, New Mexico. The Aberdeen Area Indian Health Service (AAIHS) implemented RPMS at all Tribal/Urban/IHS service units.

The AAIHS Division of Information Technology and Support (DITS) is responsible for implementation, maintenance and technical support of RPMS computer platforms, and the IHS wide-area-network (WAN) located throughout the Aberdeen Area. This includes both the tribal and IHS programs.

The Aberdeen Area has local area network (LAN) at five of the hospitals connected to the IHS wide area network. Some locations have CAT-5 copper, or fiber-optic connectivity to their outlying buildings. All of this is accomplished through local hubs and switches connected to the T-1 network using CISCO routers, all of which is using the TCP/IP protocol.

Functions and Services

Public Law 100-713, Indian Health Care Amendment of 1988, Title VI, Sect on 602, titled "Automated Management Information System's, mandates that IHS establish an automated MIS that shall include, financial management systems, patient care information systems, privacy component, services based and cost accounting base for medical care. Following you will find references to protocol, infrastructure, and policy/procedure documents that must be adhered to for RPMS access.

- 1) RPMS
 - a) Remote technical assistance to update, maintain and support service unit systems.
 - b) Some on-site assistance may be required.
- 2) Telecommunications
 - a) FTS-2000 Services
 - b) T-1 (Recommended or higher) Wide-Area-Network (WAN)
 - i) Access to national contract for maintenance services of all the T-1 routers connected to WAN.
 - c) Support of telephone and private branch exchange (PBX) systems. Voice/data technical support and consultation.
 - d) Microsoft Network (MS Exchange or newer)
 - e) Video Conference Network
 - f) Technical assistance with the implementation, installation, maintenance, and support of WAN services. Onsite assistance may be available upon request.
 - g) Telecommunications hardware maintenance – local support for national consultation, guidance, and development of new technical directions to meet national WAN expansion needs.

- h) Acquisition – access to national telecom system hardware procurement/purchases may be available for the WAN directly from vendor.
- 3) Support of Windows/NT computer systems
 - a) Microsoft Windows (Servers = 2000/2003 or newer) (PC = XP or newer)
- 4) Support of Local Area Network & Wide Area Network
 - a) Support of Cisco routers
 - b) Support of Microsoft Windows Environment
 - c) Internet Access
 - d) Domain Name Service
 - e) LAN Applications
 - i) Microsoft Office (Word, Excel, Access, PowerPoint, Outlook)
 - f) DHCP
 - g) Email (Microsoft Exchange)
 - h) Antivirus
- 5) Information Technology Security - Policy & Guidance
 - a) Support for Automated Information Systems security programs.
 - b) Implement policies established by congressional legislation
 - i) Health Insurance Portability & Accountability Act of 1996 (PL.104-191)
 - ii) Federal Information Security Management Act of 1996 (FISMA)
 - iii) Clinger-Cohen Act of 1996 (formerly ITMRA)
 - iv) Federal Managers Financial Integrity Act (FMFIA)
 - v) Computer Fraud and Abuse Act of 1986
 - vi) Computer Security Act of 1987
 - c) Implement guidelines and policies established by executive direction
 - i) OMB Circular A-127
 - ii) OMB Circular A-130, Appendix III, February 8, 1996.
 - iii) E.O. 13010 – Critical Infrastructure Protection.
 - iv) E.O. 13011 – Federal Information Technology.
 - v) E.O. 13103 – Computer Software Piracy.
 - d) Implement guidelines and policies established by the agency.
 - i) Indian Health Manual, Part 8, Information Technology Policy.
- 6) Automated Information Systems (AIS) Security
 - a) Provide or make provision for annual site audits and program reviews at each facility.
 - b) Provide or make provision for Computer Security Awareness Training.
 - c) Monitor compliance with computer security legislation, guidelines, policies and procedures.
 - i) Wireless Security
 - ii) LAN Security
 - iii) Standard Configurations
 - iv) Health Information Systems (RPMS)
 - v) Information Security Requests
 - d) Provide or make provision for the development and maintenance of AIS Contingency Plans.
 - e) Provide or make provision for the development and/or maintenance of AIS Security Plans.
 - f) Intrusion Detection System.
 - i) Monitor implementation
 - ii) Monitor data and application
 - iii) Provide computer security reports to Headquarters IHS & HHS

- iv) Activate CSIRT when intrusions detected.
- g) Provide or make provision for the establishment of Computer Security Incident Response Teams (CSIRT) at all facilities.
 - i) Monitor compliance.
- 7) Health Insurance Portability & Accountability Act (HIPAA) Security.
 - a) Provide or make provision for HIPAA Self-Assessments based on NIST SP800-26.
 - i) Monitor compliance with annual requirement for HIPAA self-assessments.
 - ii) Monitor compliance with requirement for Gap Analysis to be performed on Health Information Systems.
 - b) Provide or make provision for HIPAA Risk Analysis based on self-assessment documents
 - i) Monitor compliance with requirements for risk analysis to be performed on Health Information Systems every three years, or whenever major changes occur.
 - c) Provide or make provision for computer security Plan of Action & Milestones (POA&M)
 - i) Monitor POA&M performed on Health Information Systems (RPMS).
 - ii) Monitor POA&M performed for HIPAA compliance.
 - d) Provide or make provision for Certification & Accreditation (C&A) of automated information systems at least every three years.
 - e) Ensure that C & A performed on Resource and Patient Management Systems.
 - i) Ensure that C & A performed on Email systems.
 - ii) Ensure that C & A performed on telecommunications and network systems.
 - f) Provide or make provision for HIPAA Security training, upon request.
 - g) Ensure that Area Web pages point to IHS Web Page and IT Security procedures
 - i) Method of ensuring compliance with IHS and HIPAA Security Policies.
- 8) Site Evaluations
 - a) On-site technical assistance may be provided prior to new hardware upgrades.
 - b) Hardware evaluations may be done prior to new software releases or software upgrades.
 - c) On-site visits may be required to resolve DITS issues.
- 9) Acquisitions
 - a) Technical consultation provided to ensure hardware and software compatibility for telecommunications and ADP procurements submitted by Service Units.

Office of Health Programs (OHP) Division of Information Technology and Support (DITS).



WHEREAS, the Tribal Business Council has reviewed said Memorandum of Understanding and said Contract Modification and finds that it is in the best interest of the Mandan, Hidatsa and Arikara Nation and its members to enter into said Memorandum of Understanding and Self Determination Contract Modification.

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Business Council of the Three Affiliated Tribe hereby approves the Memorandum of Understanding between the Three Affiliated Tribes and the U.S. Department of Health and Human Services, Indian Health Services for the purpose of providing the Parshall and White Shield Clinics access to the I.H.S.'s Resources and Patient Management System (RPMS) and authorizes Tribal Chairman Tex G. Hall to sign said Memorandum of Understanding.

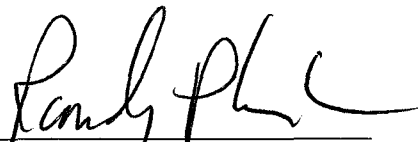
BE IT FURTHER RESOLVED, the Tribal Business Council of the Three Affiliated Tribes hereby approves Modification No. 23 to Self Determination Contract No. 241-02-007 between the U.S. Department of Health and Human Services, Indian Health Service and the Three Affiliated Tribes and authorizes Tribal Chairman Tex G. Hall to sign said Contract Modification.

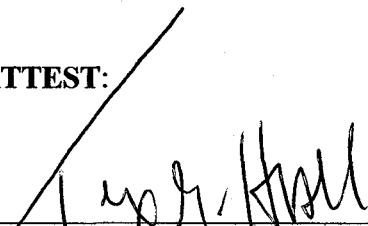
CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Forth Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 8TH day of July, 2004; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] voting. [] not voting.

Dated this 8th day of July, 2004.


Secretary, Randy Phelan
Tribal Business Council
Three Affiliated Tribes

ATTEST:

Chairman, Tex G. Hall
Tribal Business Council
Three Affiliated Tribes