



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Ely Field Office  
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Ely, Nevada 89301-9408  
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FEB 11 2011

In Reply Refer to:  
2710 (NVL00000)

#### DECISION MEMORANDUM

To: Executive Committee

Through: Partners Working Group

From: Rosemary Thomas  
District Manager

Subject: Request to Modify the Lincoln County Land Act /Lincoln County Conservation, Recreation, and Development Act Implementation Agreement

The Bureau of Land Management (BLM) Ely District Office (EYDO), in coordination with the Partners Working Group (PWG) and the BLM Nevada State Office (NSO) is proposing changes to the *Lincoln County Land Act (LCLA)/Lincoln County Conservation, Recreation, and Development Act (LCCRDA) Implementation Agreement (Implementation Agreement)* including revisions to:

1. Remove language associated with transferring funds as a means for obligating funds.
2. Change language to allow non-project specific overhead or indirect charges by Federal agencies.

Executive Committee approval is required for the procedural and criteria changes in order to implement them. Please review the recommended *Implementation Agreement* revisions below and the attached supporting documents.

#### 1. Removal of the "transfer of funds" option with other Federal partners

**Issue:** Currently the *Implementation Agreement* includes numerous references to the process of funding Federal projects through transfer of funds. The BLM does not currently have the authority to do transfers under the LCLA and LCCRDA and does not intend to seek that authority. Therefore, this Decision Memorandum is required to remove references to transfer of funds as a means for funding projects from the *Implementation Agreement*.

**Background:** The *Implementation Agreement* includes language that indicates that fund transfers are a means for the BLM to convey Special Account funds for Federal partner agency projects. This language is incorrect and should be removed from the *Implementation Agreement* as BLM has not been granted the authority to transfer funds under the Acts. The BLM determined that the extensive process to request this authority is not appropriate given the small amount of funds that would potentially be transferred to other agencies over the life of these

Acts. The Federal agencies will continue to receive Special Account project funds through the Interagency Agreement process which is a standard Federal funding process and is allowed under the *Implementation Agreement*.

There are numerous references (See Attachment 1) to the transfer of funds throughout the *Implementation Agreement* that will be removed upon approval of this request.

**Recommendation:** Revise the *Implementation Agreement* to remove “transfer of funds” (in any of its forms) as a project funding option.

## **2. Change the *Implementation Agreement* to allow overhead or indirect charges for Federal partners.**

**Issue:** The *Implementation Agreement* allows project-specific “overhead or indirect” (overhead) costs but disallows non-project specific overhead cost by Federal partners. BLM obligates funds to other Federal agencies entering into Interagency Agreement(s) (IAA’s). Depending on the recipient Federal agency’s policies, the agency may be required to charge non-project specific overhead costs to the project. The removal of this constraint is being requested to ensure that overhead charges appearing on IAA’s would be in compliance with the *Implementation Agreement*. The Decision Memorandum is required to remove the restrictions on Federal agencies charging standard indirect costs related to IAA’s.

**Background:** The *Implementation Agreement* states on page 14, Appendix B, “Necessary Expenses”, “Although there is no distinction between direct and indirect costs in the (sic) [‘]necessary expenses[’] doctrine, the expenses charged by the agencies/entities must be tied to a specific project and tracked by project. ***Federal agencies and local and regional governmental agencies shall not seek, and the BLM will not pay, agency/entity standard overhead percent based on the total project cost.*** (Emphasis added) Federal agencies and local and regional governmental agencies are solely responsible for seeking any waivers from their headquarters and resolving any issues internally regarding not being allowed to assess such standard overhead charges. However, project-related indirect costs for support services may be charged at a percent based on staff time spent on the project(s), provided these expenses meet the three criteria above. Examples of such indirect costs would be secretarial support, printing, copying, cost-center expenses, etc. (See Appendix E for other examples of necessary expenses.)”

Federal partners have determined that in order to enter into IAA’s with the BLM, they are required to include overhead costs that are not clearly linked to the projects. The language in the *Implementation Agreement* has caused a significant delay in implementation of two Round 2 Lincoln County Archaeological Initiative projects due to this restriction. The preference of the Federal partners is to treat LCLA/LCCRDA projects as they do any other interagency project and continue to adhere to their existing policies and practices regarding indirect charges and overhead, as opposed to seeking an exception within their organizations and pursuing a waiver of the *Implementation Agreement* on a case by case basis.



**Recommendation:** Revise the *Implementation Agreement* to allow Federal agencies to charge the standard overhead or indirect percent typically charged on Interagency Agreements per their policies. Change *Implementation Agreement* language to:

“This Implementation Agreement does not make a distinction between direct and indirect costs, therefore ***Federal agencies and local and regional governmental agencies may seek, and the BLM will pay, agency/entity standard overhead percentage based on the total project cost.*** (Emphasis added) Federal agencies ... (See Appendix E for other examples of necessary expenses.)”

**Action Needed:** Partners Working Group members should provide their vote regarding the above recommendations to Raul Morales, Chair of the Partners Working Group.

**Partners Working Group Decision:** The signature below indicates the decision made by majority vote on the above Ely District Office recommendation.

BY: Raul Morales, Partners Working Group Chair

 _____ Approve Ely District Office Recommendation	 _____ Date
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_____ Approve Alternate Recommendation (Refer to rationale provided below)	_____ Date
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_____ Disapprove (Refer to rationale provided below)	_____ Date
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If the Partners Working Group (PWG) disagrees with the Ely District Office recommendation and/or approves an alternate action, please explain below:

[Insert text explaining disapproval of Ely District Office recommendation and/or approved alternate action.]

**Executive Committee Decision:** By signature below, indicate the decision made by majority vote on the above recommendation of the Partners Working Group (PWG).

BY: Amy Lueders, Acting Executive Committee Chair

  
\_\_\_\_\_  
Approve Above PWG Recommendation

March 14, 2011  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Approve Alternate Recommendation  
(Refer to rationale provided below)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Disapprove PWG Recommendation  
(Refer to rationale provided below.)

\_\_\_\_\_  
Date

If the Executive Committee disagrees with the Partners Working Group recommendation and/or approves an alternate action, please explain below:

The Executive Committee will notify the Partners Working Group of its decision and return the original signed document to the Ely District Office to be maintained in the administrative record.

## Attachment 1

### References to “fund transfers” in the LCLA/LCCRDA Implementation Agreement

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#### **Bureau of Land Management-Ely Field Office...**

- Obligate funds for approved projects and acquisitions; assure compliance with documentation and other record requirements; review and process reimbursement or transfer requests for completed projects and acquisitions, and comply with all budgetary and financial laws, rules, regulations and policies.

Proposed change: “... review and process reimbursement requests for completed projects and acquisitions...”

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#### **V. SPECIAL ACCOUNT FINANCIAL AND BUDGET PROCEDURES**

The process and procedures for allocating, obligating and reimbursing (or transferring) funds is contained in Appendix E. *Appendix E maybe updated and adjusted as necessary by the Division of Support Services without Executive Committee approval.*

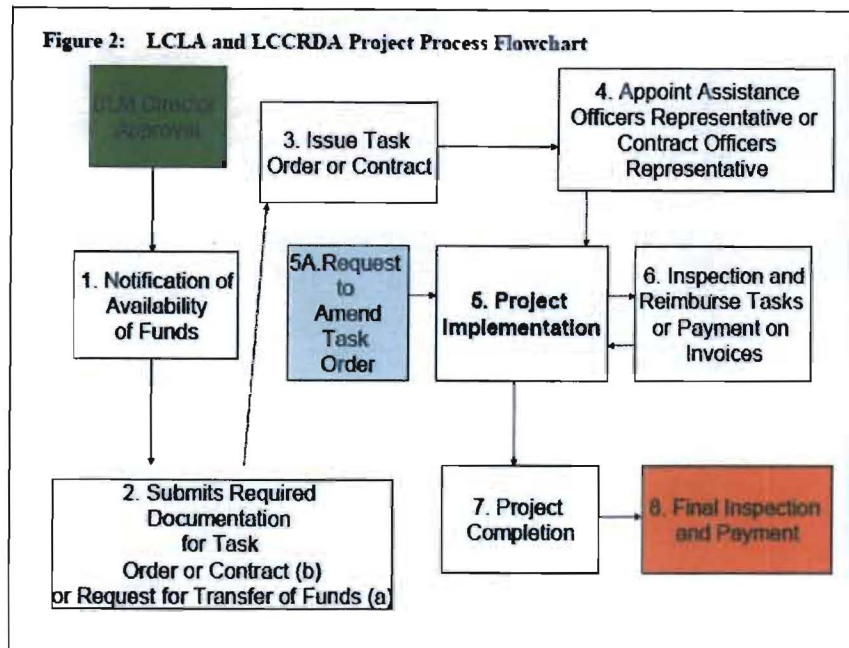
Proposed change: “The process and procedures for allocating, obligating and paying funds is contained in Appendix E.”

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#### **Appendix A – DEFINITIONS - As used in this Implementation Plan...**

The term “**Transfer of Funds**” is synonymous with “1151 Transfer of Funds” for funds being transferred from the BLM allocation account to the allocation accounts of other federal agencies under the “parent child” relationship established by the BLM and OMB. Such funds are transferred in accordance with the Transfer Process approved in this Agreement.

Proposed change: “~~The term “**Transfer of Funds**” is synonymous with “1151 Transfer of Funds” for funds being transferred from the BLM allocation account to the allocation accounts of other federal agencies under the “parent child” relationship established by the BLM and OMB. Such funds are transferred in accordance with the Transfer Process approved in this Agreement.~~”



Proposed change to flowchart box 2: “Submits Required documentation for Task Order, Contract, Assistance Agreement or Inter-Agency Agreement”

Proposed change to flowchart box 3: “Issue Task Order, Contract Assistance Agreement or Inter-Agency Agreement”

### 1. Notice of Available Funds (BLM Task)

Based upon BLM Director approval a notice of availability of funds letter is issued to the recipient. The availability of funds letter by category and priority is issued when funding level reaches the particular project. This letter details the project name, amount of funding, and deadline for Task Order submission or submitting request for transfer of funds.

### 2(a). Submit Request for Transfer of Funds (Other Federal Agencies Task)

The transfer process contains five steps following notification of availability of funds: Agency Request; Request Review and Approval; Cash Availability Determination; Transfer of Funds and Treasury Approval. Any project that has not requested a transfer of funds or issued a task order as described in 2(b) from the date of the notice to proceed will be able to request a six month extension of time.

Documentation to request a transfer of funds is outlined at the end of this appendix.



Proposed change: “**1. Notice of Available Funds...** Based upon BLM Director... This letter details the project name, amount of funding, and deadline for Task Order or procurement submission ~~or submitting request for transfer of~~ to obligate funds.”

**2(a). Submit Request for Transfer of Funds (Other Federal Agencies Task)**

~~The transfer process contains five steps following notification of availability of funds: Agency Request; Request Review and Approval; Cash Availability Determination; Transfer of Funds and Treasury Approval. Any project that has not requested a transfer of funds or issued a task order as described in 2(b) from the date of the notice to proceed will be able to request a six month extension of time.~~

~~Documentation to request a transfer of funds is outlined at the end of this appendix.~~

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**6. Inspection and Reimbursement of Tasks or Payment on Invoices (BLM Task)...**

There are three possible funding mechanisms: 1) Reimbursement may be made at the completion of the project, 2) Partial reimbursement can be made during the implementation and completion phases of the project as described in the Task Order(s), and 3) Federal agencies can request a transfer of funds. All funding mechanisms require fiscal accounting of expenditures.

Proposed change: “**6. Inspection and Payment of Tasks or Invoices (BLM Task)**

There are two possible means of requesting reimbursement: 1) Reimbursement may be made at the completion of the project, 2) Partial payments can be made during the implementation and completion phases of the project as described in the Task Order(s). All reimbursements require fiscal accounting of expenditures.

**DOCUMENTATION REQUIREMENTS FOR LAND DISPOSAL ACTIONS,  
ARCHAEOLOGY, MSHCP,  
SILVER STATE OHV TRAIL AND MANAGEMENT PLAN,  
WILDERNESS and LCLA LAND ACQUISITION PROJECTS**

The matrix below identifies the projects and participating agencies for each type of project. Task order requirements and reimbursement packages vary based on the type of agreement. The task order and reimbursement requirements outlined identify requirement differences by type of agreement.

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**Request for Transfer**

1. Completed annual transfer request and report spreadsheets by Round, describing each project and the total amount available as approved by BLM Director. This request identifies funding needs for each project on a quarterly basis unless the project or a portion of the project lends itself to an annual or one-time funding basis. Annual transfer requests are to be submitted a minimum of 30 calendar days in advance of the fiscal year. (This request is updated quarterly based on needed changes.) Specific instructions on completion of the transfer request and report spreadsheets are included in that document. Transfers will be made on the first business day of each quarter in accordance with the annual funding request and quarterly updates.

2. Agencies shall also submit the estimated necessary expense cost sheet for the new project(s) including milestones and completion dates.



3. Agencies will nominate an individual(s) to act as a point of contact for the reporting requirements and a headquarters financial contact to insure transferred funds are properly routed.
4. Agencies are required to maintain a detailed accounting by category and project number. Agencies will use their financial system reports to document expenditures. Necessary backup documentation may be requested upon an auditor's needs.
5. Project managers are required to submit a quarterly narrative status report on a per project basis to the BLM Ely Field Office. These reports, in addition to the completed transfer request spreadsheets satisfy the annual and quarterly reporting requirements. Additional status reports may be requested to comply with requests from DOI, OMB, Treasury or Congress.
6. Agencies should coordinate with their respective financial centers to ensure timely submission of their Quarterly SF-133, annual FMS 2108, and monthly Trail Balance as required and provide a copy to BLM NBC.
7. Final Inspection Report submitted upon completion of the project.

Proposed change: **~~Request for Transfer~~**

- ~~1. Completed annual transfer request and report spreadsheets by Round, describing each project and the total amount available as approved by BLM Director. This request identifies funding needs for each project on a quarterly basis unless the project or a portion of the project lends itself to an annual or one time funding basis. Annual transfer requests are to be submitted a minimum of 30 calendar days in advance of the fiscal year. (This request is updated quarterly based on needed changes.) Specific instructions on completion of the transfer request and report spreadsheets are included in that document. Transfers will be made on the first business day of each quarter in accordance with the annual funding request and quarterly updates.~~
- ~~2. Agencies shall also submit the estimated necessary expense cost sheet for the new project(s) including milestones and completion dates.~~
- ~~3. Agencies will nominate an individual(s) to act as a point of contact for the reporting requirements and a headquarters financial contact to insure transferred funds are properly routed.~~
- ~~4. Agencies are required to maintain a detailed accounting by category and project number. Agencies will use their financial system reports to document expenditures. Necessary backup documentation may be requested upon an auditor's needs.~~
- ~~5. Project managers are required to submit a quarterly narrative status report on a per project basis to the BLM Ely Field Office. These reports, in addition to the completed transfer request spreadsheets satisfy the annual and quarterly reporting requirements. Additional status reports may be requested to comply with requests from DOI, OMB, Treasury or Congress.~~



6. Agencies should coordinate with their respective financial centers to ensure timely submission of their Quarterly SF 133, annual FMS 2108, and monthly Trail Balance as required and provide a copy to BLM NBC.

7. Final Inspection Report submitted upon completion of the project.

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**Examples of Estimated Other Necessary Expenses**

**Category**

**ADMINISTRATION COSTS**

Budget Tracking/Accounting and Execution
Allocation of Transferred Funds to the Region and to the Field*
Preparation of OMB Reports Required in Association with Transferred Funds*
Project Procurements and Contract Oversight (If any in addition to Direct Labor for the CO, COR, and PI already included on the Estimated Expense sheet)
Preparing Transfer Requests*
Transfer of Station cost (PCS) for Hiring Project Personnel
Managing Allocation of Transferred Funds*

**Proposed change: "ADMINISTRATION COSTS**

Budget Tracking/Accounting and Execution
Allocation of Transferred Funds to the Region and to the Field*
Preparation of OMB Reports Required in Association with Transferred Funds*
Project Procurements and Contract Oversight (If any in addition to Direct Labor for the CO, COR, and PI already included on the Estimated Expense sheet)
Preparing Transfer Requests*
Transfer of Station cost (PCS) for Hiring Project Personnel
Managing Allocation of Transferred Funds*