



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Release
1-1770

Date
9/11/2015

MANUAL TRANSMITTAL SHEET

Subject

MS 1786, Memorandums of Understanding (Public)

1. Explanation of Material Transmitted: This Manual Section provides bureauwide guidance and procedures for developing and managing Memorandums of Understanding (MOUs). This transmittal captures the role of the directorate of Business, Fiscal, and Information Resources in managing MOUs.
2. Reports Required: None.
3. Material Superseded: All previous issuances of MS 1786 are replaced by this release.
4. Filing Instructions: File as directed below.

REMOVE

All of Release. Nos. 1-1585, 1-659,
and 1-1668
(43 pages)

INSERT

Rel. No. 1-1770
(18 pages)

Janine Velasco

Assistant Director,
Business, Fiscal, and Information
Resources Management

TABLE OF CONTENTS

<i>Chapter 1 - Overview</i>	<i>1-1</i>
1.1 Purpose.....	1-1
1.2 Objective.....	1-1
1.3 Authority.....	1-1
1.4 Responsibility.....	1-2
1.5 References.....	1-4
1.6 Policy.....	1-4
1.7 File and Records Maintenance.....	1-5
<i>Chapter 2 - Planning</i>	<i>2-1</i>
2.1 Instrument Selection.....	2-1
2.2 Scope.....	2-1
2.3 Coordination.....	2-1
<i>Chapter 3 – Content and Development</i>	<i>3-1</i>
3.1 Content.....	3-1
3.2 Signature.....	3-2
3.3 Distribution.....	3-2
3.4 Effective Date.....	3-2
3.5 Supplemental MOUs.....	3-2
<i>Chapter 4 – Review, Revision, and Cancellation</i>	<i>4-1</i>
4.1 Frequency.....	4-1
4.2 Recommendation.....	4-1
4.3 Revision.....	4-1
<i>Chapter 5 - Documentation and Recordkeeping</i>	<i>5-1</i>
5.1 Documentation.....	5-1
<i>Glossary of Terms</i>	<i>G-1</i>
<i>Illustration 1 - Suggested Steps in Developing and Controlling an MOU</i>	<i>IL1-1</i>

Chapter 1 - Overview

1.1 Purpose

This Manual Section provides broad, bureauwide guidance and procedures for developing and managing Memorandums of Understanding (MOUs). Field Offices should issue Manual Supplements as needed. MOUs are written agreements between BLM and other entities which confirm cooperative policies or procedures to promote mutual endeavors. MOUs do not; obligate or exchange Federal funds, supplies, equipment, or services; nor serve as substitutes for covenants or reservations in land or mineral patents.

1.2 Objective

This Manual Section is designed to establish and promote an efficient and effective system for developing and managing MOUs.

1.3 Authority

The following are common authorities which may apply to MOUs:

- A. The Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301.
- B. Alaska National Interest Lands Conservation Act, 16 U.S.C 3101.
- C. Alaska Native Claims Settlement Act, 43 U.S.C. 1616.
- D. Archaeological Resources Protection Act of 1979, 16 U.S.C. 170aa-70ee.
- E. Coastal Zone Management Act, 16 U.S.C. 1451.
- F. Endangered Species Act of 1973, 16 U.S.C. 1531 et seq.
- G. Federal Coal Leasing Act Amendments, 30 U.S.C. 181.
- H. Federal Grant and Cooperative Agreement Act of 1977, 41 U.S.C. 501-509.
- I. Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq.
- J. Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1511
- K. Federal Water Projects Recreation Act, 16 U.S.C. 460(1).
- L. Fish and Wildlife Coordination Act, 16 U.S.C. 661
- M. Historic Sites Act, 16 U.S.C. 461, et seq.

- N. Intergovernmental Cooperation Act of 1968, 42 U.S.C. 4201.
- O. King Range National Conservation Area Act, 16 U.S.C. 460y.
- P. Materials Act of 1947, 30 U.S.C. 601 et seq.
- Q. Mineral Leasing Act, 30 U.S.C. 181 et seq..
- R. National Environmental Policy Act, 42 U.S.C. 4321
- S. National Historic Preservation Act of 1966, 16 U.S.C. 470.
- T. National Trails System Act, 16 U.S.C. 1244
- U. Oregon and California Revested Lands Act, 43 U.S.C. 11181b.
- V. Public Rangeland Improvement Act of 1878, 43 U.S.C. 1901
- W. Sikes Act, 16 U.S.C. 670a et seq.
- X. Surface Mining Control and Reclamation Action of 1977, P.L. 95-87.
- Y. Timber Protection Act, 16 U.S.C. 594
- Z. Watershed Protection and Flood Prevention Act. 16 U.S.C. 1001.
- AA. Wild and Scenic rivers Act, 16 U.S.C. 1276
- BB. Wilderness Act of 1964, 16 U.S.C. 1131-1136
- CC. Wild Free-Roaming Horses and Burros Act, 16 U.S.C. 1331-1340.

1.4 Responsibility

- A. The Director and Deputy Director have overall responsibility for ensuring that the policies, procedures, and standards established for developing and managing MOUs are met.
- B. Assistant Director of Business, Fiscal and Information Resources Management is responsible for providing general direction for MOU development and management.

- C. Chief, Division of Information Resources Management(IRM) Governance, is responsible for:
1. Ensuring that adequate bureauwide guidance is provided on MOU development and management,
 2. Maintaining a central register and reference copies of national level MOUs, and
 3. Designating, within the Division of IRM Governance, a National MOU Custodian.
- D. Assistant Directors, within their respective areas of jurisdiction, are responsible for ensuring that MOUs are developed and managed in accordance with this Manual Section.
- E. MOU Coordinators, within their respective offices, are responsible for providing adequate guidance, coordination, and assistance for MOU development and management, in accordance with this Manual Section.
- F. National MOU Custodians, within their respective offices, are responsible for ensuring that, in accordance with this Manual Section:
1. MOUs are properly identified, numbered, and controlled.
 2. MOU registers and electronic reference copies are properly maintained.
 3. Concerned offices received copies of current MOUs and registers.
- G. Originating Officials, with respect to MOUs initiated or developed within their offices, are responsible for:
1. Ensuring that MOUs are developed and managed in accordance with this Manual Section.
 2. Ensuring that the appropriate officials are consulted during the MOU development process.
 3. Ensuring that MOUs are reviewed at least every 5 years to determine their adequacy, effectiveness, and continuing need.
 4. Ensuring that notification of amendment, extension, supersession, or cancellation of MOUs is provided to the appropriate National MOU Custodian and concerned offices.

5. In the Washington Office, ensuring that MOU record copy documentation is properly controlled, maintained, and disposed of in accordance with the appropriate Records Schedule.

1.5 References

- A. BLM Manual Section 1203, Delegation of Authority.
- B. BLM Manual Section 1220, Records Management.
- C. BLM Manual Section 1511, Assistance Agreements.

1.6 Policy

It is Bureau policy that its MOUs:

- A. Promote cooperative partnerships and mutual interests between BLM and other Federal agencies, State and local governments, private institutions, organizations, groups, and users of the public lands.
- B. Comply with current laws, regulations, procedures, and policies under which BLM performs its mission.
- C. Exclude any obligation or exchange of Federal funds, supplies equipment, or services (see Manual Section 1511 for guidance on instruments used for these purposes).
- D. Any MOU that addresses the sharing or exchange of data with Federal and/or non-Federal entities requires the completion of a data sharing agreement. *See* H-1283-1, Data Administration and Management Handbook.
- E. Must not be used as substitutes for covenants or reservations in land or mineral patents, since MOUs are usually not legally binding.
- F. Are systematically and effectively developed and managed.
- G. Are established for finite periods (e.g., 5 years), except when their anticipated need is indefinite.
- H. Are reviewed at least every 5 years for adequacy, effectiveness, and continuing need, and terminated when no longer required.

1.7 File and Records Maintenance

See BLM Manual 1220, Records and Information Management, for policies and procedures for files and records maintenance. See the General Record Schedule for information on the disposition of records.

Chapter 2 - Planning

The MOU development process must include careful and thorough planning, internal review, and revision prior to external review. Illustration 1 provides a list of suggested steps in planning an MOU. Before a draft MOU is composed, the originating official ensures that the following standards and procedures are followed:

2.1 Instrument Selection

- A. Terminology. A “Memorandum of Understanding” is a written agreement between two or more parties which confirms cooperative policies or procedures to promote mutual endeavors. MOUs do not obligate or exchange Federal funds, supplies, equipment, or services with non-Federal entities; nor as a substitute for covenants or reservations in land or mineral patents.
- B. Other Instruments. MS 1511, Assistance Agreements, provides guidance in determining the appropriate instrument for processing, awarding, and administering financial assistance agreements.

2.2 Scope

Define the scope of the proposed activity so that the work can be completed with available resources. Identify the participants, the responsibilities of each, the anticipated benefits to them, and all regulatory and administrative requirements or constraints.

2.3 Coordination

Consult with the following persons:

- A. MOU Coordinator. Review overall conditions and requirements.
- B. National MOU Custodian. Review existing MOUs to ensure that the proposed MOU will not conflict with or duplicate any existing MOUs purpose
- C. Program Leads. Resolve potential conflicts among BLM program leaders before beginning formal negotiations with non-BLM participants.

D. Other Officials. Discuss potential issues, as necessary, with other concerned officials, for example:

1. The other MOU participants, to determine their interest.
2. The appropriate procurement Analyst, if there is uncertainty as to whether the document obligates or exchanges Federal funds supplies, equipment, or services.
3. The appropriate Data Steward, if the document shares or exchanges data with Federal and/or non-Federal entities.
4. The appropriate Solicitor, if any legal questions are involved.

Chapter 3 – Content and Development

The originating official ensures that the following standards and procedures are followed:

3.1 Content

In order to allow compromise between the requirements of the BLM and the other participants, the originating official should exercise appropriate flexibility in applying the following guidelines:

A. Elements. The following elements are recommended in an MOU:

1. Heading:
 - a. Title (“MEMORANDUM OF UNDERSTANDING”).
 - b. Identification of participants.
 - c. Brief description of subject.
2. Statement of purpose or objectives.
3. List of statutory authorizes for entering into the MOU.
4. Procedures to be followed (jointly and individually).
5. Administrative provisions for:
 - a. Recognition of limitations on agency authority or action because of law or appropriation.
 - b. Reference of disputed or stalemated issues to higher levels for resolution.
 - c. Requirement for cooperative review by all participants at least every 5 years.
 - d. Right to renegotiation after reasonable notice.
 - e. Right to unilateral cancellation after reasonable notice.
 - f. Amendments.
 - g. Expiration date (if appropriate).

- h. Renewal
 - i. Identification of other MOUs, if any, to be supplemented, amended, or superseded by the proposed MOU.
 - j. Stipulation as to when the MOU will become effective (if no specific date, upon signature by all of the participants).
6. Approval (signatures and dates).

3.2 Signature

Each participant signs all MOU originals. *See* Manual Section 1203 for a list of BLM officials authorized to sign MOUs.

3.3 Distribution

1. Each participant receives one approved MOU original bearing the signatures of all participants and the dates of signature.
2. The National MOU Custodian receives BLM's approved original in order to complete recordkeeping requirements.

3.4 Effective Date

If not otherwise specified in the document, an MOU takes effect when all of its participants have signed. Its effective date is therefore the most recent date of signature.

3.5 Supplemental MOUs

- A. Master MOUs. Master MOUs may be developed to provide broad or general policies and procedures under which more specific or local provisions may be implemented (e.g., a Washington Office MOU may be supplemented by a State Office MOU, and a State Office MOU by a District Office MOU).
- B. Supplemental MOUs. With respect to the master MOU it implements, a supplemental MOU:
 1. Is subject to the provisions of its master MOU.
 2. Is signed by the same participants (usually at a lower or local level).
 3. Terminates at the same time.
 4. Should be identified as a supplemental MOU.

5. Should identify the master MOU it supplements by BLM MOU number, participants, subject, and effective date.

Chapter 4 – Review, Revision, and Cancellation

4.1 Frequency

Originating officials should review MOUs initiated or developed within their offices at least every 5 years to determine their adequacy, effectiveness, and continuing need.

4.2 Recommendation

In concluding the review, the originating official recommends whether the MOU should be continued, amended, superseded, or canceled.

4.3 Revision

- A. Amendment. In reference to the MOU it amends, an amendment:
1. Should be clearly identified as an amendment.
 2. Should identify the amended MOU by its participants, subject, and effective date.
 3. Should be assigned the same BLM MOU number, with an amendment identifier suffixed and coded as shown in Figure 1.
 4. Should correspond to the amended MOU in the numbering and heading titles of the elements affected.
 5. Is signed by the same participants.
 6. Should be filed as an attachment, addendum, or appendix to the amended MOU.
 7. Terminates at the same time.
- B. Supersession. A superseding MOU should identify the superseded MOU by its BLM MOU number, participants, subject, and effective date.
- C. Cancellation. An MOU may be unilaterally canceled at any time by any one of its participants. Reasonable, written notice should be provided to the other participant(s).
- D. Notification. When an MOU has been amended, superseded, or canceled, the originating official should promptly provide written notification of the change of status and copies any amendments or superseding MOUs to the MOU Coordinator, the National MOU Custodian, affected program leaders, and other concerned officials, as appropriate.

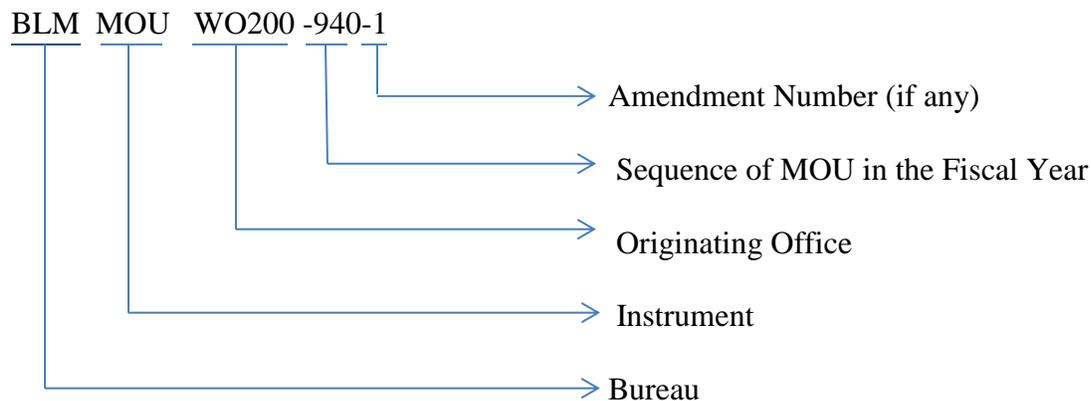
Chapter 5 - Documentation and Recordkeeping

5.1 Documentation

The National MOU Custodian ensures that the following actions are completed:

- A. MOU Number. Assign and label the approved MOU with an identification number. *See Figure 1.*
1. All numbers must begin with “BLM MOU”.
 2. Type the same number on an amendment as was assigned to the MOU it amends, followed by the amendment’s sequential number.
 3. The following is a suggested numbering formula:

Figure 1 – MOU Number



- B. MOU Register. Record the MOUs: assigned number; participants; subject content and other relevant information (e.g., its effect on other MOUs, if any); effective date; and date of expiration in the MOU register.
- C. MOU Signature Page. Label the MOUs signature page to specify the MOUs effect (e.g., supplements, supersedes, etc.) if any, on other BLM MOUs, and identify the affected MOU by its BLM MOU number.
- D. Distribution. The National MOU Custodian ensures that the MOU is uploaded to the BLM MOU website. The Originating Official is responsible for disseminating MOUs to the appropriate parties.

- E. Record Copy. Retain one original as the record copy for the official case file. In the Washington Office, the record copy is retained by the Originating Official.
- F. Originating Official's Copy. Return a copy to the originating official.

Glossary of Terms

-A-

Amendment: A modification of an MOU describing specific additions, deletions, or other changes that have been agreed to by the original MOU participants. Addendums and appendices are included this definition.

-B-

Background Material: Documents relating to the development and negotiation of an MOU, including: notes, memoranda, correspondence, drafts, revisions, etc.

-C-

Case File: The official file folder containing information pertaining to the development, use, amendment, and termination of an MOU, including the record copy and historical, background, and other related material.

-E-

Entity: A Federal, State, or local government agency, bureau, department, etc., or private organization, group, or individual (see “participant”).

-M-

Master MOU: An MOU that provides broad or general policies and procedures under which more specific or local provisions may be implemented. Also called “umbrella MOU”.

Memorandum of Understanding (MOU): A written agreement between BLM and other entities which confirms cooperative policies or procedures to promote mutual endeavors. MOUs do not: obligate or exchange Federal funds, supplies, equipment, or services with non-Federal entities; nor serve as substitutes for covenants or reservations in land or mineral patents.

MOU Coordinator: The designated person who is responsible, within a BLM office, for providing guidance, coordination, and assistance for MOU development and management.

National MOU Custodian: The designated person (usually the Records Manager) who is responsible, within a BLM office, for ensuring that MOU documents are properly identified, controlled, maintained, distributed, and disposed of.

-O-

Originating Office: The BLM office in which an MOU is initiated or developed.

Originating Official: The head of the originating office, or other BLM official responsible for the initiation or development of an MOU.

-P-

Participant: An entity that is a signatory of an MOU (see “entity”).

-R-

Records Manager: A person responsible for a records management program who has oversight responsibility for all records in a State, District, or Resource Area Office.

Record Schedule: A document governing, on a continuing basis, the mandatory disposition of recurring records series of an organization or agency; also called “retention schedule.” disposal schedule, “ or records disposition schedule.”

-S-

Supplemental MOU: An MOU that implements specific or local provisions under the broader provisions of a master MOU (see.31B).

Illustration 1 - Suggested Steps in Developing and Controlling an MOU

Responsible Official	Step	Action
Originating Official	1	Determines purpose and scope of the proposed MOU
	2	Consult with other participants to determine their interest
	3	Consults with MOU Coordinator
	4	Consults with National MOU Custodian and reviews existing MOUs to prevent duplication or conflicts with proposed MOU.
	5	Reviews relevant material, including laws, regulations, orders, and directives
	6	Coordinates with other BLM officials to resolve potential internal conflicts and identify needed provisions
	7	Outlines material
	8	Writes the draft MOU
	9	Sends draft to appropriate officials for review and comment
	10	Reviews, edits, and incorporates appropriate comments into the final MOU
	11	Reviews final MOU for structure, content, grammar, plain language, etc.
	13	Routes the final MOU for surname and signature
	BLM Signing Official	14
Originating Official	15	Ensures that each non-BLM participant signs the MOU
	16	Ensures the National MOU Custodian receives the signed original
National MOU Custodian	17	Assigns and labels the MOU with the appropriate MOU number

Responsible Official	Step	Action
	18	Documents required information in the MOU Register
	19	Types a note at bottom of MOU signature page to specify effect on other MOUs, if any
	20	Retains the original as the record copy
	21	Posts the MOU to the BLM MOU website