PROJECT CLOSEOUT
(IRR Program - Construction)

2011 BIA TRIBAL PROGRAMMATIC AGREEMENT ROLEOUT

Little Creek Casino Resort
Shelton, WA

June 28, 2011

By: K. Dawson, PE, Special Projects Engineer
Scope of Closeout Presentation

Objective

go over the requirements and process for Project and closeout under the IRR Program

Applicability

Tribally administered projects funded through PL 93-638 Contracts or through Funding Agreements

Most applicable to Construction Projects, 170.473.

Transit, Maintenance, Planning, and Design Projects have less regulatory defined requirements with close out procedures largely defined in the Contract.
Preliminary

**Regulatory Basis for Closeout**

25 CFR Part 170  Indian Reservation Roads Program

25 CFR Part 900  Projects under the Indian Self Determination and Education Assistance Act

25 CFR Part 1000  Annual funding agreements under the Tribal Self-Government Act amendments to the Indian Self Determination and Education Act

Procedures and Deliverables Negotiated in Individual Contracts, Grants, or Funding Agreements

*NEW - BIA FA Section 6C*
Additional Guidance and Procedures

NWRO Division of Transportation Business Plan_ July 27 2004  *(UPCOMING UPDATE)*

FLH Construction Manual- Chapter 2

*Not Included in this Presentation*

State DOT Construction Manuals

Local Agency Guidelines
Outline of Topics (Sections)

SECTION 1: Need for Project Closeout
SECTION 2: Project Performance and Deliverables
SECTION 3: Final Inspection & As-built Plans
SECTION 4: Final Modification
SECTION 5: Final Payment, Release of Claims, Acceptance
SECTION 6: Construction Closeout Report
Section 1

Need for Project Closeout
Section 1

Need for Project Closeout

638 CONTRACTS IN THE Northwest Region IRR PROGRAM. 239 Contracts

- Maintenance: 8%
- Planning: 24%
- Design: 33%
- Construction: 36%

~69% of Existing Contracts are Design Construction

Current Deficiencies with Finalizing / Closing Out Projects and Contracts
Section 1

Need for Project Closeout

PROJECTED NEED PL 93-638 CONTRACTS: 133 out of 239 (56%) needing Closeout

38 ARRA Contracts (Both IRR and R&R)
- Increased Scrutiny, Audit Potential
- Extra Reporting Requirements (monthly and quarterly)
- Heavier Administrative Load Tribe and BIA
- Completion by Sept 30, 2011

46 Contracts Awarded Between 1991 to 1999
- majority are Planning and 5 are somewhere in the process of closing

49 Contracts Awarded Between 2000 and 2005
- majority are Design/Construction and 4 are in the process of closing.

There are 133 Projected PL93-638 Contracts Needing Closed by FY 2012...
# Section 1

## Need for Project Closeout

<table>
<thead>
<tr>
<th>Tribe</th>
<th>Total Contracts</th>
<th>Pre 2000</th>
<th>2000-2006</th>
<th>ARRA</th>
<th>Total Projected Need 2012</th>
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</tbody>
</table>

**Projected 638 Contract Closeout by Tribe by 2012**
Need for Project Closeout

PL 93-638 CONTRACTS & Funding Agreements

May be “Broad” in Scope (Multiple Initial Roads or Projects) … or Multiple “Phases” / “Projects” due to Scope Growth

Example of Scope Growth Contract
-Initial Scope… Design Road A
-Mod 1… Schedule 2- Construction Road A
  Schedule 3- Construction Management Services Road A
-Mod 2… Schedule 4- (left over funds) Construction Road B, County Design

Closeout Report’s
(1) Design Report for Road A,  
(2) Construction Closeout Road A,  
(3) Construction Road B

Many 638 Contracts / FA’s Require Multiple Project Closeouts…
Section 1

Need for Project Closeout

**Advantage**

*Historical Data* -- Closeout Process provides a Concise Record or Summary of the Project
- Costs
- Define Improvements- As builts
- Lessons Learned
- Contractor / Consultant Performance

**Dis-Advantage**

*Work* -- Closing out a project requires time and effort from already finite resources

*Contractual & Regulatory Requirement*
Section 1

Need for Project Closeout

IRR Program Requirements

§ 170.473 What happens when a construction project ends?

(a) At the end of a construction project, the agency or organization responsible for the project must make a **final inspection**. The inspection determines whether the project has been completed in reasonable conformity with the PS&E.

(1) Appropriate officials from the tribe, BIA, and FHWA should participate in the inspection, as well as contractors and maintenance personnel.

(2) **All project information must be made available during final inspection** and used to develop the IRR construction project closeout report. Some examples of project information are: Daily diaries, weekly progress reports, subcontracts, subcontract expenditures, salaries, equipment expenditures, **as-built drawings**, etc.

(b) An IRR construction project closeout is the final accounting of all IRR construction project expenditures. It is the closing of the financial books of the Federal Government for that construction project. Closeout occurs after:

(1) The final project inspection concludes; and

(2) The facility owner makes final acceptance of the project.

http://ecfr.gpoaccess.gov
### Need for Project Closeout

**IRR Program Requirements**

#### § 170.474 Who conducts the project closeout?

<table>
<thead>
<tr>
<th>If the project was completed by . . .</th>
<th>then . . .</th>
<th>and the closeout report must . . .</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) BIA</td>
<td>The regional engineer or designee is responsible for closing out the project and preparing the report</td>
<td>(1) Summarize the construction project records to ensure compliance requirements have been met;</td>
</tr>
<tr>
<td></td>
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<td>(2) Review the bid item quantities and expenditures to ensure reasonable conformance with the PS&amp;E and modifications;</td>
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<td>(3) Be completed within 120 calendar days of the date of acceptance of the IRR. construction project; and</td>
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<td></td>
<td>(4) Be provided to the affected tribes and the Secretaries.</td>
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</tbody>
</table>

(b) A tribe

<table>
<thead>
<tr>
<th>Agreements negotiated under ISDEAA specify who is responsible for closeout and preparing the report</th>
<th>(1) Meet the requirements of ISDEAA;</th>
</tr>
</thead>
<tbody>
<tr>
<td>(2) Comply with <strong>25 CFR 900.130(d)</strong> and <strong>131(b) (10)</strong> and 25 CFR 1000.249, as applicable;</td>
<td></td>
</tr>
<tr>
<td>(3) Be completed within <strong>120 calendar days of the date of acceptance</strong> of the project; and</td>
<td></td>
</tr>
<tr>
<td>(4) Be provided to all parties specified in the agreements negotiated under ISDEAA.</td>
<td></td>
</tr>
</tbody>
</table>
Section 1

Need for Project Closeout

IRR Program Requirements

§ 900.130 What role does the Indian tribe or tribal organization play during the performance of a self-determination construction contract?

(d) Upon completion of the project, the Indian tribe or tribal organization shall provide to the Secretary a reproducible copy of the record plans and a contract closeout report.
Section 1

Need for Project Closeout

IRR Program Requirements

§ 900.131 What role does the Secretary play during the performance of a self-determination construction contract?

(b) If the Indian tribe or tribal organization is contracting to perform design and/or construction phase activities, the Secretary shall have the following responsibilities:

(10) The Secretary retains the right to conduct final project inspections jointly with the Indian tribe or tribal organization and to accept the building or facility. If the Secretary identifies problems during final project inspections the information shall be provide to the Indian tribe or tribal organization and shall be limited to items that are materially noncompliant.

ALSO language in new Funding Agreement specifies joint BIA/Tribe Final Inspection

http://ecfr.gpoaccess.gov
Section 2

Project Performance and Deliverables
Section 2

Project Performance and Deliverables

Planning
LRTP
Inventory Updates
TIP

Transit
Equipment
Facilities

Design
Scoping / Alternatives
Engineering Investigations
NEPA and Permitting
Conceptual Design
Plan in Hand Design
Final Design
Estimate and Specifications
Bid Package

Construction
Initial (Before NTP)
Insurance/Bonds
Initial Schedule
Traffic Plan
Submittal List
QA QC Plan
Erosion Plan

Ongoing Performance
Schedule Updates
Progress Updates
Milestone Inspections

Cost Documentation

Closeout
Punch List
As-built
Closeout Report

Maintenance
Accomplishment Reports

Deliverables - Tasks
Typical to IRR Program

Project Closeout
CONSTRUCTION PUNCH LIST
(semi-final inspection)

Not an IRR Regulatory Requirement, but rather an Industry Standard item (Also Section 6.4.4 Business Plan), may be combined with Final Inspection

Basic Content=
• Regarding Project Scope- Identify Corrective Action Items, Non Performance Items “PUNCH LIST”

• ID Attendees, Substantial Completion Date, other Identifier Project Data
Project Performance and Deliverables

Closeout Deliverables / Tasks

- Punch List Inspection........................................... Project / Const. Manager
- As-built Plans....................................................... by Contract
- Final Inspection Report........................................ BIA DOT / Tribe
- Final Contract Reconciliation (Mod and Payment)..... Tribe
- Release of Claims................................................ BIA Contracting
- Final Acceptance............................................... BIA DOT
- Closeout Report................................................ Tribe

Successful Closeout Requires Cooperative Effort from Tribe and BIA
Section 3

Final Inspection & As-built’s
Section 3

Final Inspection & As-builts

AS-BUILT’s- \textit{The WHO} “Record Drawings”

- Often question of \textit{who is responsible}?

- Who delivers as-builts should be defined up front in the Construction Contract and gone over in the Preconstruction Meeting.

- Responsible entity might be the BIA, Tribe, Contractor, or Construction Management Firm
Section 3

Final Inspection & As-builts

AS-BUILT’s - The WHAT
“Record Drawings”

• The next question is what to include

• Again, the format / detail / and content of as-builts should be defined up front in the process

• Full re-survey and update of the CAD Drawings, partial re-survey of utilities only, Contractor red-lines only, …. , SEE FLH CH. 2

• What delivery format? CAD files, Hard Copy drawings

Hand-Out 3.2
FLH CH.2-14. Content Guidance
Final Inspection

• Responsibility = BIA / Tribe with Contractor, Maint. present

• Required - Verify Punch List Items & general conformance with PS&E § 170.473

• Review Project File Data: QC reports, manufacturer certs, payroll, daily diaries, budget

• General Safety Audit

• Include data that could go into the Project Closeout Report

• Example Final Insp. Report
Section 4

Final Modification
Section 4

Final Modification

• May be needed to Update Contract Budget to reflect as-constructed quantities
  • (Most construction contracts are set up as fixed unit price, \textbf{estimated} quantities)

• If PL 93-638 Contract, need to have Contract Budget items be greater or equal to payment amount… so for these contracts often need Final Modification prior to Final Payment

• If Funding Agreement, still should track actual / final construction quantities…
Section 5

Final Payment, Release of Claims, Acceptance
Section 5

Final Payment

• Based on confirmed final quantities

• Progress Payments require 14 days turn around in Government Contracting, final payments are 30 days.

  • (Most construction contracts are set up as fixed unit price, estimated quantities)

• Release of Claims Document processed with Final Payment (refer to FP03 109.09 “FINAL PAYMENT”)

Hand-Out:
5.2 Example Final Budget /Payment Reconciliation
Section 5

Acceptance and Release of Claims

Final Acceptance Certification

- final certification that work completed and acceptable for quantity and quality... including Changes and Punch List Items

- Also Business Plan Appendix 15

- May serve as a cover letter to combine with Final Mod and Closeout Report
Release of Claims

- Sent out with Final Payment
- In PL 93-638 Contracts, the Tribe is the “Contractor”.
- Tribes may execute “Release of Claims” for Prime Subcontractors as well
Section 6

Construction Closeout Report
Section 6

Construction Closeout Report

• **Definite** Regulatory Requirement, **Completed within 120 Calendar Days** of Final Acceptance. ALSO, Section 6.C of BIA Funding Agreement

  • … Regulations do not define required content

• Content defined by Contract or Agency Guidelines may be used (BIA, Tribe, FHWA, other)

• In General shouldn’t be obtaining new Information, but rather compiling/summarizing existing data from original Contract Scope of Works, Changes, QA / QC results, Punch List Inspection, Final

Hand-Outs: 6.1 BIA AQTR Final Construction Report Form

6.2 FLH Example “Final Construction Report”
Section 6

Construction Closeout Report

PL 93-638 Construction Contract Close-out Content (typical)

- list accomplishments
- summarize final deliverables
  - % Complete for each if Cost Reimbursement Contract

- summarize final financial reports
  - Final SF-269/SF-425
  - Final Reconciliation

- Contract Days Used
- Beginning and Completion Dates

Project Management

"SCOPE"
Summary... from final inspection / mod

"BUDGET"
Summary... from final Mod and Payment

"SCHEDULE"
Summary... from final inspection
### Project Description
- Project Number
- Description of Work
- Environmental Items

### Project Data
- Specifications
- Termini
- Length
- Width
- Pavement Structure
- Structures
- Specifications
- Termini
- Length
- Width
- Pavement Structure

### Project Data (…continued)
- Structures
- Contract # and Date
- Contracting Officers
- Contract Bid Amt
- Engineers Estimate
- Final Contract Amt
- Contract Time
- Contractor
- Subcontractors
- Construction Eng. Costs
- Maintaining Agency

### Construction
- Materials
- Experimental / New
- Changes / Problems
- Recommendations
- Claims

### Construction Engineering
- Project Personnel
- Contract Inspection
- Other Contacts
- Partnering

### Hand-Outs: 6.2 FLH Example “Final Construction Report”

http://flh.fhwa.dot.gov/resources/manuals/cm/
## Closeout Milestones - Construction

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Regulation</th>
<th>Primary Responsible Party</th>
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<tbody>
<tr>
<td>Substantial Completion / Punch List Inspection</td>
<td>No regulation</td>
<td>Tribe</td>
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<tr>
<td>As Built Plans</td>
<td>§ 170.473</td>
<td>Tribe</td>
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<tr>
<td><strong>Final Inspection</strong></td>
<td>§ 170.473(a), § 900.131, § 1000.130(d)</td>
<td>Tribe/BIA</td>
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<td>Budget Reconciliation / Final Mod and Payment</td>
<td>§ 170.473(b)</td>
<td>Tribe</td>
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<td>Acceptance and Release of Claims</td>
<td>(internal process), § 900.131(b)10</td>
<td>Tribe / BIA ? Release of claims</td>
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<td>Closeout Report</td>
<td>§ 170.474, § 900.130</td>
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