Infrastructure Task Force
Responses to 2011 Streamlining Opportunities Report

I.   BACKGROUND

In spring 2018, the Tribal Infrastructure Task Force (ITF) federal partners were asked to respond to a GAO evaluation titled: "Drinking Water and Wastewater Infrastructure: Opportunities Exist to Enhance Federal Agency Needs Assessment and Coordination on Tribal Projects" (GAO-18-309). Each ITF agency received recommendations to, in cooperation with other members of the ITF:

(1) review the 2011 task force report[1]; and
(2) identify and implement additional actions to help increase the task force's collaboration at the local/regional/area level.

The 2011 report identifies ten recommended streamlining opportunities:
1. Coordinate agency grant funding cycles
2. Improve online application website
3. Provide online tribal resources and training
4. Increase use of IHS SDS priority list by all federal partners
5. Optimize funding
6. Fund operation/maintenance of sanitation facilities
7. Implement and standardize MOUs, MOAs, and IAs
8. Standardize environmental review process
9. Cross train federal partners
10. Reduce variations in regional funding processes

This document describes efforts that ITF partner agencies have initiated since 2011 to enhance coordination among the federal partners, as well as to streamline and simplify the way water infrastructure is financed and built with Native Americans and Alaska Native Village communities. Some activities are complete; others are ongoing.

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[1] ITF Report, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

A.   Recommendations for Executive Action and Response

Recommendation 1: Coordinate agency grant funding cycles

"Funding applicants are encouraged to leverage other funding sources to meet the financial needs of water or wastewater projects. In fact, leveraging is a rated factor when competing for a United States Department of Housing and Urban Development (HUD) Indian Community Development Block Grant (ICDBG) . Applicants often use multiple funding sources to finance these projects. Each funding agency has a unique timeline for the announcement of funding opportunities, the application process, and the award notification. For example, an (ICDBG) will not be fully approved until the applicant can demonstrate that all other funding is either in place or approved. The final approval can be quite lengthy due to the difference in agency funding cycles. Where possible, funding or funding commitment from different agencies should be made available at the same time."[2]

United States Environmental Protection Agency
While the United State Environmental Protection Agency (USEPA) does not have the ability to time the availability of funds to correspond with other federal agencies, it does cooperate extensively with other federal agencies to fund projects. The USEPA Regions work closely with the Indian Health Service (IHS) and implement approximately 90% of Drinking Water Infrastructure Grants – Tribal Set-Aside (DWIG-TSA) projects, as well as almost 100% of Clean Water Indian Set-Aside (CWISA) projects through interagency agreements. These projects often include multiple agencies collaborating to fund priority projects.

Indian Health Services, Department of Health and Human Services
The IHS Sanitation Facilities Construction (SFC) Program is not authorized to provide grant funds. However, the IHS coordinates with various federal agencies (e.g. USEPA, HUD, Bureau of Reclamation (BOR), and United States Department of Agriculture (USDA)) and tribal entities to leverage additional funding contributions in order to support the provision of sanitation facilities serving American Indian and Alaska Native homes and communities.

Rural Utilities Service, United States Department of Agriculture
Applicants can apply for Water and Environmental Program (WEP) loan and grants at any time. USDA Rural Development (RD) encourages applicants to apply as early as possible in the life of the project, to allow for time to process the application. Many state RD offices actively collaborate with federal and state funders to assist tribes identify and leverage funding sources. For example, Montana's federal/state agency relationships are formalized via the Water, Wastewater and Solid Waste Action Coordinating Team (WASACT) which includes various tribal stakeholder and partners (e.g., IHS, Governor's Office of Indian Affairs). Tribes can

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[2] ITF Report, at 22, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

request to meet with multiple funding agencies simultaneously to explore how funding from different agencies complement each other to fully fund specific projects.

Recommendation 2: Improve online application website
"Several interviewees have commented that the www.grants.gov website is difficult to use for application submission. Problems arise when the applicant does not have a reliable internet connection and through inherent shortfalls in the website software. One interviewee commented that if the applicant was successful in entering their application through www.grants.gov there would be a good chance the agency would never see it. In addition, the potential for overlap or duplicate efforts would be substantially reduced through the use of a SharePoint-style website for electronic collaboration between federal, state, and Tribal agencies involved in a grant process. This involves having the grant and/or loan applications input through a web portal for review by each relevant agency. Information developed by Tribes to apply for grants could be easily shared, and comments between agencies could be organized. An improved online application website accessible by, and transparent to, all agencies could be developed. This would enable agencies to view applications to other agencies for the same project or Tribe and could encourage inter-agency cooperation. Alternatively, this website could be developed so as to pre-populate agency applications based on a single online application (e.g., series of questions for applicant), and on the applicant's selection of funding sources requested. For example, the applicant could select funding sources upfront, and be required to fill out a single application customized for the relevant agencies. It should be noted that this website would need to be developed, implemented, advertised, and maintained. This could be the effort of a single federal partner, or could result from collaboration, and cross-agency funding."[3]

United States Environmental Protection Agency
Most USEPA funded projects do not utilize grants.gov. Implementation through interagency agreements allows the USEPA to partner with the IHS through their project funding process and help tribes avoid additional application burdens. Additionally, USEPA Regions frequently provide assistance to tribes in using grants.gov when required to implement an infrastructure project.

In addition, in 2013, the ITF partners published a common Preliminary Engineering Report (PER) format that all ITF partners now accept. Most water infrastructure projects require a PER, which streamlines the application process.

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[3] ITF Report, at 23, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

Indian Health Services, Department of Health and Human Services
The IHS Sanitation Facilities Construction (SFC) Program is not authorized to provide grant funds. Tribes do not "apply" for IHS sanitation facility project funds; hence this recommendation is not applicable to the IHS.

Rural Utilities Service, United States Department of Agriculture
RDApply, Rural Utilities Service's (RUS) loan and grant application intake system, was designed with convenience and flexibility in mind. It can be used to apply for all Water and Environmental Program (WEP) funding, including the 306(C) Native American set-aside grant funds. RD State Offices strongly encourage the use of RDApply and have received online applications from tribes. Idaho notes a few instances where applicants granted SRF staff permission to use RDApply for their own application. The electronic preliminary engineering report online tool (ePER) is based on a common template used by USDA, USEPA, IHS and HUD and provides a common method to develop the technical information usually required for funding applications.

Recommendation 3: Provide online tribal resources and training
"Tribes and ITF agency staff were interviewed about existing Tribal training for funding applications, as well as education opportunities. Tribes felt that in-depth training for funding applications should not be required if the application process is streamlined and easy enough to understand and complete. Regardless, Tribes wished to see eligibility criteria, flowcharts, and timelines for each agency to clearly facilitate the application and avoid confusion. ITF agency staff also recommended that a user-friendly Tribal funding website be developed to help the Tribes identify funding opportunities based on answers to simple questions, or on checkboxes. This website could lead to the application website described under 9.2 or be developed separately. This website could be developed along the lines of the webMD "symptom checker" website which takes the user through a series of questions to identify potential ailments. A similar structure could be developed to identify Tribal funding needs and ultimately point the Tribe to relevant funding sources, with descriptions of eligibility criteria, and a flowchart and timeline of each funding process."[4]

United States Environmental Protection Agency
In 2017, the USEPA launched the Water Finance Clearinghouse (https://www.epa.gov/waterdata/water-finance-clearinghouse) web-based portal to help communities locate information and resources to assist them in making informed decisions for their drinking water, wastewater, and stormwater infrastructure needs. The Clearinghouse includes a tribal filter to search for available funding sources and resources on financing mechanisms that can help communities access capital to meet their water infrastructure needs.

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[4] ITF Report, at 25, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

Additionally, the ITF maintains a funding matrix (https://www.epa.gov/tribal/tribal-resource-directory-matrix-federal-assistance-water-and-wastewater-treatment-services) that outlines eligibilities under a variety of federal programs. This matrix is a tool that can help tribal members, technical assistance providers, and the federal partners identify appropriate funding sources.

Indian Health Services, Department of Health and Human Services
Following the 2010 Indian Health Care Improvement Act, the IHS is responsible for annual updates of the sanitation facility needs, developed in consultation with tribes. This report to Congress forms the basis on which the IHS sanitation facilities construction project funds are allocated. The IHS guidance that describes this process (Sanitation Deficiency System (SDS) Guide) was developed through tribal consultation and is available on the IHS website (https://www.ihs.gov/dsfc/resources/). Additionally, the IHS also shares information on their project funding approach and eligibility requirements for incorporation into any ITF deliverables.

Rural Utilities Service, United States Department of Agriculture
RD supports grants to organizations that provide technical assistance and training for rural communities; some of these providers focus on tribes. Thirty organizations received 2018 grants for technical assistance and training projects totaling more than $40 million. Many were tribal organizations, including the Alaskan Native Tribal Health Consortium, Painted Desert Project (AZ), Walking Shield (CA), Native American Water Association (NV) and United South and Eastern Tribes (TN). RD state offices also offer workshops, often with other federal partners, devoted to educating tribal leaders, staff and members about funding opportunities (e.g., Washington's annual Infrastructure Assistance Coordinating Council Conference). The recipients of the technical assistance and training grants are identified on the RD website annually. State offices that offer additional training advertise via the state website, social media, and/or other local efforts. In February 2018, USDA-RD launched an online electronic version of the PER (ePER) at https://www.rd.usda.gov/programs-services/all-programs/water-environmental-programs/electronic-preliminary-engineering, which allows users to submit applications online.

Recommendation 4: Increase use of IHS SDS priority list
"Some grant funding agencies use the IHS Sanitation Deficiency System (SDS) priority lists to identify and select projects for funding, whether regularly or not, including IHS, USEPA, and USDA. Further changes to the SDS database appear to be in the works, including closer coordination with the IHS Housing Support Funds database. USEPA uses the SDS priority rankings as part of the grant allocation process, particularly for the CWISA Program. In most states, the USDA office also reviews the SDS list. Some IHS Areas use the optional SDS contribution scoring factor to assign additional points to projects where additional funds are contributed to the project by a Tribe or another federal agency. Some IHS Areas chose not to use this scoring factor for various reasons; each Area develops its own policy on how they will apply the factor. The interview process revealed that Tribes can offer to provide funding at the time of

application to increase their project's priority, but the Tribe sometimes finds it difficult to raise the funds. If other agencies participate in the SDS process, or in a potential scoring committee, the Tribe may have the opportunity to apply for funds from other agencies directly. It was also indirectly suggested that this could facilitate the transfer of funds at the headquarters level and simplify the funding process. For example, in the case of the USEPA CWISA program, USEPA funds projects directly from the SDS priority list, and the question was raised as to whether those funds could be directly awarded at the headquarters level."[5]

United States Environmental Protection Agency
When the 2011 Streamlining Opportunities Report was released, only one USEPA Regional tribal drinking water program used the IHS SDS lists to prioritize DWIG-TSA projects. As of May 2020, this has increased to five Regions. The SDS prioritization system reflects the IHS SFC program goals and objectives. It does not always align with the USEPA Regional priorities established in the Safe Drinking Water Act, and was developed in consultation with local tribes. The Clean Water Indian Set-Aside program utilizes the SDS prioritization process for all projects.

Indian Health Services, Department of Health and Human Services
The *Sanitation Deficiency System (SDS) A Guide for Reporting Sanitation Deficiencies for American Indian and Alaska Native Homes and Communities* (September 2019) describes the process the IHS uses to identify, develop, and prioritize sanitation facilities projects for funding. As described in the SDS Guide, IHS Areas have the discretion to allow contribution points as part of the Area's SDS project scoring process. The output of the SDS process is an independent project priority listing for each Area. Since the decision to allow or prevent inclusion of additional points for contributions is applied to all projects in an Area, it does not disadvantage projects in other Areas. The IHS is supportive of other agencies utilizing the SDS when making decisions about project funding. The use of the Area lists should be done in partnership and coordination with the IHS to ensure maximum utilization of funds.

Rural Utilities Service, United States Department of Agriculture
SDS was developed specifically to meet the IHS goals and objectives. RD and other agencies have their own mandated objectives. To use the full flexibility of the RD's funding programs, tying 306(c) funds to projects on the SDS list exclusively would limit the ability of the Agency to maximize funding opportunities that may combine 306(c) grants with WEP regular program loan and/or grant funds. Many RD state offices, however, have collaborative relationships with IHS offices and SDS information does get used to evaluate funding opportunities.

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[5] ITF Report, at 26, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

Recommendation 5: Optimize funding

"While ITF agencies are already making efforts to optimize the use of agency funds and ensure that available funding addresses Tribal needs efficiently, the interview process revealed additional steps that some staff took to optimize funding so as to improve drinking water and sanitation for the <u>maximum number of people</u>. These steps were all worth noting, and could be part of an overall recommendation to identify opportunities to optimize funding allocation, or could be shared with the ITF workgroup charged with identifying underutilized funding and leverage existing programs. For further information, the workgroup developed a report to Identify Underutilized Funding and Leverage Existing Programs. Overall, funding optimization efforts focus on allocating funds to ensure they are spent either more efficiently, more rapidly, or reach more Tribal members. The first example of funding optimization opportunity is the use of project phasing to fund more projects and provide funding faster. Some of the funded projects, particularly larger projects, may take years to complete, and can tie up funding over multiple years. Rather than award funding to a handful of multi-year projects, some ITF agency staff have funded projects by phasing a larger number of high-priority projects such that subsequent phases could be funded in subsequent years. This has enabled funds to reach more Tribes upfront. A second opportunity is the early funding of project components or funding requirements known to delay an application or project. Two examples are a detailed project description and cost (e.g., feasibility study or PER), and the environmental review process. Initial funding could be provided to support the development of a feasibility study, or a PER to expedite future funding. The environmental review process can also delay a Tribal project, particularly in areas with important environmental resources or with limiting environmental conditions (e.g., harsh winter with small window of opportunity for application process and funding award before it is too late to start construction). Some ITF agency staff recommended allocating some funds upfront for completion of the environmental review ahead of other application or funding requirements; however, federal agencies must re-evaluate those reviews prior to starting construction and some requirements have regulatory time limits, so phasing the environmental review may not always be an advantage. Staff resources are limited and funding optimization may involve focusing efforts on projects that will be funded. IHS often assists the Tribes in completing their funding application processes and much work can be done for projects that will ultimately not be funded. These efforts could have been re-assigned to other higher priority projects. It was recommended that some agencies develop a shortlist of projects to avoid work on projects that will not be selected, and enable IHS to focus efforts and limited resources on high priority projects. Finally, alternate funding sources or programs may help stretch available funding. For example, when regular funding is limited, USDA may encourage Tribes to apply for disaster funding to get their project funded faster."[6]

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[6] ITF Report, at 27, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

United States Environmental Protection Agency
The USEPA drinking water program has made greater use of funding planning projects to ensure project readiness when construction funds are provided. The 2013 Drinking Water Infrastructure Grants – Tribal Set-Aside guidelines explicitly included funding of preliminary engineering reports as an eligible project, and Regional programs are encouraged to fund preliminary engineering reports as a method of ensuring USEPA priority projects are ready for construction funding. Additionally, the USEPA partners closely with the IHS, which helps to ensure that projects are ready to fund before receiving construction funding. They also frequently make use of project phasing to ensure viability and feasibility of projects.

Indian Health Services, Department of Health and Human Services
Project planning prior to funding is an important aspect of the IHS's project funding approach. Prior to funding, all IHS projects must have a well-defined scope, detailed cost estimate, and mitigation of risks to construction, operation and maintenance, which is certified by the Area Sanitation Facilities Construction Program Director. The necessary work to achieve this objective is typically performed by IHS staff utilizing program funding. The goal of these efforts is to ensure funded projects can proceed without delay to procurement and construction.

The IHS can assist in identifying other contributing fund sources, and when requested by tribes, can assist in the development of project applications for these funds. The IHS works continually to ensure the efficient utilization of resources from the IHS and other contributors.

Office of Native American Programs, Department of Housing and Urban Development, HUD
HUD's Office of Native American Programs (ONAP) recently announced nearly $200 million in Competitive Indian Housing Block Grant awards to 52 Native American Tribes and Tribally Designated Housing Entities for new housing construction, housing rehabilitation, and critical infrastructure projects to be executed by the Tribal applicants across the nation. The awards were made under a Notice of Funding Availability in a competition encouraging the proposal of projects that are part of a long-term, comprehensive plan to address housing conditions in Tribal communities, including overcrowding and physical deterioration of units. Applicants were also encouraged to ensure that the proposed projects are part of a holistic plan that considers planned future infrastructure development, economic development opportunities, and more. HUD received almost 200 applications. The funds awarded will help Tribes construct more than 1,100 new housing units for low-income families living on Indian reservations or in other Indian areas, and spur economic opportunities in distressed communities. To optimize utilization of the funding and reach as many projects as possible, ONAP limited the funding available for each grant to $5 million and gave points in the competition for, among other things, leveraging additional funding from other sources. This resulted in a majority of the awards leveraging additional resources. ONAP is currently working on another Notice of Funding Availability for an additional $100 million in Competitive Indian Housing Block Grant funding to be issued soon. The Indian Community Development Block Grant program also limits the funding available for each grant (the amount varies by Area Office) and gives points for leveraging.

Rural Utilities Service, United States Department of Agriculture
RD is implementing several activities to optimize the funding process for all applicants. Planning grants such as the special evaluation assistance for rural communities and households (SEARCH) and pre-development planning grants-PPG, can assist applicants in developing their projects, including conducting the environmental review, and developing the PER. RD also encourages the use of interim financing to ensure streamlined development and construction of projects. Also, unlike most other federal grant programs, the RD WEP regular program pools unused funds twice per year to ensure funds are used nationwide in an effective, timely, and efficient manner for projects or phases that are ready to receive funding. RD maintains a nationwide backlog of applications at any given time and is agile enough to fund projects in phases.

Recommendation 6: Fund operation/maintenance of sanitation facilities
"Funding for Operation and Maintenance of Sanitation Facilities. Most agencies cannot use their available funds for long-term O&M of water or wastewater facilities, and Tribes often do not have the financial or technical capacity to fund and maintain continued operations. This causes reduced system life, early replacement needs for parts, and resulting upgrade or repair projects. The ability to adequately fund O&M can make systems run more cost effectively and can reduce future capital costs created by poor maintenance practices. USDA sees an opportunity to build capacity with the Tribes utilizing grant funds for technical assistance to help train operators and manage systems but does not feel they should be paying for operating expenses. This issue was noted as not Tribal-specific, but rather affecting all rural and remote communities. While the O&M issue is being addressed by another workgroup, the interview process resulted in many valuable recommendations that are provided for reference, or for communicating to the other workgroups and to ensure the information is not lost."[7]

United States Environmental Protection Agency
Since its inception in 1997, the USEPA Public Water Supervision System (PWSS) program has provided compliance assistance, capacity development, and operator certification for tribal water utilities. This program has been funded at greater than $6M annually since 2003. The majority of these funds contribute to compliance assistance activities.

The 2016 Water Infrastructure for Improvements to the Nation (WIIN) Act expanded the authority of the Drinking Water Infrastructure Grants – Tribal Set Aside (DWIG-TSA) funds to allow the funds to be used for training and technical assistance for tribal water utilities in addition to drinking water infrastructure construction.

In August 2018, the USEPA, in cooperation with the Association of State Drinking Water Administrators, held a/the Drinking Water Capacity Development and Operator Certification

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[7] ITF Report, at 29, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

workshop in Indianapolis with a tribally focused track. This conference convened technical assistance providers, operator certifiers, tribal utilities, and federal agencies from across the nation to discus and share practices in increasing tribal utility capacity and to ensure appropriate operations and maintenance of infrastructure.

In 2017, the USEPA Clean Water Indian Set Aside (CWISA) program received a new authority from Congress to use up to $2 million of the $30 million of CWISA funds for training, technical assistance, and education programs for wastewater utility systems in Indian country and Alaskan Native Villages. While the USEPA has had this authority for drinking water systems, this is a new source of funds for wastewater systems. The USEPA is working with the IHS to implement this and is planning to distribute $2 million in FY17 funds and $2 million in FY18 funds for a total investment of $4 million to help ensure the built infrastructure either meets or exceeds its design life.

In 2012, the ITF developed the 2-page "Commonalities" paper that documents the best practices among tribes that have helped improve the sustainability of their water and wastewater infrastructure. It is based on a series of six listening sessions from tribal communities and is online at: https://www.epa.gov/tribal/infrastructure-task-force-summary-commonalities-and-best-practices-tribal-utilities. Enhancing the sustainability of utilities improves operations and maintenance through ensuring appropriate resources, increasing operation efficiencies, ensuring the long-term viability of the utility, and more.

Indian Health Services, Department of Health and Human Services
The IHS offers technical assistance to tribes through their Environmental Health Support Center (https://www.ihs.gov/ehsc/classes/) with a goal of improving the technical, managerial, and financial capacity of tribes to operate and maintain the sanitation facilities constructed with IHS project funding. In addition to technical assistance, the IHS also has the authority to provide financial assistance to Indian tribes and communities to operate, manage, and maintain the sanitation facilities supported by IHS project construction funding. Congress has not appropriated funds to provide for this financial support, but in order to understand the magnitude of the needed funding the IHS is leading the data gathering and report development of an Operations and Maintenance (O&M) Cost assessment study. The cost studies will assess the actual costs of American Indian and Alaskan Native water and wastewater utilities. The studies assess the difference in O&M spending levels at benchmark tribal utilities deemed as adequately funded, to a random sample of tribal utilities. This study is planned for release in calendar year 2020.

Rural Utilities Service, United States Department of Agriculture
RD is prohibited from funding O&M of sanitation facilities as per Section 306C of the Consolidated Farm and Rural Development Act (CONACT), which designates that grants be specifically used for the extension or improvement of water supply and drainage or waste disposal facilities. RD does, however, support training and technical assistance and works with

partners that support apprenticeship programs and certification programs to ensure properly trained operators are working with rural community water and waste facilities, often in partnership with other state and federal agencies.

<u>Recommendation 7: Implement and standardize MOUs, MOAs, and IAs</u>
"Project funding involves agreements at many levels, including MOUs between partnering agencies that spell out partner roles and responsibilities, MOAs between the IHS and the Tribe and its funding partners, and IAs between agencies for certain funding opportunities. Many of these agreements could be streamlined, or agencies could develop templates to expedite the signing process. Some agreements (e.g., IAs) may be valuable at the headquarters level to avoid all agency regions/areas having to sign them individually. There may be value in developing an MOU for streamlining the environmental review process, for developing a preliminary engineering report, and for tracking funding. The IHS uses an MOA for each project it funds to spell out the roles and responsibilities of the Tribe involved and each funding partner. Use of a single template MOA across multiple agencies may help the streamlining effort. For example, it appears that most Tribes are combining similar grant packages from different agencies to accumulate enough money to fund a project. Standardized agreements could potentially be developed that spell out in more detail how funding from different agencies can be bundled."
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United States Environmental Protection Agency
The majority of DWIG-TSA and CWISA projects are implemented through Interagency Agreements (IA) with the IHS. The USEPA consolidated IA administration to the Interagency Agreements Shared Service Center West office. This streamlined the former process of administering agreements at individual regions. All Regional Project Officers now work closely with the same administrative office to establish and manage interagency agreements with IHS Areas. This offers consistency between regions and facilitates program improvements coordinated through Headquarter offices.

Indian Health Services, Department of Health and Human Services
The Memorandum of Agreement (MOA) is a unique tool that the IHS utilizes to define its relationship with tribes in the delivery of sanitation facilities construction projects. The authority of the IHS to utilize MOAs for providing assistance to tribes is described in Public Law 86-121. When other partners elect to jointly fund projects, the relationship between the IHS and that entity is typically established in a separate agreement either through an Interagency Agreement (IA) when fund transfers to the IHS occur, or a MOU when another type of collaboration is desired.

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[8] ITF Report, at 30, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

Rural Utilities Service, United States Department of Agriculture
RD typically approves financial assistance directly to communities and does not use MOUs, MOAs, or IAs to fund tribal projects. When MOAs are used, it is for a project-specific reason such as to ensure that both tribal and federal rules are followed in a reasonable fashion, while reducing the paperwork burden on Tribes.

Recommendation 8: Standardize environmental review process

"Develop a Standard Environmental Review Process. All federal agencies are required to comply with the same federal environmental laws, regulations, and Executive Orders, but their guidance is agency-specific, and can differ significantly across agencies. Environmental review forms across multiple agencies request similar information, and certain agencies accept applications submitted to other agencies. A formal review of all environmental review processes and required documentation could help identify specific materials that can be used across agencies. Many agencies use a standard, but different checklist to evaluate environmental issues. It is worth evaluating if these could be consolidated into one document acceptable to all involved. This standard checklist could be developed through an IA. A single checklist could be developed with a first section on common requirements across all agencies, and separate sections relevant to specific funding agencies requirements. In addition, selecting a lead agency can help the process. It should be noted that a lead agency designation may need to be assessed on a project-by-project basis. If a lead agency is not identified, agencies might be able to use other agencies" environmental review documents to make their own determinations."[9]

United States Environmental Protection Agency
Under the direction of the ITF, in 2011, the USEPA and the ITF partners published a matrix titled "Review of Agency Requirements for Complying with the National Environmental Policy Act (NEPA) for Tribes and Alaskan Native Villages." The information is summarized from the federal agency regulations and guidance documents and can be used by potential applicants to the federal funding programs to identify environmental review priorities of each federal agency. The USEPA is also participating in a HUD led workgroup to streamline NEPA processes.

Indian Health Services, Department of Health and Human Services
In a March 2014 report to Congressional committees entitled "Native American Housing: Additional Actions Needed to Better Support Tribal Efforts," the Government Accountability Office (GAO) made several recommendations, including the establishment of a "coordinated environmental review process for all agencies overseeing tribal housing development."[10] Relying

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[9] ITF Report, at 31, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

[10] GAO REP. NO. 14-255, at 34, *Native American Housing: Additional Actions Needed to Better Support Tribal Efforts* (March 2014) [hereinafter *GAO report*], *available at* http://www.gao.gov/assets/670/662063.pdf.

in part on the GAO report, in December 2014, the Senate Report accompanying the FY 2015 Transportation and Housing and Urban Development (HUD), and Related Agencies Appropriations Bill directed HUD "to collaborate with the Council on Environmental Quality and affected agencies . . . to develop a coordinated review process to simplify tribal housing development and its related infrastructure needs."[11] The IHS has been actively involved with the HUD lead workgroup focused on this topic.

The CEQ published a Notice of Proposed Rulemaking on January 10, 2020, with revised NEPA regulations. The regulations were made available for a public comment period that ended March 10th, 2020. If promulgated, these regulations would significantly streamline the NEPA compliance process, especially with regard to interagency cooperative efforts, including allowing for the use of Categorical Exclusions developed by other agencies. In the Summary section of the Federal Register Notice, CEQ stated, "If finalized, the proposed rule would comprehensively update and substantially revise the 1978 regulations." The proposal in the 2011 ITF document may no longer be current after such a comprehensive streamlining effort is completed by CEQ. Therefore, the IHS recommends waiting until the government-wide effort is complete before taking a fresh look at whether additional efforts across the ITF agencies are warranted.

Office of Native American Programs, Department of Housing and Urban Development, HUD HUD ONAP has been the lead agency to streamline federal agency NEPA processes for housing and housing infrastructure projects on tribal lands. This effort has been on hold for some time because of the loss of ONAP staffing to direct the effort. Prior to that staffing loss, ONAP organized a Coordinated Environmental Review Process Work Group (CERPWG). The CERPWG issued a report in 2015 with recommendations for streamlining and coordinating NEPA reviews. A plan to implement these recommendations was developed with input from participating agencies and tribes and is near finalization. In addition, the participating agencies in the CERPWG drafted an MOU to encourage use of NEPA efficiency tools, which is in the process of obtaining signatures from the appropriate agency officials. On September 19, 2019, the Senate Committee on Appropriations issued a report accompanying the Transportation, and Housing and Urban Development, and Related Agencies Appropriations Bill (S. 2520). S. Rept. 116-109. In it, the Committee noted the gap in CERPWG activity and directed HUD to establish and lead a Tribal Housing and Related Infrastructure Interagency Task Force within the calendar year that includes the previous participating working group agency partners. This Task Force is to address and implement CERPWG's recommendations, including the continued review of environmental laws and authorities to identify opportunities for greater efficiencies; exploring whether environmental reviews could be expedited if agencies developed aligned categorical exclusions; and identifying specific regulatory and policy improvements. ONAP is currently in process of hiring staff to support this effort. On January 10, 2020, the Council on Environmental Quality (CEQ) published 85 Fed. Reg. 1684, a proposed rule to update its regulations for

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[11] S. REP. NO. 113-182, at 121 (2014), accompanying S.2438, *available at* https://www.congress.gov/113/crpt/srpt182/CRPT-113srpt182.pdf.

implementing the procedural provisions of NEPA. CEQ's proposed rule includes a number of changes that mirror some of the recommendations of the CERPWG. Accordingly, the Task Force will need to work within the parameters of CEQ's rulemaking process. Finally, ONAP leveraged the fact that streamlining and coordinating NEPA requirements is also a HUD-wide initiative to set aside funds and select a provider though a cooperative agreement for the creation of a single form for NEPA environmental review. The form is intended to be utilized within HUD and by the participating agencies. ONAP will utilize the Task Force to prepare a work order so that the objectives of all the Task Force members can be met. ONAP hopes the initiation of the Task Force and this process will begin soon after the needed staff is on board.

Rural Utilities Service, United States Department of Agriculture
In 2016, RD issued a combined Environmental Policies and Procedures Regulation that brought all of Rural Development under one regulation and updated the regulation to reflect years of Agency experience.

In 2018, the Agency, in consultation with the Advisory Council on Historic Preservation, the National Trust for Historic Preservation, the National Conference of State Historic Preservation Officers and the National Association of Tribal Historic Preservation Officers, developed, signed, and executed a National Programmatic Agreement (NPA) under the National Historic Preservation Act (NHPA). The NPA allows obligation and/or phasing of projects to occur prior to completing Section 106 of the NHPA while acknowledging that Section 106 will be completed prior to construction or awarding of a project. This allows the applicant to provide the agency with information needed to complete Section 106 when it becomes available, particularly for projects that may span one to five years or longer. Projects can be composed of multiple components that are rarely staked or precisely located and/or, where the nature of the undertaking is often unclear prior to the obligation of funds. Additionally, the NPA can be applied when the applicant does not have the financial ability to fund Section 106 reviews, and/or the analysis of alternatives, without some level of confidence that RD's low interest funding or grants will be available to assist them, or to avoid an impending pooling or interest rate change deadline. The use of the NPA dramatically streamlined the NHPA review process prior to obligation and allowed sufficient time to complete Section 106. This ensures that the agency is in compliance with the law, as well as helps applicants gain access to the funds they need for these important programs.

RD has also been actively involved in the HUD led Coordinated Environmental Review Process Work Group (CERPWG).

Recommendation 9: Cross train federal partners
"One of the biggest obstacles to inter-agency collaboration and to process streamlining is the fact that most ITF agency staff are not always familiar with other agencies' policies, procedures, and funding requirements. The State of Alaska seems to be at the forefront in many of the streamlining opportunities identified in this report, with a strong inter-agency collaboration.

This is in part by necessity where projects are expensive to build and environmental conditions are extreme (e.g., weather, short construction season, extreme isolation), in part due to all local agency offices focused solely on the State of Alaska, but more importantly due to staff having worked at multiple agencies. Cross-training is therefore an important streamlining recommendation, and could occur across agency offices, but preferable across agencies with exchange of staff, or staff sent on detail for periods of time at other agencies."[12]

United States Environmental Protection Agency
Several ITF agency headquarters have hired staff from other ITF agencies, including an USEPA Headquarters engineer who was formally employed by the IHS. The USEPA and the IHS hold biennial meetings to coordinate program implementation. These meetings also serve to cross train staff from both agencies. Additionally, in conducting the USEPA's Drinking Water Infrastructure Needs Survey and Assessment, the USEPA will be training IHS staff to assist USEPA staff in data collection.

Indian Health Services, Department of Health and Human Services
The USEPA continues to provide the IHS, through IAs, the majority of their appropriated funding for the planning, design, and construction of water and wastewater facilities supporting Indian tribes. The IHS also signed an IAs with the USEPA for over $4 million to carry out technical assistance in support of operation and maintenance at tribal water and wastewater utilities.

The IHS Headquarters hosted on May 1, 2019, a joint face to face meeting with the USEPA to discuss areas for increased collaboration. The meeting included representatives from the IHS Area Offices, USEPA Headquarters and USEPA Regions. During the meeting there was discussion on data sharing, best practices for identifying sanitation facilities projects for joint funding collaboration, and report outs on progress made with managing interagency agreement closeouts. It is anticipated that similar meetings will reoccur every 2 years as resources allow.

The IHS is also assisting the USEPA to collect data on American Indian public water systems for the 2020 Drinking Water Needs Infrastructure Survey and Assessment (DWINSA). The DWINSA is a requirement of the USEPA under the Safe Drinking Water Act, and the data will be used to estimate the public water system infrastructure needs of the next 20 years. A joint training session between the USEPA and the IHS on the data collection requirements of the DWINSA was recently delayed due to the COVID 19 pandemic and will occur prior to initiation of the survey.

Additionally, two IHS Headquarters staff have extensive experience working within USDA's Rural Utility Service and the USEPA's Tribal Drinking Water Program.

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[12] ITF Report, at 32, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

Rural Utilities Service, United States Department of Agriculture
RD staff participate in several interagency workgroups and work closely with federal funding partners at the state and national levels. RD encourages information sharing about processes and procedures to enhance collaboration to fund critical infrastructure projects. RD Idaho, for example, holds joint training with SRF, CoE and CDBG for their engineers and environmental consultants every 2 years. RD Washington meets with funding partners once per month and participates frequently in state and federal agency workshops and planning sessions.

Recommendation 10: Reduce variations in regional funding processes
"Most, if not all, of the agencies involved in the ITF have portions of the funding processes handled at the regional or state level and there are inconsistencies in how each area or region handles their portion of the work. This is particularly true for USEPA DWIG-TSA, which delegates the funding allocation process to its Regions. Each USEPA Region has a slightly different process for awarding drinking water and clean water infrastructure grants. It is understood that USEPA is investigating this issue and may be evaluating the potential to create a single grants office to process the awards. This is less of an issue for IHS as its 12 Areas are based on Tribal entities, with a Tribe included in a single IHS Area. This issue should be investigated further for all ITF agencies to see how it could support the streamlining process. It is worth discussing during the January 2011 ITF Streamlining Paperwork Workgroup meeting, but may have a lower priority than other streamlining recommendations."[13]

United States Environmental Protection Agency
To address this recommendation, the USEPA reviewed, updated, and published their key guidance documents for both the DWIG-TSA and CWISA programs. The updated documents direct Regions on such topics as: how to appropriately manage and coordinate the funds, clarification on eligible activities, and roles and responsibilities. While each Region is responsible for developing its own DWIG-TSA project selection process in consultation with tribes, the agreements implementation process has streamlined significantly. The use of one single administrative unit for implementing DWIG-TSA and CWISA agreements has led to consistency in management of USEPA agreements with the IHS for both programs.

Indian Health Services, Department of Health and Human Services
As described in the IHS Strategic Plan for FY 2019 to 2023 the SFC Program is "*promoting excellence and quality thorough innovation of the Indian health system into an optimally preforming organization*" by focusing on quality data. The SFC Program has undertaken a multi-year process to review and improve the data quality associated with the sanitation facilities projects in SDS. This includes an annual review by IHS Headquarters of all projects in the SDS.

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[13] ITF Report, at 33, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities (2011)*, *available at* https://www.epa.gov/sites/production/files/2015-07/documents/application-processes-recommended-paperwork-streamlining-opportunities.pdf.

During CY 2019, that included over 1,500 projects with an estimated construction cost of over $2.56 billion. This data is used by IHS Headquarters to allocate IHS project funding.

An output of the data quality effort is improved assurance that project deficiencies are uniformly and consistently assigned by all Areas. One outcome of the improved data is that project funds allocations are made based on projects that are scored consistently with requirements of the Indian Healthcare Improvement Act.

Rural Utilities Service, United States Department of Agriculture
RD's statutory requirements and regulations outline specific requirements for processing the WEP loan and grant programs. Additionally, RD has guidance, controls and review processes in place to ensure the WEP program is administered in a uniform fashion in each State Office. Consequently, this recommendation has limited utility for RD.