



INDIAN ALCOHOL AND SUBSTANCE ABUSE

MEMORANDUM OF AGREEMENT (MOA)

BETWEEN

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS),

U.S. DEPARTMENT OF THE INTERIOR (DOI),

AND

U.S. DEPARTMENT OF JUSTICE (DOJ)

I. Purpose and Parties

This MOA coordinates the efforts of HHS, DOI, and DOJ to assist American Indian and Alaska Native communities in achieving their goals in the prevention, intervention, and/or treatment of alcohol and substance use disorders. The purpose of this MOA is to establish the framework for the Substance Abuse and Mental Health Services Administration (SAMHSA) through the Office of Indian Alcohol and Substance Abuse (OIASA); Indian Health Service (IHS); Bureau of Indian Affairs (BIA); Bureau of Indian Education (BIE); and, components of DOJ, to implement certain provisions of the Indian Health Care Improvement Act (IHCIA) and the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (hereafter referred to as "IASAPTA"), as amended by the Tribal Law and Order Act of 2010 ("TLOA"), that results in the coordination of resources and programs.

This MOA replaces and supersedes two previous MOAs that were entered into pursuant to provisions of the IHCIA, enacted under Section 10221 of the Affordable Care Act (P.L. 111-148), and IASAPTA, as amended by TLOA:

- The October 2009 Memorandum of Agreement between the Indian Health Service of the Department of Health and Human Services and the Bureau of Indian Affairs and Bureau of Indian Education of the Department of the Interior on Indian Alcohol and Substance Abuse Prevention, as amended on March 1, 2011, and
- The Indian Alcohol and Substance Abuse Memorandum of Agreement between U.S. Department of Health and Human Services, U.S. Department of the Interior, and U.S. Department of Justice, published at 76 Fed. Reg. 47599 (Aug. 5, 2011).

This MOA coordinates HHS, DOI, and DOJ efforts in order to reduce duplication, improve efficiency, and target joint outcomes that improve the health and well-being of Indians.

II. Background

Congress has found and declared that “the Federal Government has a historical relationship and unique legal and moral responsibility to Indian tribes and their members;” that “included in this responsibility is the treaty, statutory, and historical obligation to assist the Indian tribes in meeting the health and social needs of their members;” and that alcohol and substance misuse are “the most severe health and social problem[s] facing Indian tribes and [their members]” 25 U.S.C. § 2401 (1), (2), & (3). In a 2014 National Survey on Drug Use and Health report, the rate of substance dependence or misuse among persons aged 12 or older was higher among American Indians or Alaska Natives than any other population group. Among other issues, underage drinking increases the risk of suicide and homicide, physical and sexual assault, using and misusing other drugs, and is a risk factor for heavy drinking later in life.

III. Authority for MOA

The Indian Health Care Improvement Act as permanently reauthorized under Section 10221 of the Affordable Care Act (P.L. 111-148) and the Indian Alcohol and Substance Abuse Prevention and Treatment Act (Title IV, Subtitle C of Public Law 99-570), as amended by Section 241 of Title II of the TLOA of 2010 (P.L. 111-211).

IV. Policy

It is the policy of HHS, DOI, and DOJ that all activities undertaken pursuant to this MOA, shall be done in a manner that is least disruptive to tribal control. All new activities undertaken pursuant to this MOA shall supplement, not supplant, ongoing activities and programs. The Secretary of HHS, the Secretary of the Interior, and the Attorney General, acting through their respective departments, shall implement this MOA in cooperation with Indian tribes.

V. Coordination of Efforts

The federal partners identified in IHCIA and IASAPTA (HHS, DOI, and DOJ) oversee programs, including prevention and treatment programs, that respond to the consequences of substance (including alcohol and drugs) misuse and substance use disorders and their impact on public safety and health (e.g., education, social services, justice services, law enforcement, behavioral health, acute and chronic medical care services). There is a need to align, leverage, and coordinate federal efforts and resources at multiple levels within the applicable partner departments to effectuate more comprehensive prevention, treatment, and recovery services and programs for American Indian and Alaska Native individuals, families, and communities.

HHS, DOI, and DOJ, as applicable, shall coordinate existing alcohol and substance use, child abuse and neglect, and family violence programs and resources. HHS, DOI, and

DOJ will also develop and maintain a sustainable partnership infrastructure that engages other federal agencies and offers a holistic approach to addressing alcohol and substance use issues faced by American Indians and Alaska Natives in the following areas:

1. **Scope of Problem**: HHS, DOI, and DOJ, through the Coordinating Committee (see Section VII below), will coordinate with other federal agencies, Indian tribes, and other non-federal partners to determine from available data the scope of alcohol and substance use and co-occurring conditions.

In accordance with 25 U.S.C. § 2413(b)(2)(A), SAMHSA shall have responsibility for coordinating with other federal partners to monitor the: (a) determination of the scope of alcohol and substance misuse among Indian tribes, including the financial and human cost; and (b) assessment of the existing and needed resources for the prevention of alcohol and substance misuse and the treatment of Indians affected by alcohol and substance use disorders.

IHS shall assume responsibility for determination of the scope of the problem of alcohol and substance misuse and mental illness among Indians, including data on the number of Indians eligible for IHS services who are directly or indirectly affected by alcohol and substance use and the financial and human cost; assessment of the existing and needed resources for the prevention of alcohol and substance misuse and the treatment of Indians; estimation of the funding necessary to adequately support a program of prevention, treatment and recovery of alcohol and substance use. IHS shall provide available data to the Coordinating Committee.

DOI shall provide to the Coordinating Committee available data on the scope of child abuse and family violence among Indians and the unmet need for additional services, resources, and programs necessary to improve the health and well-being of Indians.

2. **Minimum Program Standards**: HHS, DOI, and DOJ, through the Coordinating Committee and in consultation with tribes, will develop and establish minimum program standards, as appropriate, for alcohol and substance use treatment, emergency medical assessments, transitional housing and emergency shelters. These standards may be based upon existing federal, state, or tribal standards.
3. **Identification of Programs and Resources**: SAMHSA, through OIASA, will take the lead role, in coordination with IHS, DOI, and DOJ, in compiling a listing of federal, state, tribal, local, and private alcohol and substance use programs and resources. HHS, DOI, and DOJ, via the Coordinating Committee, will coordinate with tribes and other non-federal partners to identify existing federal, state, local, and private services, resources, and programs that could be useful in the development of Tribal Action Plans (TAPs).
4. **TAP Development**: The federal partners commit to coordinating available programs and resources to facilitate the establishment of TAPs for all tribes as described at 25 U.S.C. § 2412, and to cooperate fully with any tribe that adopts a resolution (or legally-equivalent action) to establish and implement its TAP. The purpose of a TAP

is to coordinate available resources and programs in an effort to combat alcohol and substance misuse among the tribe's members. SAMHSA will serve as the point of contact for Indian Tribes regarding the implementation of TAPs. Where a tribe does not resolve to develop a TAP, the federal partners commit to identify and coordinate their available programs and resources for such tribe.

5. **Newsletter:** DOI shall publish the newsletter described in 25 U.S.C. § 2416(a) on a quarterly basis and include reviews of exemplary alcohol and substance use programs. The newsletter shall be circulated without charge to schools, tribal offices, BIA agency and area offices, IHS' area and service unit offices, IHS's alcohol programs, and other entities providing alcohol and substance use related services or resources to Indians. HHS will cooperate to the extent allowable by agency resources to provide relevant content for the newsletter.
6. **Law Enforcement and Judicial Training:** BIA, Office of Justice Services (OJS), in coordination with DOJ, will develop and implement the law enforcement and judicial personnel training, as described in 25 U.S.C. § 2451, with other agencies providing support, as appropriate.
7. **Child Protection, Child Welfare, and Child Abuse and Neglect Data:** BIA, Office of Indian Services (OIS), in coordination with, DOJ and IHS will seek input from local tribes to define the scope of services appropriate to tribal area needs; identify available resources for Indian children who are affected by alcohol and substance use and who are at risk for abuse and/or neglect; and strengthen interagency, multidisciplinary approaches to prevent abuse and neglect of such children.

As provided in 25 U.S.C. § 2434, and in accordance with applicable confidentiality laws, including 42 U.S.C. 290dd-2 and 42 CFR part 2, BIA (OIS) will compile annual data relating to the number and types of child abuse and neglect cases and the type of assistance provided. The cases will be categorized by involvement of alcohol and substance use, recurrence and involvement of minor siblings, when possible.

In the compilation and reporting of the data, all necessary measures will be taken to preserve the confidentiality of families and individuals and to protect personally-identifiable information from unauthorized or inappropriate use and disclosure.

8. **Juvenile Detention Centers:** BIA (OJS) and DOJ, in consultation with tribal leaders and tribal justice officials, developed a long-term plan for the construction, renovation, and operation of Indian juvenile detention and treatment centers and alternatives to detention for juvenile offenders, as described in 25 U.S.C. § 2453, and issued a report entitled, "TLOA Long Term Plan to Build and Enhance Tribal Justice Systems (August 2011) that can be located at <https://www.justice.gov/sites/default/files/tribal/legacy/2014/02/06/tloa-tsp-aug2011.pdf>. Federal partners will continue to coordinate on the implementation of the plan.

9. **Model Juvenile Code:** DOJ and DOI, in consultation with HHS (SAMHSA), and in cooperation with tribal leaders, tribal law enforcement, and tribal justice systems developed a Model Indian Juvenile Code as described in 25 U.S.C. § 2425 which will be published in the Federal Register by the end of 2016. Federal partners will continue to coordinate on supporting the use of this Model Code by interested tribes.
10. **BIE-IHS Collaboration and Local MOAs:** IHS and BIE will collaborate in mutually beneficial ways:

Youth Regional Treatment Centers (YRTCs): IHS and BIE will work collaboratively to establish educational partnerships through regional MOAs between IHS federally-operated YRTCs and BIE schools to address the educational needs of the Indian youth receiving treatment in YRTCs. IHS will continue to provide funding support for the operation of its existing YRTCs. Each MOA will be tailored for the provision of an accredited educational program, including options for distance learning and appropriate equipment and resources to support the educational requirements for residential youth as part of the holistic care they receive.

VI. Coordination Responsibilities

SAMHSA is charged with, among other things, improving coordination among federal agencies and departments carrying out the IASAPTA (25 U.S.C. § 2413(b)(1)(A)). SAMHSA, acting through its OIASA, shall provide for ongoing process and performance review and improvement of the coordination among federal partners, between federal partners and tribes, and collaborating federal departments and agencies with regard to Indian alcohol, substance use, and related programming.

OIASA shall coordinate with federal partners and collaborating departments and agencies to provide the most effective, accessible, culturally-adaptive, medically-sound, and evidence-based services to address the causes, correlates, and effects of alcohol and substance use affecting Indian communities. OIASA shall also coordinate with federal partners on ways to monitor the performance and compliance of the relevant federal programs in achieving the goals and purposes of this MOA in accordance with 25 U.S.C. § 2413(b)(2)(A), and serve as a point of contact for tribes and Tribal Coordinating Committees as described at 25 U.S.C. § 2413(b)(2)(B).

VII. Committees and Workgroups

Federal coordination will occur through interdepartmental committees and workgroups, which will include: (1) an Executive Committee comprised of Principals of HHS (IHS and SAMHSA), DOI (BIA and BIE), and DOJ; (2) a Coordinating Committee comprised of representatives from federal partners, and (3) workgroups that include participation from the federal partners, collaborating agencies, and national experts on the topics taken up by the workgroups.

In order to assure that coordination efforts are pursued in a continuing and timely fashion, the Executive Committee, Coordinating Committee, and workgroups will meet routinely.

These committees are intended to ensure that relevant guidance and direction are provided, activities supported by this MOA are reviewed routinely, relevant information is shared, progress is reported continually and an annual progress report is compiled, and new areas for coordination are explored as the need arises. In addition, other meetings may be arranged to support specific projects.

In order to accomplish the purposes of this MOA, the federal partners and collaborating agencies may realign or otherwise restructure any workgroup functioning under the auspices of the Coordinating Committee.

VIII. Tribal Consultation

Consistent with Executive Order 13175 of November 6, 2000, the Presidential Memorandum on Tribal Consultation of November 5, 2009, applicable federal law, and their specific consultation policies, the federal partners will coordinate consultation activities, as necessary, relating to this MOA.

IX. Period of Agreement

This MOA shall be effective from the last date of all signatures and remain in effect until terminated by applicable federal law or the parties to the MOA acting jointly, or until there is a change in law authorizing and requiring an MOA.

X. Review, Modification, and Provisions for Amending the MOA

Under the direction of the Executive Committee, and through the Coordinating Committee, shall review this MOA annually within a month of the anniversary of the signing of the MOA. The MOA, or any of its specific provisions, may be modified with the written approval of each signatory to the MOA. Such approval must be provided in writing and must be signed by an authorized representative of the signatories. OIASA will publish a copy of the amended MOA in the Federal Register and DOI (BIA) will disseminate it to each federally recognized Indian tribe.

XI. Discontinuance of Participation

A party may, subject to applicable federal law, by written notice (with at least 60 calendar days notification to each of the other parties) end its participation in this MOA, in whole or in part, when that party determines that it is unable to continue participation in the activities of this MOA.

XII. Disclosure of Information

The parties to this MOA will comply with all applicable federal laws and regulations governing the disclosure of information, including but not limited to the Freedom of Information Act, as amended (5 U.S.C. § 552), the Privacy Act of 1974, as amended (5 U.S.C. § 552a), the Health Insurance Portability and Accountability Act, and 42 U.S.C. §290dd-2 and 42 C.F.R. Part 2. Where disclosure of information generated under this

MOA is requested and permitted by law, the parties to this MOA will provide notice to collaborating agencies, through the Coordinating Committee, prior to disclosure. This MOA does not contemplate the use or disclosure of alcohol or drug use disorder treatment patient records, except as expressly permitted by law.

XIII. Limitations

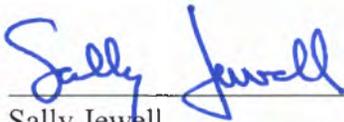
Nothing in this MOA constitutes an obligation of funds by any of the parties or an authorization to engage in activities that are inconsistent with applicable law or policy. Similarly, nothing in this MOA restricts or otherwise limits departments from engaging in activities that are otherwise consistent with applicable law or policy.

In addition, nothing in this MOA creates or conveys any rights or potential causes of action to any person, federally recognized Indian tribe, or other entity that may be affected by this MOA. All activities and projects initiated or implemented as a result of this MOA are subject to the availability of appropriated funds. Nothing in this MOA precludes the signatories from entering into interdepartmental agreements for services. Under this MOA, no transfer of funds or full-time equivalency is required between federal partner departments.

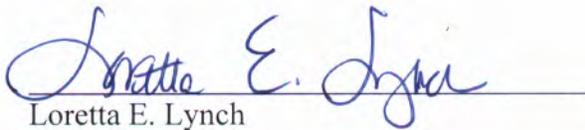
XIV. Approval by Signatories



Sylvia M. Burwell
Secretary of Health and Human Services



Sally Jewell
Secretary of the Interior



Loretta E. Lynch
Attorney General

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