

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

I. Purpose and Parties

Alcoholism, addiction, and alcohol and substance abuse are among the most severe public health and safety problems facing American Indian and Alaska Native individuals, families, and communities, resulting in devastating social, economic, physical, mental and spiritual consequences. American Indians and Alaska Natives suffer disproportionately from substance abuse disorder compared with other racial groups in the United States. In a 2010 report from the National Survey on Drug Use and Health (NSDUH), the rates of past month binge alcohol use and illicit drug use were higher among American Indian or Alaska Native adults compared to national averages (30.6 vs. 24.5 percent and 11.2 vs. 7.9 percent, respectively) and the percentage of American Indian or Alaska Native adults who needed treatment for an alcohol or illicit drug use problem in the past year was higher than the national average for adults (18.0 vs. 9.6 percent).¹

The Department of Health and Human Services (DHHS), Department of the Interior (DOI), and the Department of Justice (DOJ) have multiple programs, including prevention and treatment programs, that respond to the consequences of alcoholism, addiction, and alcohol and substance abuse, and its impact on public health and safety (e.g., education, social services, justice services, law enforcement, mental health, acute and chronic medical care services). However, there is a need to align, leverage and coordinate federal efforts and resources at multiple levels within each department to effectuate comprehensive alcohol and substance abuse services and programs for American Indian and Alaska Native individuals, families, and communities.

¹ Substance Abuse and Mental Health Services Administration, Office of Applied Studies (June 24, 2010). *The NSDUH Report: Substance Use among American Indian or Alaska Native Adults*, Rockville, MD.

Pursuant to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (Title IV, Subtitle C of Public Law 99-570) (the Act), DHHS and DOI entered into a Memorandum of Agreement (MOA) to develop and implement a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level.

Through the Tribal Law and Order Act of 2010 (Title II of Public Law 111-211) (TLOA) amendments to the Act, Congress sought to engage new federal partners to build upon those efforts. Pursuant to the TLOA amendments to the Act, the Secretary of Health and Human Services, the Secretary of the Interior, and the Attorney General, are to develop and enter into a MOA to, among other things:

1. Determine the scope of the alcohol and substance abuse problems faced by Indian tribes, as defined at 25 U.S.C. § 2403(3);
2. Identify the resources and programs of each department that would be relevant to a coordinated effort to combat alcohol and substance abuse among American Indians and Alaska Natives; and
3. Coordinate certain existing department programs with those established under the Act.

The purpose of this MOA is to establish a framework for collaboration in the implementation of the Act, that results in the coordination of resources and programs of DHHS' Substance Abuse and Mental Health Services Administration (SAMHSA) and the Indian Health Service (IHS), DOI's Bureau of Indian Affairs (BIA) and Bureau of Indian Education (BIE), and DOJ, to assist American Indian and Alaska Native communities in achieving their goals in the prevention, intervention, and treatment of alcohol and substance abuse. A wide variety of federal programs and activities exist that can support and supplement the efforts of these communities to address alcohol and substance abuse issues affecting their peoples; relevant programs and activities are currently underway across the various components of the MOA partner departments—and elsewhere in the federal government, such as in the Department of Education and the Department of Housing and Urban Development. As a core effort of this collaboration, the federal partners will develop and maintain a sustainable partnership infrastructure that enables these various resources to be more fully engaged and coordinated to offer a truly holistic approach in support of tribal alcohol and substance abuse efforts to address alcohol and substance abuse by American Indians and Alaska Natives.

II. Authorities

Authorities for this MOA include, the Snyder Act (25 U.S.C. § 13), the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450, *et seq.*), and the Act, as amended by TLOA (25 U.S.C. § 2401, *et seq.*).

III. Policy

As required by the Act, it is the policy of DHHS, DOI, and DOJ that all activities undertaken pursuant to the Act will be done in a manner that is least disruptive to tribal control, in accordance with the Indian Self-Determination and Education Assistance Act. DHHS, DOI, and DOJ, through each department's respective components, shall

coordinate existing alcohol and substance abuse programs and resources. All new activities undertaken pursuant to the Act, as amended by TLOA, shall supplement, not supplant, ongoing activities and programs. The Secretary of Health and Human Services, the Secretary of the Interior, and the Attorney General, acting through these respective department's components, as appropriate, shall bear equal responsibility for the implementation of the Act in cooperation with Indian tribes, who have the primary responsibility for protecting and ensuring the wellbeing of their members and for the coordination of resources made available under this MOA through implementation of Tribal Action Plans (TAPs).

IV. Organization Responsibilities

DHHS, DOI, and DOJ, through these department's respective components, are responsible for ensuring compliance, monitoring of performance, subsequent evaluation and follow-up activities for this MOA. Each department will determine which officials and offices within that department will be responsible for implementing the provisions of this MOA, including which officials and offices will be charged with coordinating resources and programs and providing technical assistance at the regional and local levels, as appropriate.

The Office of Indian Alcohol and Substance Abuse (OIASA), established within SAMHSA pursuant to the Act, is charged with, among other things, improving coordination among the federal agencies and departments in carrying out the responsibilities delineated in the Act. (25 U.S.C. § 2413(b)). SAMHSA, acting through its OIASA, will initiate the development, in coordination and consultation with tribal governments, of a framework for inter-agency and tribal coordination, in accordance with 25 U.S.C. § 2413. This framework, which will be developed by July 29, 2011, will be designed to provide for ongoing process and performance review and improvement of the coordination among federal partners, and between federal partners and tribes, with regard to Indian alcohol and substance abuse programming. In addition, the framework will provide—among other beneficial tools—resource and information-sharing guidelines, technical assistance to facilitate federal partner communication and coordination of program initiatives, and assessments of the feasibility and cost-effectiveness of department collaborative efforts.

OIASA will use its expertise in the prevention and treatment of alcohol and substance abuse to inform MOA partner departments, Indian tribes, and other interested parties and stakeholders about coordination of activities undertaken pursuant to 25 U.S.C. § 2413. OIASA will coordinate with the MOA partner departments 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 abuse affecting American Indian and Alaska Native communities.

OIASA will coordinate with the departments participating under this MOA to monitor the performance and compliance of the relevant federal programs in achieving the goals and

purposes of the Act, and this MOA, and will serve as a point of contact for Indian tribes and Tribal Coordinating Committees as described at 25 U.S.C. § 2413.

With regard to Area-/Regional-level coordination and implementation, a joint Area-/Regional-level work plan will be developed and updated, as appropriate, by IHS/BIA and appropriate components, to identify specific organizational challenges, resources, and programs within that jurisdiction.

If any Indian tribe does not adopt a resolution for the establishment of a TAP as provided in 25 U.S.C. § 2412(a) within 90 days after the publication of this MOA in the *Federal Register*, appropriate officials from BIA, where appropriate, and IHS who serve such tribe, shall enter into an agreement to identify and coordinate available alcohol and substance abuse prevention and treatment programs and resources for such tribe.

Responsibilities include:

1. Scope of problem: DHHS, DOI, and DOJ, as facilitated by the Interdepartmental Coordinating Committee (see Section VII below), will coordinate with tribes and other non-federal partners to determine the scope of the ongoing problem of alcohol and substance abuse for Indian tribes, their members, and those eligible for the programs and services of IHS who are directly or indirectly affected by alcohol and substance abuse.
2. Identification of programs: SAMHSA, through OIASA, will take the lead role, in collaboration with IHS, BIA, and DOJ, in compiling a listing of national, state, tribal, and local alcohol and substance abuse programs and resources.
3. Minimum program standards: DHHS, DOI, and DOJ, in consultation with Indian tribes, will develop and establish minimum program standards, as appropriate, for alcohol and substance abuse prevention, intervention, and treatment. These standards may be based upon existing federal, state, or tribal standards currently in effect. OIASA will, where appropriate, facilitate the provision of any necessary technical assistance to develop such standards. The Interdepartmental Coordinating Committee will provide a forum for the overall coordination of efforts to assist each MOA partner in the identification of common standards for similar programs and activities to facilitate incorporation of those standards into departmental programs.
4. Assessment of resources: DHHS, DOI, and DOJ, via the Interdepartmental Coordinating Committee, will coordinate with tribes and other non-federal partners to develop a methodology to estimate the funding necessary for prevention, intervention, treatment, and recovery of Indians affected by alcohol and substance abuse.
5. TAP development: BIA Agency Superintendents, BIE Education Line Officers, IHS Chief Executive Officers (CEOs), and Office of Justice Programs (OJP) and SAMHSA agency representatives are directed to cooperate fully with tribal requests pursuant to 25 U.S.C. § 2412 to assist in the development of a TAP. Once that plan has been developed, the BIA Agency Superintendents, BIE Education Line Officers, and IHS

CEOs shall proceed to enter into an agreement with the tribe for the implementation of that TAP within funding constraints and program regulations.

6. Newsletter: DOI will continue to publish the newsletter, as described in 25 U.S.C. § 2416. The newsletter shall be published quarterly and include reviews of exemplary alcohol and substance abuse programs. All federal MOA partners agree to provide relevant content for distribution.

7. Law enforcement and judicial training: BIA, in coordination with DOJ, will take the lead role in development and implementation of the law enforcement and judicial personnel training, as described in 25 U.S.C. § 2451.

8. Emergency medical assessment: IHS and BIA will jointly, in collaboration with tribal communities, develop, implement, and maintain procedures, policies and protocols for emergency medical assessments for Indian youth arrested or detained for an offense relating to, or involving, alcohol or substance abuse, as provided in 25 U.S.C. § 2452. To the extent that other DHHS, DOI, and DOJ partners may have resources for use related to these assessments, those resources will be coordinated.

9. Emergency shelters: As described in 25 U.S.C. § 2433(d) and subject to the availability of appropriations, BIA will update, maintain, and, where necessary, promulgate standards for the establishment and operation of emergency shelters or halfway houses under programs pursuant to 25 U.S.C. § 2433(a). Under 25 U.S.C. § 2433(a), IHS, BIA, and tribes are authorized to use available resources to establish and operate emergency shelters or halfway houses for Indian youth with alcohol or substance abuse problems.

10. Child abuse and neglect data: As provided in 25 U.S.C. § 2434, and in accordance with applicable confidentiality laws, BIA, in cooperation with DOJ, will compile data relating to the number and types of child abuse and neglect cases and the type of assistance provided, reflecting those cases that involve, or appear to involve, alcohol and substance abuse, those cases which are recurring and those cases that involve other minor siblings. To the extent that the sharing of such data is not prohibited by law, BIA will provide child abuse and neglect data compiled by BIA and DOJ to the affected Indian tribe and Tribal Coordinating Committee, as described in 25 U.S.C. § 2412, to assist them in developing or modifying a TAP. In the compilation and reporting of the data, all necessary measures will be taken and safeguards put in place to preserve the confidentiality of families and individuals and to protect personally-identifiable information from unauthorized or inappropriate use and disclosure.

11. Juvenile detention centers: DHHS, DOI, and DOJ, in consultation with tribal leaders and tribal justice officials, will coordinate in developing 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.

12. Model juvenile code: DOI and DOJ, in cooperation with Indian organizations having law enforcement and judicial procedure expertise and in consultation with Indian tribes, will coordinate in the development of a model juvenile code, as described in 25 U.S.C. § 2454.

V. Period of Agreement

This MOA shall be effective from the last date of all signatures below in this MOA (date of effectuation of this MOA) and shall remain in effect until terminated or amended by DHHS, DOI, and DOJ acting jointly, or until there is a change in law authorizing and requiring this MOA.

VI. Modification/Provisions for Amendment

This 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 signatory. OIASA will then publish a copy of the amended MOA in the *Federal Register* and DOI will disseminate it to each federally recognized Indian tribe.

VII. Interdepartmental Coordinating Committee

The mechanism by which this federal collaboration will occur is through an Interdepartmental Coordinating Committee (the Committee) including DHHS, DOI, and DOJ representatives, as well as representatives from other agencies or departments, such as the Department of Education. The MOA formally establishes this Committee. (The attached Exhibit A titled, "Tribal Law and Order Act Indian Alcohol and Substance Abuse (IASA) Interdepartmental Coordinating Committee," describes the initial composition and functions of the Committee.)

In order to assure that these cooperative efforts are pursued in a continuing and timely fashion, DHHS, DOI, and DOJ representatives and Committee representatives from other federal collaborative partners will meet on a regular basis, not less than quarterly, to review the activities supported by this MOA and will share information, report on progress, and explore new areas for cooperation. In addition, other meetings may be arranged to discuss specific projects.

As needed, in order to accomplish the purposes of this MOA, the federal collaborative partners may realign or otherwise restructure any workgroups working under the auspices of the Committee. Individual participating federal partners reserve the right to change department or agency representatives at will.

An annual progress report and a summary of meetings and activities conducted under this MOA will be prepared and submitted by the Committee to designated DHHS, DOI, and DOJ officials at the completion of each fiscal year, beginning with fiscal year 2012.

OIASA, in coordination with the MOA partners, will share information regarding activities under this MOA with American Indians and Alaska Natives, such as through periodic news features and updates in the newsletter (described at 25 U.S.C. § 2416), or other appropriate public information venues.

VIII. Public Information Coordination

The Freedom of Information Act as amended (5 U.S.C. § 552), the Privacy Act of 1974 as amended (5 U.S.C. § 552a), and any additional applicable federal department implementing regulations govern any disclosure of information under this MOA. The departments will provide notice to the other partners, through the Committee, prior to the disclosure of requested information.

This MOA does not contemplate the use or disclosure of alcohol or drug abuse patient records, except as expressly provided under applicable statutes and regulations.

IX. Discontinuance of Participation

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

X. Review of the MOA

DHHS, DOI, and DOJ, via the Committee, will review this MOA annually within a month of the anniversary of the signing of this MOA.

XI. Tribal Consultation

Consistent with Executive Order 13175 of November 6, 2000, and the Presidential Memorandum on Tribal Consultation of November 5, 2009, and applicable federal law, the federal parties to this MOA will establish a framework for the coordination of consultation activities, as necessary, relating to the federal efforts to be developed and implemented in accordance with this MOA. Participating departments, consistent with each of the departments' individual consultation policies, as required, will engage in such coordination of consultation activities in order to help ensure that regular and meaningful consultation and collaboration with tribal officials, as appropriate, occurs during the course of the development and implementation of multi-department activities under this MOA.

XII. 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.

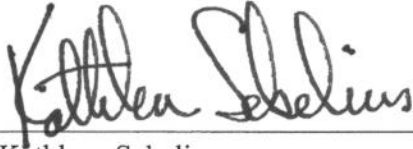
All activities and projects initiated or implemented as a result of this MOA are subject to the availability of appropriated funds.

Nothing in this MOA precludes the signatories from entering into inter-departmental agreements for services to be provided in furtherance of the Act.

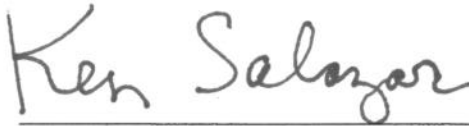
XIII. Full-Time Equivalency (FTE) Responsibility

Under this MOA, no transfer of FTEs is required between federal partner departments.

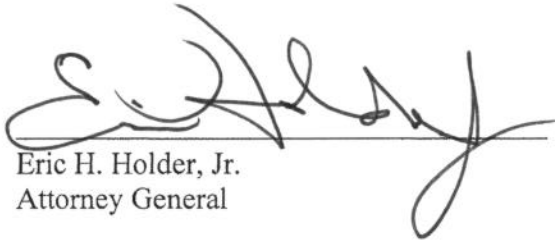
XIV. Approval by Signatories



Kathleen Sebelius
Secretary of Health and Human Services



Ken Salazar
Secretary of the Interior



Eric H. Holder, Jr.
Attorney General

Date: July 29, 2011

EXHIBIT A: See the document titled, "Tribal Law and Order Act Indian Alcohol and Substance Abuse (IASA) Interdepartmental Coordinating Committee" on the pages that follow.

TRIBAL LAW AND ORDER ACT
IASA INTERDEPARTMENTAL COORDINATING COMMITTEE

1. Tribal Coordinating Committee:

The Tribal Coordinating Committee—under the chairmanship of a tribal representative—has primary responsibility for the implementation of a tribe's TAP. With respect to federal involvement in support of tribal TAP implementation, the Executive Steering Committee of the IASA Interdepartmental Coordinating Committee will serve in the federal roles in support of Tribal Coordinating Committees, providing final guidance, direction, and coordination of the appropriate federal efforts in assisting tribes to implement TAPs as they relate to alcohol and substance abuse prevention and treatment.

2. MOA:

An interdepartmental workgroup convened as a precursor to the MOA Workgroup oversaw the development of and the policy and legal review of the MOA; established and managed the overall coordination of comments from the various federal departments and other entities; shepherded the MOA through MOA partner department clearance processes; secured final signatures; and coordinated the submission of the MOA to Congress, its dissemination to Indian tribes, and its publication in the *Federal Register*, as required by law. The MOA Workgroup will provide leadership in the annual review of the MOA, as required by the MOA.

- 25 U.S.C. § 2411: The Secretary of the Interior, the Attorney General, and the Secretary of Health and Human Services shall develop and enter into an MOA by no later than July 29, 2011, which shall, among other things:
 1. Determine and define the scope of the problem of alcohol and substance abuse for Indian tribes and their members and its financial and human costs, and specifically identify such problems affecting Indian youth;
 2. Identify BIA, OJP, SAMHSA, and IHS resources and programs, and other federal, tribal, state and local, and private resources and programs that would be relevant to a coordinated effort to combat alcohol and substance abuse among Indian people;
 3. Develop and establish appropriate minimum standards for each agency's program responsibilities under the MOA;
 4. Coordinate certain existing BIA, DOJ, SAMHSA, and IHS alcohol and substance abuse programs with current and newly established efforts under the Act;
 5. Delineate BIA, DOJ, SAMHSA, and IHS responsibilities to coordinate alcohol and substance abuse-related services at the central, area, agency, and service unit levels;
 6. Direct BIA agency superintendents and education line officers, where appropriate, and the IHS CEOs to cooperate fully with tribal requests for TAP assistance; and
 7. Provide for annual review of TAP implementation agreements by the DOI Secretary, the AG, and the HHS Secretary.

3. Tribal Action Plan:

The TAP Workgroup will establish the operating framework of the TAP, develop an inventory of current proven strategies to recommend to tribes utilizing practice based evidence models, manage the overall coordination of tribal requests for assistance in the

development of a TAP, coordinate assistance and support to tribes as deemed feasible, and collaborate with the Inventory Workgroup in developing an appropriate response back to tribal entities seeking assistance.

- 25 U.S.C. § 2412(e): If the governing body of any Indian tribe does not adopt a resolution, as provided in the Act, within 90 days after the publication of this MOA in the *Federal Register*, appropriate officials from BIA, where appropriate, and IHS who serve such tribe, shall enter into an agreement to identify and coordinate available alcohol and substance abuse prevention and treatment programs and resources for such tribe. After such an agreement has been entered into for a tribe for the identification and coordination of these resources, such tribe may adopt a resolution for the establishment of the tribe's TAP.
- 25 U.S.C. § 2412(c)(3): TAPs are to be **updated every 2 years**.
- 25 U.S.C. § 2412(c)(1)(A): TAPs will establish a Tribal Coordinating Committee which shall—
 1. Consist, at minimum, of a tribal representative who shall serve as Chairman and the BIA agency superintendents and education line officers, where appropriate, OJP, SAMHSA, and the IHS CEO, or their representatives;
 2. Have primary responsibility for TAP implementation;
 3. Provide for ongoing review and evaluation of the TAP;
 4. Make recommendations to the tribe relating to the TAP; and
 5. Schedule federal, tribal or other personnel for training in the prevention and treatment of alcohol and substance abuse among American Indians and Alaska Natives, as appropriate.

4. Program Review:

The Inventory/Resource Workgroup will establish an operating model, by which it gathers, maintains and updates the current federal effort /capacity, not limited to technical assistance contracts and services, grants, contracts, and cooperative agreements; manage the overall coordination of these efforts; and collaborate with the TAP Workgroup in developing an appropriate response back to tribal entities seeking assistance.

- 25 U.S.C. § 2414a(a): In the development of the MOA, the Secretary of the Interior, the Attorney General, and the Secretary of Health and Human Services shall review and consider:
 1. The various programs established by federal law providing health services and benefits to Indian tribes, including those relating to mental health and alcohol and substance abuse prevention and treatment;
 2. Tribal, state and local, and private health resources and programs;
 3. Where facilities to provide such treatment are or should be located; and
 4. The effectiveness of certain existing public and private alcohol and substance abuse treatment programs.
- 25 U.S.C. § 2414a(b): The results of these program reviews shall be provided to every Indian tribe as soon as possible for their consideration and use in the development or modification of a TAP.

5. Newsletter:

The Newsletter Workgroup will establish the operating protocol and procedures in order to publish a newsletter to report on Indian alcohol and substance abuse projects and programs.

- 25 U.S.C. § 2416: The newsletter will—
 1. Be published once in each calendar quarter;
 2. Include reviews of exemplary alcohol and substance abuse programs;
 3. Provide sufficient information to enable interested persons to obtain further information about such programs; and
 4. Be circulated without charge to--
 - Schools;
 - Tribal offices;
 - BLA agency and area offices;
 - IHS area and service unit offices;
 - IHS alcohol programs; and
 - Other entities providing alcohol and substance abuse-related services or resources to American Indians and Alaska Natives.

6. Review of Programs:

The Educational Services Workgroup will establish an operating model, by which it gathers, maintains and updates the current federal effort/capacity with respect to federal programs providing education services or benefits to American Indian and Alaska Native children.

- 25 U.S.C. § 2431(a): In the development of the MOA, the Secretary of the Interior, the Attorney General, and the Secretary of Health and Human Services, in cooperation with the Secretary of Education shall review and consider:
 1. Federal programs providing education services or benefits to Indian children;
 2. Tribal, state, local, and private educational resources and programs;
 3. Federal programs providing family and social services and benefits for Indian families and children;
 4. Federal programs relating to youth employment, recreation, cultural, and community activities; and
 5. Tribal, state, local, and private resources for programs similar to those cited in paragraphs (3) and (4).
- 25 U.S.C. § 2431(b): The results of this review shall be provided to each Indian tribe as soon as possible for their consideration and use in the development or modification of a TAP.

TRIBAL LAW AND ORDER ACT

IASA INTERDEPARTMENTAL COORDINATING COMMITTEE

