SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION
TRIBAL CONSULTATION POLICY

I. INTRODUCTION AND PURPOSE

The Department of Health and Human Services Tribal Consultation Policy (HHS-TCP), provides that consultation with Indian Tribes and Tribal Organizations shall occur to the extent practicable and permitted by law before any action is taken that will significantly affect Indian Tribes. In accordance with Section 16 of the HHS-TCP, effective January 14, 2005, this document establishes the Substance Abuse and Mental Health Services Administration Tribal Consultation Policy (SAMHSA-TCP) regarding consultation with Indian Tribes. The SAMHSA-TCP provides guidance for working effectively with Indian Tribes to maximize access to services, programs and resources within SAMHSA.

The SAMHSA-TCP acknowledges and affirms common goals with other HHS Divisions, Indian Tribes, Tribal Organizations, Indian Organizations, and Native Organizations to: 1) eliminate health and human services disparities faced by American Indians and Alaska Natives (AI/AN); 2) maximize access to substance abuse and mental heath services; and 3) achieve health equity for all AI/AN people and communities.

II. BACKGROUND

Since the formation of the Union, the United States (U.S.) has recognized Indian Tribes as sovereign nations. A unique government-to-government relationship exists between Indian Tribes and the Federal Government. This relationship is grounded in numerous treaties, statutes, and executive orders as well as political, legal, moral, and ethical principles. This relationship is not based upon race, but rather, is derived from the government-to-government relationship. The Federal Government has enacted numerous regulations that establish and define a trust relationship with Indian Tribes.

An integral element of this government-to-government relationship is that consultation occurs with Indian Tribes. This policy applies to all SAMHSA Centers and Offices. SAMHSA shall provide an opportunity for Indian tribes to participate in policy development on SAMHSA matters affecting Indian Tribes to the greatest extent practicable and permitted by law. An Executive Memorandum entitled "Government-to-Government Relationship with Tribal Governments" reaffirmed this government-to-government relationship with Indian Tribes on September 23, 2004. The implementation of this policy is in recognition of this special relationship.

This special relationship is affirmed in statutes and various Presidential Executive Orders including, but not limited to:

A. Older Americans Act, P.L. 89-73, as amended;
B. Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended;
C. Native Americans Programs Act, P.L. 93-644, as amended;
D. Indian Health Care Improvement Act, P.L. 94-437, as amended;
E. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L.104-193;
F. Presidential Executive Memorandum to the Heads of Executive Departments dated April 29, 1994;
G. Presidential Executive Order (EO) 13175, Consultation and Coordination with Indian Tribal Governments, November 6, 2000;
H. Presidential Memorandum, Government-to-Government Relationship with Tribal Governments, September 23, 2004;
I. Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, as amended, Sec. 4201 [26 U.S.C. 2401 note] SHORT TITLE; and
J. Indian Child Protection and Family Violence Prevention Act, P.L. 101-630.

SAMHSA adheres to the HHS-TCP which states that consultation is "an enhanced form of communication which emphasizes trust, respect and shared responsibility. It is an open and free exchange of information and opinion among parties which leads to mutual understanding and comprehension. Consultation is integral to a deliberative process which results in effective collaboration and informed decision-making." The importance of consultation with Indian Tribes was affirmed through Presidential Memoranda in 1994 and 2004, and Executive Order 13175 in November 2000.

SAMHSA recognizes its unique relationship with Indian Tribes. SAMHSA's goal is to assure meaningful involvement of Indian Tribes in decision-making on SAMHSA policies that have tribal implications as defined in Section 16, Definition 22- of this SAMHSA-TCP, including substance abuse and mental health services. SAMHSA provides opportunities for Indian Tribes to interact with SAMHSA on relevant and critical issues impacting the health and social well-being of AI/AN people. The implementation of this policy is a critical component of SAMHSA's commitment to fulfill its role in assuring that Indian Tribes and AI/AN communities are safe and healthy.

SAMHSA abides by Presidential EOs and regulations the Federal Government has enacted that establish and define a trust relationship with Indian Tribes.

SAMHSA Statutes:

- Section 506A of the Public Health Service Act authorizes the Secretary to make grants to provide alcohol and drug prevention or treatment services for American Indians and Native Alaskans.

- Section 1933(d) of the Public Health Service Act permits the Secretary to make a determination that members of tribes or tribal organizations would be better served by means of grants made directly to the tribe. Under this provision, one American Indian tribe (Red Lake Band of Chippewa Indians of Minnesota) receives a direct grant under the Substance Abuse Prevention and Treatment Block Grant.

III. TRIBAL SOVEREIGNTY

This policy does not waive any governmental rights of Indian Tribes, including treaty rights, sovereign immunities or jurisdiction. Additionally, this policy does not diminish any rights or protections which are afforded to other AI/AN persons or entities under Federal law.

> Our Nation, under the law of the U.S. and in accordance with treaties, statutes, EOs, and judicial decisions, has recognized the right of Indian Tribes to self-government and self-determination. Indian Tribes exercise inherent sovereign powers over their members and territory. The U.S. continues to work with Indian Tribes on a government-to-government basis to address issues concerning tribal self-government, tribal trust resources, tribal treaties and other rights.

The constitutional relationship among sovereign governments is inherent in the very structure of the Constitution, and is formalized in and protected by Article I, Section 8. Increasingly, this special relationship has emphasized self-determination and meaningful involvement for Indian Tribes in federal decision-making (consultation) where such decisions affect Indian Tribes. The involvement of Indian Tribes in the development of public health and human services policy allows for locally relevant and culturally appropriate approaches.

Tribal self-government has been demonstrated to improve and perpetuate the government-to-government relationship and strengthen tribal control over federal funding that it receives, and its internal program management.

IV. POLICY

The SAMHSA TCP adheres to all provisions in the HHS-TCP, as revised in January 2005. It is SAMHSA policy to honor the sovereignty of Indian Tribes, respect the inherent rights of self-governance, work on a government-to-government basis, and

uphold the federal trust responsibility. Government-to-government consultation will be conducted with tribal officials or their designated representatives. SAMHSA will actively confer with Indian Tribes and appropriate Tribal Organizations before taking actions or making decisions that affect them.

SAMHSA may consult with other non-governmental groups that serve Native Americans. The special "Tribal-Federal" relationship is based on the government-to-government relationship, however, other statutes and policies exist that allow for consultation with American Indians, Alaska Natives, urban Indian Organizations, non-federally recognized tribal groups, state-recognized tribes, other Indian Organizations, Native Hawaiians, Native American Pacific Islanders (including American Samoan Natives), other Native American groups and other Native Organizations (collectively "AI/AN/NA"), that, by the sheer nature of their business, serve AI/AN/NAs and might be negatively affected if excluded from the consultation process. Section 7.C. of the SAMSHA-TCP describes when SAMHSA will consult with other non-governmental groups.

Even though some organizations and groups do not represent federally-recognized Indian Tribes, SAMHSA may consult with such groups individually. However, if SAMHSA wants to include organizations which do not represent a specific federally-recognized tribal government on advisory committees or workgroups then Federal Advisory Committee Act (FACA) requirements must be followed. For further information about the requirements of the Federal Advisory Committee Act, please contact the FACA Committee Management Officer at SAMHSA.

Advisory bodies created by SAMHSA will provide a complementary venue wherein the SAMHSA Administrator or designee will solicit advice and views about substance abuse and mental health issues from AI/AN/NA representatives and discuss collaborative solutions. Such advisory bodies will support and not supplant any other formal tribal consultation.

Although this TCP creates an accountable process to ensure meaningful and timely input by tribal officials in the development of policies that have tribal implications, this does not waive any governmental rights of Indian Tribes, including treaty rights, sovereign immunities or jurisdiction.

Nothing in this policy waives the Federal Government's deliberative process privilege. For example, in instances where HHS is specifically requested by members of Congress to respond to or report on proposed legislation, the development of such responses and of related policy is a part of the Executive Branch's deliberative process privilege and should remain confidential.

In addition, in specified instances where Congress requires the Department to work with Tribes on the development of recommendations that may require legislation, such reports, recommendations or other products are developed independent of a Department position, the development of which is governed by Office of Management and Budget (OMB)-Circular A-19.

A. Each HHS Operating and Staff Division (Division) shall have an accountable process to ensure meaningful and timely input by Tribal officials in the development of policies that have Tribal implications.

B. To the extent practicable and permitted by law, no Division shall promulgate any regulation that has Tribal implications, that imposes substantial direct compliance costs on Indian Tribes, or that is not required by statute, unless:

1. Funds necessary to pay the direct costs incurred by the Indian Tribe in complying with the regulation are provided by the Federal Government; or

2. The Division, prior to the formal promulgation of the regulation,
   a) Consulted with Tribal officials early and throughout the process of developing the proposed regulation;

   b) Provided a Tribal summary impact statement in a separately identified portion of the preamble to the regulation as it is to be issued in the *Federal Register* (FR), which consists of a description of the extent of the Division's prior consultation with Tribal officials, a summary of the nature of their concerns and the Division's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of Tribal officials have been met; and

   c) Made available to the Secretary any written communications submitted to the Division by Tribal officials.

C. To the extent practicable and permitted by law, no Division shall promulgate any regulation that has Tribal implications and that preempts Tribal law unless the Division, prior to the formal promulgation of the regulation,

1. Consulted with Tribal officials early and throughout the process of developing the proposed regulation;

2. Provided a Tribal summary impact statement in a separately identified portion of the preamble to the regulation as it is to be issued in the FR, which consists of a description of the extent of the Division's prior consultation with Tribal officials, a summary of the nature of their concerns and the Division's position supporting the need to issue the regulation, and a statement of the

extent to which the concerns of Tribal officials have been met; and

3. Made available to the Secretary any written communications submitted to the Division by Tribal officials.

D. On issues relating to Tribal self-governance, Tribal self-determination, Tribal trust resources, or Tribal treaty and other rights, SAMHSA should explore, and where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

V. PHILOSOPHY

Indian Tribes have an inalienable and inherent right to self-government. Self-government means government in which decisions are made by the people who are most directly affected by the decisions. As sovereign nations, Indian Tribes exercise inherent sovereign powers over their members, territory and lands.

SAMHSA is committed to enhancing the collaboration with Indian Tribes to address substance abuse and mental health issues by utilizing a holistic methodology, advancing community-based approaches and solutions.

The HHS Immediate Office of the Secretary – Office of Intergovernmental Affairs (IGA) is identified as the responsible organization within HHS for monitoring compliance with EO 13175 and the HHS-TCP. In addition, the Secretary has charged the HHS Intradepartmental Council on Native American Affairs (ICNAA), of which SAMHSA is a member, to meet semi-annually and to provide advice on all HHS policies and priorities that relate to AI/AN/NA.

HHS national budget and regional consultation sessions have been developed as a systematic method to regularly consult with Indian Tribes on HHS programs on a national level and at field locations. The goal of these sessions is to require HHS to focus on AI/AN issues, to continue to enhance the government-to-government relationship between Indian Tribes and the U.S., as well as to make SAMHSA resources more readily available to Indian Tribes.

SAMHSA will work with the ICNAA and IGA to facilitate any required consultation forums, the level of consultation required, recording of meetings, evaluate the results, determine whether additional consultation on policy items may be needed, and report to the affected Indian Tribes and nongovernmental Indian and Native Organizations.

VI. OBJECTIVES

In fulfilling its TCP, SAMHSA shall focus on the following 15 objectives to develop measures to evaluate and report:

A. To formalize the requirement of SAMHSA to seek consultation and the participation of Indian Tribes in policy development and program activities to ensure that health and human service priorities and goals regarding substance abuse and mental health are recognized.

B. To establish SAMHSA requirements and expectations with respect to consultation and participation.

C. To identify critical events at which Tribal consultation and participation will be required for all levels of SAMSHA management.

D. To identify events and partnerships in which SAMHSA would participate with appropriate Tribal, Indian and Native Organizations that will establish and foster partnerships to complement and enhance consultation with Indian Tribes.

E. To promote and develop holistic, culturally relevant, and innovative methods of involving Indian Tribes in SAMHSA policy development and regulatory processes.

F. To uphold the responsibility of SAMHSA to consult with Indian Tribes on new and existing health and human service policies, programs, functions, services and activities that have Tribal implications.

G. To be responsive to an Indian Tribe's request for consultation and technical assistance in obtaining SAMHSA resources and/or addressing policy matters.

H. To ensure that SAMHSA actively seeks to partner with Indian Tribes which will include technical assistance, access to programs, and resources.

I. To provide a single point of contact within SAMHSA for Indian Tribes as the Administrator's designee.

J. To participate, at a minimum, in all HHS annual, national and regional consultation forums and sessions established in the HHS-TCP; and, to seek additional forums or opportunities to formally consult on the needs of Indian Tribes with regard to substance abuse and mental health.

K. To ensure the impact of SAMHSA activities on tribal trust resources are adequately assessed and tribal interests considered before activities are undertaken that affect Indian Tribes.

L. To remove SAMHSA procedural impediments that adversely affect working directly with Indian Tribes.

M. To reduce any regulatory burdens by streamlining the SAMHSA application process for and increase the availability of waivers to Indian Tribes.

N. To operate in a collaborative manner to accomplish the goals of EO 13175 and this policy.

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VII. ROLES

A. **Indian Tribe(s)**: The government-to-government relationship between the U.S. and Indian Tribes dictates that the principal focus for SAMHSA consultation is with individual Indian Tribes.

1. Work sessions will be held to solicit official tribal comments and recommendations on policy and budget matters affecting Indian Tribes. These sessions, roundtables, forums and meetings will provide the opportunity for meaningful dialogue and effective participation by Indian Tribes.
2. Indian Tribes have the ability to meet one-on-one with the Administrator or designated representative to consult on issues specific to that Indian Tribe.
3. Upon completion of a consultation session, SAMHSA will document and follow-up on any unresolved issues that would benefit from ongoing involvement of Indian Tribes.
4. SAMHSA will consult with tribal officials on the SAMHSA-TCP to ensure effective and meaningful participation, implementation, and evaluation.
5. The SAMHSA-TCP will be posted on the IGA and SAMHSA Web site and offered to appropriate Tribal, Indian and Native Organizations.
6. SAMHSA will continue to inform Indian Tribes on the SAMHSA-TCP by conducting meetings, roundtables, teleconferences, forums, and placing information on the SAMHSA Web site and other appropriate Web sites.
7. Specific mechanisms that will be used to consult with Indian Tribes include, but are not limited to: Dear Tribal Leader Letters (DTLL), other mailings, meetings, teleconferences, and roundtables. SAMHSA should not consider e-mail communications as a form of consultation with Indian Tribes unless that determination has been made in conjunction with tribal officials in an advisory capacity. In the event e-mail is accepted, it should be followed by an official DTLL.

B. **Tribal Organizations**: It is frequently necessary that SAMHSA communicate with Tribal Organizations to solicit consensual tribal advice and recommendations. Although the special "Tribal-Federal" relationship is based on the government-to-government relationship with Indian Tribes, other statutes and policies exist that allow for consultation with other Tribal Organizations. These organizations by the sheer nature of their business serve and represent Indian Tribes issues and concerns that might be negatively affected if these organizations were excluded from the consultation process.

C. **Consultation with Other Nongovernmental Groups**: In cases where the government-to-government relationship does not exist such as those identified below for Indian and Native organizations, or such organizations that serve AI/AN/NA people, consultation is encouraged to the extent that a conflict of interest does not exist with federal statutes or SAMHSA's authorizing legislation. Some aspects of this consultation are set out in statute and administrative policy.

Even though such organizations or groups do not represent federally-recognized Indian Tribes, SAMHSA is able to consult with such organizations or groups individually. However, if SAMHSA wants to include organizations or groups which do not represent a specific federally-recognized Indian Tribe on advisory committees or workgroups then FACA requirements must be followed. The intergovernmental committee exemption to FACA is found under 2 U.S.C. 1534. As a result, SAMHSA is required to adhere to FACA when such organizations or groups are made a part of an advisory committee or workgroup.

1. Indian Organizations: It may be necessary that SAMHSA communicate with Indian Organizations to solicit consensual advice and recommendations. Although the special "Tribal-Federal" relationship is based on the government-to-government relationship, other statues and policies exist that allow for consultation with other non-governmental Indian Organizations, which is any group, association, partnership, corporation, or legal entity owned or controlled by Indians, or a majority of whose members are Indians. Such Indian Organizations, by the sheer nature of their business, serve and represent AI/AN issues and concerns that might be negatively affected if these organizations were excluded from the consultation process. Even though some of the Indian Organizations do not represent federally recognized Indian Tribes, SAMHSA is able to consult with these organizations individually. However, if SAMHSA wants to include Indian Organizations which do not represent a specific federally-recognized Indian Tribe on advisory committees or workgroups, then FACA requirements must be followed.
2. Native Organizations: It may be necessary that SAMHSA communicate with Native Organizations to solicit consensual advice

and recommendations. Although the special "Tribal-Federal" relationship is based on the government-to-government relationship, other statutes and policies exist that allow for consultation with other nongovernmental Native Organizations, which is a nongovernmental body organized and operated to represent the interests of a group of individuals considered indigenous to North American countries. Such Native Organizations, by the sheer nature of their business, serve and represent AI/AN/NA issues and concerns that might be negatively affected if these organizations were excluded from the consultation process. Even though some of the Native Organizations and groups do not represent federally-recognized Indian Tribes, SAMHSA is able to consult with these groups individually. However, if SAMHSA wants to include Native Organizations which do not represent a specific federally-recognized Indian Tribe on advisory committees or workgroups, then FACA requirements must be followed.

D. **Intradepartmental Council on Native American Affairs (ICNAA)**: The HHS Secretary's ICNAA, of which SAMHSA is a member, plays a critical role in the execution of the HHS and SAMHSA TCPs. The ICNAA is charged to: (1) develop and promote an HHS policy to provide greater access and quality services for AI/AN/NAs throughout HHS, (2) promote implementation of HHS policy and plans on consultation with AI/AN/NAs and Indian Tribes in accordance with statutes and EOs, (3) promote an effective, meaningful AI/AN/NA policy to improve health and human services for AI/AN/NAs, (4) develop a comprehensive HHS-wide strategy that promotes self-sufficiency and self-determination for all AI/AN/NA people, and (5) promote the Tribal/Federal government-to-government relationship on an HHS-wide basis in accordance with EO 13175. The underpinning concept of the ICNAA is the premise within HHS that all Divisions bear responsibility for the government's obligation to AI/AN/NAs.

E. **SAMHSA Centers and Offices**: SAMHSA has three Centers and several Offices under its purview. Each of the these Centers and Offices share in the SAMHSA-wide responsibility to coordinate, communicate and consult with Indian Tribes on issues that affect them. All Centers and Offices will comply with the SAMHSA-TCP. All Centers and Offices are responsible for conducting tribal consultation to the extent practicable and permitted by law on policies that have tribal implications.

1. SAMHSA Centers

    a) Center for Mental Health Services (CMHS) - The mission of CMHS is to promote effective mental health services in every community. CMHS provides national leadership to ensure the application of scientifically established findings and practice-based knowledge in the prevention and treatment of mental disorders; to improve access, reduce barriers, and promote high

quality effective programs and services for people with, or at risk for, these disorders, as well as for their families and communities; and to promote an improved state of mental health within the Nation, as well as the rehabilitation of people with mental disorders. CMHS leads national efforts to improve prevention and mental health treatment services for all Americans. CMHS pursues its mission by helping improve and increase the quality and range of treatment, rehabilitation, and support services for people with mental health problems, their families, and communities.

b) Center for Substance Abuse Prevention (CSAP) - CSAP works with states, tribes and communities to develop comprehensive prevention systems that create healthy communities in which people enjoy a quality life. This includes supportive work and school environments, drug- and crime-free neighborhoods, and positive connections with friends and family. The role of prevention is to create healthy communities in which people have a quality of life:

    i. Healthy environments at work and in school
    ii. Supportive communities and neighborhoods
    iii. Connections with families and friends
    iv. Drug and crime-free

c) Center for Substance Abuse Treatment (CSAT) – CSAT's primary objectives are to increase the availability of clinical treatment and recovery support services; to improve and strengthen substance abuse clinical treatment and recovery support organizations and systems; to transfer knowledge gained from research into evidence-based practices; and to provide regulatory monitoring and oversight of SAMHSA-certified Opioid Treatment Programs and physician training on the use of pharmacologic therapies.

    i. SAPT Block Grant – supports state alcohol and drug abuse treatment activities. Funding is allocated by formula to the states, and approximately 80 percent is used in support of treatment services.
    ii. Discretionary Funding – through Programs of Regional and National Significance (PRNS), includes Science to Service programs that assist the field to increase effectiveness, and Capacity programs that focus on reducing substance abuse treatment need for supporting strategic responses to demands for substance abuse treatment services.

Response to treatment capacity problems may include communities with serious emerging drug problems or communities struggling with unmet need.

2. SAMHSA Offices

a) The Office of the Administrator (OA) - provides leadership and direction to the program and activities of the Substance Abuse and Mental Health Services Administration as follows:

i. develops SAMHSA program policy;
ii. provides liaison with other HHS components, other Federal agencies, the Office of the National Drug Control Policy, and outside groups;
iii. provides oversight for coordination between SAMHSA and the National Institutes of Health;
iv. provides correspondence control for the Agency and controls all SAMHSA public correspondence; and
v. analyzes legislative issues, and maintains liaison with congressional committees with regard to substance abuse and mental health.

b) Office of Communications (OC) – serves as the epicenter of SAMHSA news and information. Through its services and tools, the OC helps inform the public and other important audiences about the work of SAMHSA. From media and constituency outreach to publications development and Freedom of Information Act (FOIA) requests, the OC is a one-stop resource serving the communications needs of SAMHSA's internal and external stakeholders.

c) Office of Policy, Planning and Budget (OPPB) - provides leadership for the development and implementation of the Administrator's policies and programs through the following functions:

i. develops and manages SAMHSA policy for the Administrator and senior staff;
ii. performs the chief financial officer function and manages budget formulation and execution;
iii. manages SAMHSA-wide strategic and program planning activities; and
iv. provides leadership to Center Office of Policy Analysis and Coordination (OPAC) and other SAMHSA staff to assure consistent implementation

of policies and procedures in budget, planning and policy review.

d) The Office of the Director (within OPPB) - provides executive oversight and is responsible to coordinate the following nine activities:

i. coordinates agency participation in the HHS strategic and program planning activities;
ii. coordinates SAMHSA strategic and program planning activities;
iii. develops policy guidance for grants and contracts development processes, and monitors progress of same;
iv. develops and manages the Government Performance and Results Act (GPRA) process for SAMHSA, assess progress in attaining goals and reports all accomplishments;
v. manages agency response to the U.S. Office of Management and Budget (OMB) Program Assessment Rating Tool (PART) review process;
vi. provides policy guidance and oversight for agency evaluation activities;
vii. develops extramural policy recommendations for the Administrator and guidance for SAMHSA;
viii. manages the SAMHSA National Advisory Council and the Advisory Committee for Women's Services; and
ix. provides the chief financial office function for SAMHSA.

e) The Office of Applied Studies (OAS) - is the primary source of national data on the prevalence, treatment, and health consequences of substance abuse in the United States. OAS carries out its mission with three national data collection systems: The National Survey on Drug Use and Health (NSDUH), the Drug and Alcohol Services Information System (DASIS), and the Drug Abuse Warning Network (DAWN).

i. NSDUH is the Nation’s premier source of information on the prevalence of drug, alcohol, and tobacco use and mental health problems in the civilian noninstitutionalized population aged 12 and over. NSDUH measures and reports on these problems annually for the U.S. as a whole and for each of the 50 states.

ii. DASIS is the only source of national data on substance abuse treatment services and the characteristics of individuals admitted for treatment. In addition, the DASIS comprehensive inventory of public and private substance abuse treatment facilities serves as the basis for a national treatment locator system, which is freely available to individuals and organizations needing such information.

iii. DAWN is a public health surveillance system that focuses on drug-related morbidity and mortality that manifest in drug-related visits to hospital emergency departments across the U.S. and in drug-related deaths investigated by medical examiners and coroners in selected metropolitan areas and States. While monitoring the health effects from drug and alcohol misuse and abuse, DAWN also provides surveillance for adverse events associated with the medical use of prescription and over-the-counter pharmaceuticals.

f) The Office of Program Services (OPS) - provides leadership and guidance, oversees and monitors the range of administrative and program services provided to all SAMHSA components.

i. OPS works in partnership with other SAMHSA and HHS components in managing, providing leadership, and ensuring SAMHSA's needs are met in the following service areas: grant and contract application review, grants and contracts management, administrative services, human resources management, equal employment opportunity, organizational development and analysis, and information technology;

ii. OPS provides leadership in the development of policies for and the analysis, performance measurement, and improvement of SAMHSA administrative and management systems;

iii. OPS provides leadership, guidance, and technical expertise for the Agency's information technology program;

iv. OPS provides centralized administrative services for the Agency;

v. OPS provides centralized staff assistance and office automation services for designated components of the Agency; and
vi. OPS conducts all aspects of the SAMHSA grants and contracts management process.

E. **States**: In some instances, the authority and appropriations for SAMHSA programs and services to Indian Tribes flow through the states for the benefit of Indian Tribes, based on statute, regulation or SAMHSA policy. It is important that SAMHSA facilitate collaboration between states and Indian Tribes to assist with consultation in the same manner as if SAMHSA programs and services were being provided directly to an Indian Tribe.

1. When states are authorized to administer SAMHSA programs, services, and funding for the benefit of Indian Tribes and AI/ANs, IGA will collaborate with SAMHSA to assist states in developing mechanisms for consultation with Indian Tribes before taking any actions that have substantial direct affect on Indian Tribes. SAMHSA will recommend the development of state plans for Tribal consultation. States will receive SAMHSA technical assistance in developing these plans.
2. In accordance with the HHS-TCP, IGA and SAMHSA will assist states to consult with Indian Tribes in a meaningful manner that is consistent with the definition of "consultation" as defined in this policy. SAMHSA will communicate the input received through tribal consultation to the states through the appropriate program(s) and work with the SAMHSA Centers and Offices to facilitate collaboration between Indian Tribes, states, and SAMHSA.
3. When a SAMHSA Center or Office foresees the possibility of a conflict between tribal and state laws and federally protected interests within its area of regulatory responsibility, SAMHSA shall consult, to the extent practicable and permitted by law, with appropriate Indian Tribes and states in an effort to facilitate a dialogue.
4. SAMHSA will invite and include state governmental, health, and human services experts in the Annual Regional Tribal Consultation Sessions whenever Indian Tribes express that state-tribal dialogue is necessary to enhance and strengthen SAMHSA health and human services and programs regarding substance abuse and mental health.
5. SAMHSA will measure and report on their interaction with states to facilitate and provide tribal consultation technical assistance to states and Indian Tribes. SAMHSA will include their efforts in the IGA Annual Tribal Consultation Report.

F. **Office of Intergovernmental Affairs (IGA)**

1. IGA will assist SAMHSA in helping states develop and implement plans on tribal consultation to assist states with intergovernmental communications with Indian Tribes. SAMHSA Centers and Offices staff will provide technical assistance to states and Indian Tribes for the tribal consultation process.

2. IGA shall provide guidelines that define how SAMHSA will monitor and evaluate state plans to meet tribal consultation meetings, forums, or sessions with Indian Tribes for SAMHSA programs and services administered by or through a state for Indian Tribes. SAMHSA will address state plans in situations where the evaluation has identified deficiencies in the consultation process as set forth in this policy, and work closely with states to strengthen consultation necessary for SAMHSA funded programs and services for Indian Tribes and Al/ANs.

VIII. TRIBAL CONSULTATION CRITERIA

Trust between SAMHSA and Indian Tribes is an indispensable element in establishing a good consultative relationship. The degree and extent of consultation will depend on the identified critical event.

A. **Consultation occurs**:

1. When the SAMHSA Administrator or his/her designee and a tribal official meet or exchange written correspondence to discuss issues concerning either party.
2. When the Administrator, Center director(s), or Office director(s) meet or exchange written correspondence with a tribal official to discuss issues or concerns of either party.
3. When the Administrator, Center director(s), or Office director(s), or their designee(s), meet or exchanges written correspondence with a tribal representative designated by tribal official to discuss issues or concerns of either party.
4. When an Indian Tribe(s) request consultation related to substance abuse or mental health issues, programs, or resources.

B. **Critical Event**: A critical event may be identified by SAMHSA or an Indian Tribe. Indian Tribes will provide written notice defining the critical event to the SAMHSA Administrator's designee for Tribal Affairs. Once the written notice has been received from an Indian Tribe, SAMHSA shall utilize the following criteria to ensure that the requirements of this policy are satisfied:

1. Identify the critical event: Complexity, implications, time constraints, issue (funding, policy, programs).

2. Identify affected and potentially affected Indian Tribe(s) and Tribal Organization(s).

3. Determine level of Consultation: The level of consultation can be determined after considering the critical event and Indian Tribes affected and potentially affected.

    a) Correspondence: Written communications should clearly provide notice to affected and potentially affected Indian Tribes of the critical event for appropriate response.. SAMHSA shall use a "Dear Tribal Leader Letter" (DTLL) to notify individual Indian Tribes of consultation activities. SAMHSA should work closely with IGA if technical assistance is required for proper format, current mailing lists, and content.

    b) Meeting(s): SAMHSA shall convene a meeting with affected and potentially affected Indian Tribes to discuss all pertinent issues in a national or regional forum, or as appropriate, to the extent practicable and permitted by law, when the critical event is determined to have substantial direct impact. Other types of meetings or conferences occur which may not be considered consultation sessions, but such forums may provide an opportunity to share information, conduct workshops, provide technical assistance to Indian Tribe(s) and/or provide SAMHSA the opportunity to get input or comments from Indian Tribes or Indian Organizations on issues that may impact them.

    c) Official Notice: Upon the determination of the level of consultation necessary, official notice of the critical event and the level of consultation utilized shall be communicated to affected and potentially affected Indian Tribes using all appropriate methods including issuing a DTLL, other mailing(s), broadcast e-mail, Federal Register (FR), and other outlets. The FR in conjunction with the issuance of a DTLL is the most formal method used by SAMHSA to communicate and/or notify Indian Tribes of a critical event and the pending consultation. SAMHSA should not consider e-mail communications as a form of consultation with Indian Tribes unless that determination has been made in conjunction with tribal officials in an advisory capacity.

    d) Receipt of Comment: SAMHSA shall develop clear and explicit instructions for the submission of comments and shall solicit the advise and assistance of SAMHSA's Executive Leadership Team (ELT) and the SAMHSA Tribal Technical Advisory Committee (STTAC) in the development of these instructions for comment.

e) Reporting of Outcome: SAMHSA shall report on the outcomes of the consultation.

C. **Tribal Resolution**: Communications from Indian Tribes frequently come in the form of tribal resolutions. These resolutions may be the most formal declaration of an Indian Tribe's position for the purpose of tribal consultation. Once SAMHSA receives a tribal resolution, SAMHSA should respond appropriately. Appropriate response may include tribal consultation.

D. **Schedule for Consultation**: SAMHSA Centers and Offices must establish and adhere to a formal schedule of meetings to consult with Indian Tribes concerning the planning, conduct, and administration of applicable activities including, but are not limited to, the HHS-TCP mandatory Annual National and Regional Tribal Consultation Sessions. SAMHSA must involve Indian Tribes in meetings at every practicable opportunity. SAMHSA Centers and Offices are encouraged to establish additional forums for tribal consultation and participation, and for information sharing with tribal officials. In accordance with the HHS-TCP and this SAMHSA-TCP, SAMHSA consultation schedules shall be forwarded to IGA to be posted on the IGA Web site and to check for duplication or conflicts with other national tribal events and HHS consultation sessions.

E. **Policy Development through Tribal Consultation Process**: The need to develop a policy may be identified from within SAMHSA or by an Indian Tribe(s). This need may result from external forces such as executive, judicial or legislative branch directives. Once the need to develop a policy is identified, the consultation process must begin in accordance with critical events and level of consultation. SAMHSA may request technical assistance from IGA for the tribal consultation process.

IX. TRIBAL CONSULTATION PROCESS (GUIDELINES)

When the need arises, SAMHSA may convene meetings with Indian Tribes specifically for the purpose of consultation. These consultation sessions may occur as free standing events or be associated with other meetings with Indian Tribes. When these sessions occur, tribal officials will be provided appropriate advanced notice of the tribal consultation.

Tribal consultation activities with SAMHSA may occur through a number of different mechanisms and venues that offer flexibility for SAMHSA and Indian Tribes. Consultation activities at this level will emphasize participation by SAMHSA staff with the specific matter expertise and perspectives pertaining to the topic at hand.

A. **Tribal Consultation Steps**: The following guidance is provided to ensure that requirements of the SAMHSA-TCP are satisfied.

1. Identify the critical event and identify the affected or potentially affected Indian Tribe(s): Review and analyze the critical event;

consider the complexity of the event, implications, time constraints, and other relevant issues (e.g., policy, funding, programs). Identify the affected or potentially affected tribal population segment and how the critical event impacts the community and its members.

2. Determine the level of consultation after considering the critical event and affected or potentially affected Indian Tribe(s): The level of consultation can be determined after considering the critical event and Indian Tribe(s) affected or potentially affected and substantial direct impact. Levels of consultation may include: correspondence, meetings, and telephone conferences. However, in some instances, contact or meetings with Indian Tribes, may not constitute consultation, rather they provide an opportunity to share information, resources and technical assistance with Indian Tribes. SAMHSA should be clear when convening meetings or when making contact with an Indian Tribe(s) for the purpose of consultation.

3. Understand when to consult: SAMHSA staff are expected to confer with appropriate Indian Tribes' representatives on matters that include, but are not limited to, the topics below. SAMHSA staff should seek guidance from the SAMHSA designee whenever tribal consultation is being considered, or whenever there is a question as to whether or not consultation is needed. The following list represents a minimum threshold for tribal consultation:

    a) Formulation of new program announcements (e.g., grants, cooperative agreements) primarily intended to benefit Indian Tribes.
    b) Notices of proposed rule making that have significant tribal implications.
    c) Development of policies or guidelines that have tribal implications or will primarily or substantially affect one or more Indian Tribes.
    d) Establishment of new substance abuse and mental health programs targeting AI/AN people or communities.
    e) Development of training and educational opportunities for tribal health professionals, or future health professionals.
    f) Negotiations with state and local substance abuse and mental health officials on matters affecting Indian Tribes or AI/AN populations within, or adjacent to, their jurisdictions.

4. Determine with whom to consult and ensure appropriate tribal representation: Consultation occurs between SAMHSA and elected tribal officials or their designees. This process is often supported by participation by SAMHSA staff with specific subject matter expertise and perspectives pertaining to the topics and populations involved. Appropriate tribal representation will rest primarily with tribal officials but may also include some combination of tribal officials, tribal public

health officials, and subject matter experts – many of whom may, at the Indian Tribe's discretion and delegation, be drawn from regional tribal health boards, national tribal health organizations, and tribal epidemiology centers. Determining sufficiency of tribal representation will vary depending upon a number of factors such as the scope of proposed activities (e.g., local, regional, or national; short term versus long term), the cultural or political sensitivity of the issue at hand, and the number of potential stakeholders (e.g., tribal communities, Indian Health Service [IHS], Bureau of Indian Affairs [BIA], state and local health departments, academic institutions, etc.). This determination will be provided by tribal officials.

In general, proposed activities that are national in scope, involve sensitive issues, or encompass numerous stakeholders would warrant broader tribal representation during consultation sessions or meetings. To help ensure consistency in making these determinations across SAMHSA, staff should seek guidance from the Administrator's designee. SAMHSA may utilize national Indian Organizations, regional tribal health boards and coalitions, and colleagues within SAMHSA, IGA, and other HHS divisions who will be helpful resources for identifying appropriate tribal representatives and providing advice and guidance on the processes best suited to the consultation event.

5. Plan consultation and engage tribal representatives: When planning consultation, SAMSHA will engage the appropriate tribal officials and follow their guidance on venues, format, and cultural protocol. Procedurally, conferring with tribal officials may take place in a manner that is both cost- and time-efficient, and logistically reasonable. In some instances, the solicitation of written input via electronic or traditional mail may be appropriate. Face-to-face meetings are preferable whenever possible, but tele- and video-conferencing may also be used, when necessary. Timeliness is critical, and adequate advance notice should be provided. Meeting notices will be sent one to three months in advance, whenever possible. Any meetings or discussions should, if possible, take place well in advance of the event or implementation of the program under consideration. Meetings convened for the purpose of obtaining consensus advice may be subject to the Federal Advisory Committee Act (FACA), unless they are established consistent with the consultation exemption previously referenced.

6. Involve state substance abuse and mental health department representatives: The HHS-TCP requires HHS divisions, "To assist States in developing mechanisms for consultation with Indian Tribes before taking any actions that have substantial direct effects on Indian Tribes."

In addition the HHS-TCP states that HHS will recommend the development of state plans for tribal consultation and states will receive HHS technical assistance in developing these plans. State consultation with Indian Tribes shall be done in a meaningful manner that is consistent with the definition of "consultation" as defined in this TCP. HHS will assist AI/AN/NA populations in accessing services and resources that are available to them through HHS funding to states. HHS-TCP also directs agencies to, "… remove any procedural impediment to working directly with Tribal government or Indian people …"

SAMHSA is responsible for serving as a facilitator between states and Indian Tribes, and to inform states about federal policy for working with AI/AN communities. Whenever possible and appropriate, SAMHSA staff may involve state substance abuse and mental health department representatives. State involvement is assessed by relevancy to the critical event, community impact, affected population segment, service response, and other pertinent factors. SAMHSA staff can facilitate communication and partnerships between state substance abuse and mental health departments and their appropriate tribal counterparts (usually a tribal division of health or regional tribal health board).

The SAMHSA designee will assist and facilitate tribal-state substance abuse and mental health department relationships. Each Center will consider appropriate orientation and training for SAMHSA project officers assigned to awardees of SAMHSA-funded projects in states with identifiable tribal communities or populations (e.g., reservations, tribal trust lands, urban Indian communities).

7. Document meetings and consultation: Meetings, conferences and consultations should be appropriately documented, with summaries prepared and distributed to participants and appropriate SAMHSA staff. The SAMHSA designee is responsible for maintaining an inventory of SAMHSA-wide tribal consultations and other tribal-related activities. Documentation helps to ensure accountability and is compiled annually in a report to HHS that is made readily available to tribal constituents. At a minimum, appropriate documentation includes a list of participants, with affiliations and contact information; a summary of proceedings; and a statement of meeting outcomes that includes action items, timelines, and responsible parties.
8. Provide timely feedback: A final key component of effective tribal consultation is the assurance of timely feedback. Tribal participants in consultation activities will have review and clearance privileges for the documentation procedures noted above. SAMHSA staff will work

with tribal officials to ensure that Indian Tribes are well informed of the outcomes whenever tribal input is sought by SAMHSA.

B. **Working Effectively with Indian Tribes**: The consultation process and activities within the policy should result in a meaningful outcome for SAMHSA and Indian Tribes. Helpful guidance on working effectively with AI/AN communities is presented below.

1. Initial contact and approvals: In all cases, respect for tribal sovereignty, community individuality, and cultural diversity must be maintained. SAMHSA staff must also adhere to protocols for contact with Indian Tribes on Indian lands. In most cases, this will require obtaining permission from tribal officials prior to contact with an Indian Tribe. Assistance for identifying such contacts is available from the SAMSHA designee or through IGA, National Tribal Organizations and regional tribal health boards.

2. Providing timely feedback: Timely feedback is a critical component of working effectively with Indian Tribes. The SAMHSA-TCP provides that any Indian Tribe that collaborates in the implementation of SAMHSA projects or programs will be provided with timely, culturally appropriate and meaningful feedback regarding the progress or outcomes of those programs.

3. Ensuring access to SAMHSA and SAMHSA grants and programs: A critical outcome of effective tribal consultation will be increased access to SAMHSA programs and grants. SAMHSA works with Indian Tribes to enhance substance abuse and mental health services in AI/AN communities through various mechanisms, including grants and cooperative agreements, federal intra-agency agreements, training and/or technical assistance and direct assistance. Tribal requests for training and/or technical assistance or direct assistance, should be directed to the appropriate SAMHSA points of contact for consideration and response.

X. FEDERAL-TRIBAL ADVISORY COMMITTEES, WORKGROUPS, AND TASKFORCES

A. **SAMHSA Executive Leadership Team (ELT)**: The SAMHSA Executive Leadership Team (ELT) shall also serve as the Administrator's senior advisory team and will include Center directors, Office directors and Senior Advisors and other representatives the Administrator may designate. The ELT will support this TCP through open communication with Indian Tribes. Communications at the ELT and SAMHSA Center level will promote the principle that each SAMHSA Center and Office bears responsibility for addressing Indian Tribes' substance abuse and mental health needs within the context of their respective missions. Each Center and Office should follow

the guidance stated in this policy in terms of key components of effective tribal consultation. Effective implementation of these components will ensure consistency across SAMHSA, and help to enhance collaboration among CSAP, CSAT and CMHS around tribal issues.

B. **SAMHSA Tribal Technical Advisory Committee (STTAC)**: The purpose of the STTAC is to provide a complementary venue wherein the SAMHSA Administrator or designee will solicit advice and views about substance abuse and mental health issues from AI/AN representatives and discuss collaborative solutions. The STTAC will support, and not supplant, any other government-to-government consultation activities that it undertakes. The STTAC will provide an established, recurring venue wherein tribal officials will advise SAMHSA regarding the government-to-government consultation process and will help to ensure that activities or policies that impact Indian Tribes are brought to the attention of all tribal officials. At any time, any elected tribal official may attend STTAC meetings or, if unavailable to attend, may ask STTAC members to present issues on their behalf. As noted above, tribal officials' input and opportunities for consultation are not limited to STTAC meetings or tribal consultation sessions.

The STTAC will be composed of individuals that are either tribal officials of Indian Tribes or Tribal Organizations or their designees with authority to act on their behalf in accordance with FACA requirements. STTAC membership will include representation from each of 12 IHS Areas — a geographically organized system originally based on the IHS's Area Office structure (Alaska Area, Portland Area, California Area, Billings Area, Phoenix Area, Tucson Area, Navajo Area, Albuquerque Area, Aberdeen Area, Bemidji Area, Oklahoma City Area, and Nashville Area). Tribal officials may choose how their STTAC representatives are selected from each region but should institute clear procedures as to how these representatives will keep their constituents informed of STTAC activities. In keeping with FACA requirements, national native organizations may be represented on the STTAC at an elected tribal officials' request.

STTAC meetings may also provide opportunities for information exchange with non-federally recognized tribes, urban Indian Organizations, or other Native Organizations. Such opportunities will be separate from the formal government-to-government consultation sessions, and representatives of these organizations who are not elected tribal officials or their designees may not be STTAC members.

The STTAC membership will develop its own internal structure, rules of order and bylaws, including rules for rotation of membership. The chairperson(s) will be a tribal official (or designee). SAMHSA will assure that all STTAC meetings and recommended actions are formally recorded and made available to Indian Tribes. Recommended follow-up actions will be implemented and

tracked within and reported to Indian Tribes in a timely manner. STTAC meeting summaries will be made available to all STTAC members.

C. **SAMHSA Workgroups and/or Taskforces**: SAMHSA, in cooperation with Indian Tribes, shall establish other groups as needed. Such established workgroups will operate with in the parameters stated herein and will be implemented in a manner reflective of the intent of the HHS-TCP and this SAMHSA-TCP.

XI. HEALTH AND HUMAN SERVICES AND SAMHSA BUDGET FORMULATION

A. **Performance Budget Formulation**: SAMHSA ensures the active participation of Indian Tribes in the formulation of the SAMHSA performance budget request as they pertain to Indian Tribes. Budget priorities should be consistent with the epidemiological data. Therefore, SAMHSA will consider Indian Tribes' data in the formulation of budget priorities for SAMHSA activities that affect Indian Tribes.

B. **Program Formulation**: SAMHSA shall ensure the participation of Indian Tribes in the development of programs, services, and initiatives that address substance abuse and mental health needs and priorities as identified by Indian Tribes, and are funded by SAMHSA discretionary budget authority. Such participation shall be solicited during the annual budget formulation process.

C. **Assistant Secretary for Resources and Technology**: The Assistant Secretary for Resources and Technology (ASRT) is the lead office for budget consultation for the overall HHS budget request. As such, the ASRT leads the National HHS Tribal Budget Formulation Consultation Session(s). These sessions give Indian Tribes and Tribal Organizations the opportunity to present their health and human services priority recommendations as a comprehensive set of national priorities and a proposed budget request. In accordance with Section 11 of the HHS-TCP, SAMHSA shall participate in all of these tribal consultation sessions regarding its budget formulation process.

D. **Intradepartmental Council on Native American Affairs (ICNAA)**: The ICNAA, of which SAMHSA is a member, represents the internal HHS team providing direction across all HHS divisions for AI/AN/NA issues. The tribal priorities and budget recommendations presented at the national sessions and regional consultation sessions are compiled by the IGA and presented to the ICNAA. One of the primary responsibilities of IGA/ICNAA is to solicit tribal input in establishing the health and human service budget priorities and recommendations for the members' respective HHS division. The health and human service priorities established by Indian Tribes are used to inform the development of each HHS divisions' annual performance measures for improving health and human services, which are linked to their budget requests.

E. **Budget Information Disclosure**: SAMHSA will provide to Indian Tribes the SAMHSA budget related information on an annual basis, including, but not limited to, appropriations, allocation, expenditures and funding levels for programs, services, functions and activities.

XII. MEASURING SAMHSA TRIBAL CONSULTATION PERFORMANCE AND COLLABORATION

As part of the IGA Annual Tribal Consultation Report, SAMHSA measures and reports on results and outcomes of their tribal consultation performance to fulfill the government-to-government relationship with Indian Tribes. The HHS mission and the HHS-wide performance objectives are designed to enhance the health and well-being of Americans by providing for effective health and human services and by fostering strong, sustained advances in the sciences underlying medicine, public health and social services.

SAMHSA shall address the HHS mission and performance objectives in carrying out the HHS-TCP. In meeting the HHS objectives for the HHS-TCP, SAMHSA will provide a status report on the outcome of tribal budget recommendations developed through the budget formulation process as part of the budget process defined in Section II, HHS Budget Formulation. They shall also record, evaluate and report on the Annual Regional Tribal Consultation Sessions as described in Section IX, of the HHS-TCP. Furthermore, SAMHSA will evaluate and report on the measures and outcomes of the objectives as stated in Section VI of this TCP.

SAMHSA and Indian Tribes will also promote a cooperative atmosphere to gather, share, and collect data to demonstrate the effective use of federal resources in a manner that is consistent with the Government Performance and Results Act (GPRA), performance measures and the OMB-PART. SAMHSA shall consult, to the greatest extent practicable and permitted by law, with Indian Tribes before taking actions that substantially affect Indian Tribes, including regulatory practices on federal matters and unfunded mandates.

SAMHSA will evaluate and report on tribal feedback of its efforts in conducting the consultation process. In addition to the measures stated above, SAMHSA will report on progress toward achievement of the stated objectives stated in Section VI of this SAMHSA-TCP. SAMHSA will also present barriers encountered and approaches toward meeting the stated objectives.

XIII. CONFLICT RESOLUTION

The intent of this policy is to provide an increased ability to solve problems. However, inherent in the government-to-government relationship, Indian Tribes may elevate an issue of importance to a higher or separate decision-making authority.

SAMHSA shall consult with Indian Tribes to establish a clearly defined conflict resolution process under which Indian Tribes: 1) bring forward concerns which have a substantial direct effect; and 2) apply for waivers of statutory and regulatory requirements that are subject to waiver by SAMHSA.

The request for conflict resolution may originate with an Indian Tribe. SAMHSA will facilitate an intervention within SAMHSA to resolve an issue as needed, and unresolved issues or concerns will be addressed as a high priority agenda item during the next regularly scheduled meeting of the SAMHSA ELT.

SAMHSA CONFLICT RESOLUTION PROCESS: A written communication will be sent to the SAMHSA assigned Administrator's designee outlining the issue(s) or complaint(s) with references made to the TCP section that the tribal official believes was not adhered to by SAMHSA. The SAMHSA assigned Administrator's designee will acknowledge receipt of complaint within 14 calendar days. The SAMHSA assigned Administrator's designee will provide a response to the ELT within 30 calendar days of receipt of the written complaint. Members of the ELT will meet with Tribal Officials and follow the Tribal Consultation Process to make recommendations to the SAMHSA Administrator to resolve issues and complaints. The Deputy Administrator and/or Administrator his/her designee will make a recommendation before a final decision on the course of action that will be taken.

XIV. SUPERSEDURE

Substance Abuse and Mental Health Services Administration Tribal Consultation Plan, December, 2000.

XV. SUMMARY

A wide range of needs across SAMHSA were taken into consideration in developing this policy. SAMHSA will be responsive to unforeseen needs that arise. Hence, it is important that this TCP remain dynamic as circumstances dictate, in accordance with Indian Tribes' input. SAMHSA should strengthen and make every effort with those of other departments and agencies to coordinate programs and services for the benefit of Indian Tribes.

XVI. ABBREVIATIONS, ACRONYMS, AND DEFINITIONS

A. **For the purposes of this policy, the following abbreviations and acronyms apply:**

AI/AN:	American Indian/Alaska Native
AI/AN/NA:	American Indian/Alaska Native/Native American
ASRT:	Assistant Secretary for Resources and Technology
BIA:	Bureau of Indian Affairs
CMHS:	Center for Mental Health Services
CSAP:	Center for Substance Abuse Prevention
CSAT:	Center for Substance Abuse Treatment
Division:	Staff Division and/or Operating Division
DTLL:	Dear Tribal Leader Letter
ELT:	[SAMHSA] Executive Leadership Team

EO:	Executive Order
FACA:	Federal Advisory Committee Act
FR:	*Federal Register*
GPRA:	Government Performance Results Act
HHS:	U.S. Department of Health and Human Services
HHS-TCP:	HHS Tribal Consultation Policy
ICNAA:	Intradepartmental Council on Native American Affairs
IGA:	Office of Intergovernmental Affairs
IHS	Indian Health Service
IOS:	Immediate Office of the Secretary
OMB:	Office of Management and Budget
OA:	Office of the Administrator, SAMHSA
OPPB:	Office of Policy, Planning and Budget
OS:	Office of the Secretary
PART:	Performance Assessment Rating Tool
STTAC:	SAMHSA Tribal Technical Advisory Committee
SAMHSA-TCP:	SAMHSA Tribal Consultation Policy
U.S.:	United States

B. **Definitions:**

1. **Agency** – Any authority of the United States that is an "agency" under 44 USC 3502(1) other than those considered to be independent regulatory agencies, as defined in 44 USC 3502 (5).
2. **Communication** – The exchange of ideas, messages, or information, by speech, signals, writing, or other means.
3. **Consultation** – An enhanced form of communication, which emphasizes trust, respect and shared responsibility. It is an open and free exchange of information and opinion among parties, which leads to mutual understanding and comprehension. Consultation is integral to a deliberative process, which results in effective collaboration and informed decision making with the ultimate goal of reaching consensus on issues.
4. **Coordination and Collaboration** – Working and communicating together in a meaningful government-to-government effort to create a positive outcome.
5. **Critical Events** – Planned or unplanned events that have or may have a substantial impact on Indian Tribes or Native communities, e.g., issues, polices, or budgets which may come from any level within HHS.
6. **Dear Tribal Leader Letter** – A formal letter on behalf of SAMHSA representative informing Tribal Leaders of events, meetings, and resolutions.
7. **Deliberative Process Privilege** – Is a privilege exempting the government from disclosure of government agency materials

containing opinions, recommendations, and other communications that are part of the decision-making process within the agency.

8. **Executive Order** – An order issued by the Government's executive on the basis of authority specifically granted to the executive branch (as by the U.S. Constitution or a Congressional Act).
9. **HHS Tribal Liaisons** – HHS staff designated by the head of an HHS Division that are knowledgeable about the Division's programs and budgets, and have ready access to senior program leadership, and are empowered to speak on behalf of that Division for AI/AN/NA programs, services, issues, and concerns.
10. **Holistic** – An inclusive response to treatment and prevention approaches, which includes the whole being and its consciousness such as treating the whole person not just the symptoms in one area of the body.
11. **Indian** – Indian means a person who is a member of an Indian tribe. 25 U.S.C. 450b(d). Throughout this policy, Indian is synonymous with American Indian/Alaska Native
12. **Indian Organization** – Any group, association, partnership, corporation, or legal entity owned or controlled by Indians, or a majority whose members are Indians.
13. **Indian Tribe** – Any Indian Tribe, band, nation or other organized group or community including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (25 U.S.C. Sec 450b).
14. **Intradepartmental Council on Native American Affairs (ICNAA)** – Authorized by the Native American Programs Act of 1974 (NAPA), as amended. The ICNAA serves primarily to perform functions and develop recommendations for short, intermediate, or long-term solutions to improve AI/AN/NA policies and programs as well as provide recommendations on how HHS should be organized to administer services to the AI/AN/NA population.
15. **Joint Tribal/Federal Workgroups and or/Task Forces** – A group composed of individuals who are elected Tribal officials, appointed by federally recognized Tribal governments and/or federal agencies to represent their interests while working on a particular policy, practice, issue and/or concern.
16. **Mental Health** – The successful performance of mental function, resulting in productive activities, fulfilling relationships with other people and the ability to adapt to change and cope with adversity from early childhood until late life. It is the springboard of thinking and communications skills, learning, emotional growth, resilience and self-esteem.

17. **Methodology** – The procedures and techniques used to collect, store, analyze and present information. It is also a documented approach for performing activities in a coherent, consistent, accountable, and repeatable manner.
18. **Native American (NA)** – Broadly describes the people considered indigenous to North America.
19. **Native Hawaiian** – Any individual whose ancestors were natives of the area, which consists of the Hawaiian Islands prior to 1778 (42 U.S.C. 3057k).
20. **Native Organization –** A nongovernmental body organized and operated to represent the interests of a group of individuals considered indigenous to North American countries. Organizations that represent the interests of individuals do not fall under the intergovernmental committee exemption to FACA found under 2 U.S.C. Sec 1534. Therefore, the Department is required to adhere to FACA if representatives of those organizations are included on advisory committees or workgroups.
21. **Non-Federally Recognized Tribe** – Tribe with whom the Federal Government does not maintain a government-to-government relationship, and to which the Federal Government does not recognize a trust responsibility.
22. **Policies that have Tribal Implications** – Refers to regulations, legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.
23. **Program Services and Resources** – The services and/or resources provided by a particular program and/or initiative which include but is not limited to technical assistance, materials and training.
24. **Public Participation** – When the public is notified of a proposed or actual action, and is provided meaningful opportunities to participate in the policy development process.
25. **SAMHSA Administrator's Designee –** Within the SAMHSA OA, designated by the SAMHSA Administrator, who is knowledgeable about the agency's programs and budgets and has ready access to senior program leadership. Administrator's designee also serves as external Tribal Liaison to the ICNAA, and is empowered to speak on behalf of the agency for Indian Tribes programs, services, issues, and concerns.
26. **Sovereignty** – The ultimate source of political power from which all specific political powers are derived.
27. **State Recognized Tribes** – Tribes that maintain a special relationship with the State government and whose lands and rights are usually recognized by the State. State recognized Tribes may or may not be federally recognized.

28. **Substance Abuse** – A substance use disorder characterized by the use of a mood or behavior-altering substance in a maladaptive pattern resulting in significant impairment or distress, such as failure to fulfill social or occupational obligations or recurrent use in situations in which it is physically dangerous to do so which end in legal problems, but without fulfilling the criteria for substance dependence as defined by the DSM-IV criteria.
29. **Substantial Direct Compliance Costs** – Those costs incurred directly from implementation of changes necessary to meet the requirements of a federal regulation. Because of the large variation in Tribes, "substantial costs" is also variable by Indian Tribe. Each Indian Tribe and the Secretary shall mutually determine the level of costs that represent "substantial costs" in the context of the Indian Tribe's resource base.
30. **To the Extent Practicable and Permitted by Law** – Refers to situations where the opportunity for consultation is limited because of constraints of time, budget, legal authority, etc.
31. **Treaty** – A legally binding and written agreement that affirms the government-to-government relationship between two or more nations.
32. **Tribal Government** – An American Indian or Alaska Native Tribe, Band, Nation, Pueblo, Village or Community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 USC 479a.
33. **Tribal Officials** – Elected or duly appointed officials of Indian Tribes or authorized inter-Tribal organizations.
34. **Tribal Organization** – The recognized governing body of any Indian Tribe; any legally established organization of American Indians and Alaska Natives which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the community to be served by such organization and which includes the maximum participation of Indian Tribe members in all phases of its activities (25 U.S.C. 450b).
35. **Tribal Resolution** – A formal expression of the opinion or will of an official Tribal governing body which is adopted by vote of the Tribal governing body.
36. **Tribal Self–Governance** – The governmental actions of Tribes exercising self-government and self-determination.
37. **Urban Indian Organization** – A program that is funded by the Indian Health Service under Title V (Section 502 or 513) of the Indian Health Care Improvement Act.

XVII. REFERENCES

Department Tribal Consultation Policy, U.S. Department Of Health and Human Services, January 14, 2005.
http://www.hhs.gov/ofta/docs/FnlCnsltPlcywl.pdf

HHS Office of Intergovernmental Affairs
http://www.hhs.gov/iga/

HHS Office of Intergovernmental Affairs, Office of Tribal Affairs:
http://www.hhs.gov/ofta

Government-to-Government Relationship with Tribal Governments, Presidential Memorandum, September 23, 2004
http://www.whitehouse.gov/news/releases/2004/09/20040923-4.html

Consultation and Coordination with Indian Tribal Governments, Executive Order 13175, November 6, 2000
http://www.epa.gov/fedrgstr/eo/eo13175.htm

National Indian Health Board – Mission and Points of Contact
http://www.nihb.org/staticpages/index.php?page=200403301344377815
http://www.nihb.org/staticpages/index.php?page=200403301344374968

Regional Tribal Health Boards
http://www..gov/omh/Populations/AIAN/AIANHB.htm

Tribal Epidemiology Centers
http://www.cdc.gov/omh/Populations/AIAN/AIANEpiCntrs.htm

National Council of Urban Indian Health
http://www.ncuih.org

IHS Division of Epidemiology
http://www.ihs.gov/MedicalPrograms/Epi/index.asp

IHS National Council of Clinical Directors
http://www.ihs.gov/NonMedicalPrograms/nccd/