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*"Rummaging in the government's attic"*

Description of document:	Indian Health Service (IHS) documents regarding medical Marijuana, 2011-2022
Requested date:	15-October-2022
Release date:	11-September-2023
Posted date:	25-September-2023
Source of document:	FOIA Request Indian Health Service FOIA Office Division of Regulatory and Policy Coordination/FOIA 5600 Fishers Lane Mailstop 09E70 Rockville, Maryland 20857 <a href="#">Online FOIA Request Form</a>

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September 11, 2023

**SENT VIA EMAIL**

Re: Final Determination Letter FOIA Case 23-007

I am responding to your request dated and received on October 15, 2022 by the FOIA Office of the Indian Health Service (IHS). You requested the following:

*"A copy of each Indian Health Service memo, policy or other similar document since January 1, 2020 regarding medical marijuana. A copy of each email at the IHS regarding medical marijuana; you may limit the request to the IHS HQ office(s) most likely to have records of this sort. I understand that there has been some discussion of this subject in the last three years at IHS."*

Your request was processed pursuant to the FOIA and HHS regulations. At this time we are providing 16 documents containing 40 pages of material to you with the following exceptions: withholding information from 7 pages, in-part using Exemption (b) (6). [5 U.S.C. § 552](#)

**Exemption (b) (6)**

Exemption (b) (6) allows an agency to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b) (6). We are withholding 7 pages in part under Exemption 6.

The information that has been withheld under Exemption (b) (6) consists of personal information, i.e. telephone numbers. We have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Additionally, you have not provided information that explains a relevant public interest under the FOIA in the disclosure of this personal information and we have determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties.

This is to confirm that the IHS has performed a line-by-line, page by page review of the document to identify exempt and non-exempt information. The IHS has segregated and released all of the information in the documents that it has determined was not exempt from disclosure by any of the FOIA exemptions it invoked.

As this constitutes a partial denial of your request for agency records, I am providing you your appeal rights. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision

Your appeal must be electronically transmitted within 90 calendar days of the date of this letter, to:

Ms. Carol Maloney  
Deputy Agency Chief FOIA Officer  
U.S. Department of Health and Human Services  
Office of the Assistant Secretary for Public Affairs  
<https://requests.publiclink.hhs.gov/App/ReferenceGuide.aspx>

Please clearly indicate on your appeal "Freedom of Information Act Appeal." You may also e-mail your appeal to: [HHS.ACFO@hhs.gov](mailto:HHS.ACFO@hhs.gov).

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the IHS FOIA Public Liaison for assistance at:

ATTN: IHS FOIA Public Liaison  
Division of Regulatory and Policy Coordination  
Office of Management Services  
Indian Health Service (IHS)  
5600 Fishers Lane  
Rockville, MD, 20857  
E-mail: [IHSFOIAMailbox@ihs.gov](mailto:IHSFOIAMailbox@ihs.gov)

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740-6001  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)

If you have any questions or need further assistance, please contact David Meservey at [IHSFOIAMailbox@ihs.gov](mailto:IHSFOIAMailbox@ihs.gov).

Sincerely,

**Carl G. Mitchell** -S

Digitally signed by Carl G. Mitchell -  
S  
Date: 2023.09.11 14:13:23 -04'00'

Carl G. Mitchell  
FOIA Officer  
Director, Division of Regulatory and Policy Coordination

CC: 23-007 File



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Deputy Agency Chief FOIA Officer  
U.S. Department of Health and Human Services  
Office of the Assistant Secretary for Public Affairs  
<https://requests.publiclink.hhs.gov/App/ReferenceGuide.aspx>

Please clearly indicate on your appeal "Freedom of Information Act Appeal." You may also e-mail your appeal to: [HHS.ACFO@hhs.gov](mailto:HHS.ACFO@hhs.gov).

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the IHS FOIA Public Liaison for assistance at:

ATTN: IHS FOIA Public Liaison  
Division of Regulatory and Policy Coordination  
Office of Management Services  
Indian Health Service (IHS)  
5600 Fishers Lane  
Rockville, MD, 20857  
E-mail: [IHSFOIAMailbox@ihs.gov](mailto:IHSFOIAMailbox@ihs.gov)

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Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740-6001  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)

If you have any questions or need further assistance, please contact David Meservey at [IHSFOIAMailbox@ihs.gov](mailto:IHSFOIAMailbox@ihs.gov).

Sincerely,

**Carl G. Mitchell** -S

Digitally signed by Carl G. Mitchell -  
S  
Date: 2023.09.11 14:13:23 -04'00'

Carl G. Mitchell  
FOIA Officer  
Director, Division of Regulatory and Policy Coordination

CC: 23-007 File

## Solimon, Audrey (IHS/HQ)

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**From:** Solimon, Audrey (IHS/HQ)  
**Sent:** Wednesday, December 11, 2019 1:59 PM  
**To:** James, Tamara (IHS/HQ); Hunt, Andrew (IHS/HQ)  
**Cc:** Penland, Teddra R (IHS/HQ)  
**Subject:** RE: MSPI Funding - medical marijuana

Yes, I'll send the email to Annie Slacter in OGC.

Thanks,

**Audrey Solimon, MPH**

*Public Health Analyst*

*MSPI National Program Coordinator*

Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

---

**From:** James, Tamara (IHS/HQ) <Tamara.James@ihs.gov>  
**Sent:** Wednesday, December 11, 2019 9:39 AM  
**To:** Solimon, Audrey (IHS/HQ) <Audrey.Solimon@ihs.gov>; Hunt, Andrew (IHS/HQ) <Andrew.Hunt@ihs.gov>  
**Cc:** Penland, Teddra R (IHS/HQ) <Teddra.Penland@ihs.gov>  
**Subject:** RE: MSPI Funding - medical marijuana

Yes-

Thank you for bringing this to our attention.

Audrey, I am cc'ing Teddi who will be adding items to the OGC tracker.

Could I ask that you send a request to OGC with the emails you shared asking if IHS has a policy, and their recommended action to put in place similar to SAMHSA.

Teddi –please add this to the tracker.

Thanks

Tamara

**TAMARA JAMES, PHD**

*Acting Director*

Division of Behavioral Health | DBH  
Office of Clinical & Preventive Services | OCPS  
Indian Health Service Headquarters | IHS (HQ)  
5600 Fishers Lane | 8th Floor  
Rockville, MD 20857  
Office | (301) 443-1872  
Main Line | (301) 443-2038  
Email | [tamara.james@ihs.gov](mailto:tamara.james@ihs.gov)

Join the Behavioral Health Listserv [HERE!](#)

Join the Native Youth Listserv [HERE!](#)

---

**From:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>  
**Sent:** Wednesday, December 11, 2019 10:17 AM  
**To:** James, Tamara (IHS/HQ) <[Tamara.James@ihs.gov](mailto:Tamara.James@ihs.gov)>; Hunt, Andrew (IHS/HQ) <[Andrew.Hunt@ihs.gov](mailto:Andrew.Hunt@ihs.gov)>  
**Subject:** FW: MSPI Funding - medical marijuana

**Importance:** High

Hi Tamara and Capt. Hunt,

Can we put this topic on the OGC meeting agenda for next week? I think that this will be an important topic that may have an impact on the SASP program NOFO, specifically the substance use arm, and possibly the Opioid NOFO/program. We will likely need to confirm that IHS is using the same HHS guidance (that SAMSHA

uses below) and/or make sure that OGC provides us with any other information and/or guidance that any future grantees/awardees need to be aware of.

I let Amanda know that we are going to look in to this so we can provide the MSPI/SASPP grantee with more information/guidance in the coming weeks.

Thanks,

**Audrey Solimon, MPH**

Public Health Analyst

MSPI National Program Coordinator

Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

---

**From:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>

**Sent:** Tuesday, December 10, 2019 10:35 AM

**To:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>

**Subject:** FW: MSPI Funding - medical marijuana

Good morning Audrey,

I received a call/email from the Project Director for the Kickapoo Tribe MSPI project. She is wanting to know if there are any stipulations regarding this grant and medical marijuana. Please see email below. She is only asking for informational purposes because medical marijuana is legal here in Oklahoma and there have been many questions come up. She would like to have something in writing (similar to what SAMHSA provided) that she can share with the tribe if/when they get questions.

Thank you for your guidance on this. Have a great day.

*Amanda*

---

**From:** Paulette Jobe <[Paulette.Job@okkthc.com](mailto:Paulette.Job@okkthc.com)>

**Sent:** Tuesday, December 10, 2019 8:53 AM

**To:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>

**Subject:** MSPI Funding

*Amanda, According to our SAMHSA award we had to provide a letter stating we would comply with the following. I wanted to follow up as to whether there is a rule for IHS related to funds that has this language. Can you please clarify.*

*Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 C.F.R. § 75.300(a) (requiring HHS to "ensure that Federal funding is expended . . . in full accordance with U.S. statutory . . . requirements."); 21 U.S.C. §§ 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.*

Thank you,

Paulette Jobe, LCSW

Kickapoo Tribal Health Center-Behavioral Health

PO Box 1360

McLoud, OK 74842

405.964.2618 Ext. 312

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notify the sender at once by "reply to sender only" message and destroy all electronic/hard copies of the communication.

## Solimon, Audrey (IHS/HQ)

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**From:** Solimon, Audrey (IHS/HQ)  
**Sent:** Friday, January 24, 2020 2:48 PM  
**To:** Wolf, Michael H. (IHS/HQ)  
**Cc:** Hunt, Andrew (IHS/HQ)  
**Subject:** RE: MSPI Funding - medical marijuana

Hello Mike,

Thanks for your guidance, I will share the link with the APO to share with the current grantee (specific to this current funding cycle). I won't mention that DGM is currently working on language (since you don't know the status of that from DGM/Tarwater as of today). I'll continue to follow up with you on this moving forward before we share any additional information prior to the new funding cycle.

Capt. Hunt, I believe OGC is trying to get an update from DGM on the status of this that is specific to the Notice of Award (not the NOFOs language, since we don't specifically outline this type of information for every substance, etc.).

Thanks again,

**Audrey Solimon, MPH**

*Public Health Analyst*

*SASP/MSPI Program National Coordinator*

Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

---

**From:** Wolf, Michael H. (IHS/HQ) <[Michael.Wolf@ihs.gov](mailto:Michael.Wolf@ihs.gov)>  
**Sent:** Friday, January 24, 2020 2:45 PM  
**To:** Hunt, Andrew (IHS/HQ) <[Andrew.Hunt@ihs.gov](mailto:Andrew.Hunt@ihs.gov)>; Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>  
**Subject:** RE: MSPI Funding - medical marijuana

Bob Tarwater at DGM told me they have some tentative language on this topic but I haven't been able to confirm whether it has yet been finalized. Will follow up.

Mike

---

**From:** Hunt, Andrew (IHS/HQ) <[Andrew.Hunt@ihs.gov](mailto:Andrew.Hunt@ihs.gov)>  
**Sent:** Friday, January 24, 2020 3:37 PM  
**To:** Wolf, Michael H. (IHS/HQ) <[Michael.Wolf@ihs.gov](mailto:Michael.Wolf@ihs.gov)>; Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>  
**Subject:** RE: MSPI Funding - medical marijuana

Should that language be a standard part of the DGM boilerplate for all NOFOs?

CAPT Andrew Hunt, MSW, LICSW (Lumbee)

Acting Deputy Director

*Division of Behavioral Health*

Indian Health Service

*IHS Mission: to raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level*

---

**From:** Wolf, Michael H. (IHS/HQ) <[Michael.Wolf@ihs.gov](mailto:Michael.Wolf@ihs.gov)>  
**Sent:** Friday, January 24, 2020 3:34 PM  
**To:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>  
**Cc:** Hunt, Andrew (IHS/HQ) <[Andrew.Hunt@ihs.gov](mailto:Andrew.Hunt@ihs.gov)>  
**Subject:** RE: MSPI Funding - medical marijuana

Good afternoon Audrey! You can definitely share the link and the first paragraph – the restriction applies to the grant funds. I wouldn't send the second paragraph as I don't know the status of that (although I will follow up with DGM, I did ask but I haven't heard back).

Mike

---

**From:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>

**Sent:** Friday, January 24, 2020 10:13 AM

**To:** Wolf, Michael H. (IHS/HQ) <[Michael.Wolf@ihs.gov](mailto:Michael.Wolf@ihs.gov)>

**Cc:** Hunt, Andrew (IHS/HQ) <[Andrew.Hunt@ihs.gov](mailto:Andrew.Hunt@ihs.gov)>

**Subject:** RE: MSPI Funding - medical marijuana

Good Morning Mike,

I hope this email finds you doing well this week! I just wanted to circle back with you on this – just to confirm – that I am able to share the link below with the Area Project Officer (so that they can then share with the grantee)? I would essentially state the following, using your words below:

*The same restriction would apply to IHS funds that applies to SAMHSA – it applies to the use of all federal funds. The latest communication from IHS on this matter was the 2011 Dear Tribal Leader Letter from Dr. Karol, the IHS Chief Medical Officer at the time. Note that it does not refer specifically to grant funds, but is still relevant in this case:*

[https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2011\\_Letters/DTLLdated06062011.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2011_Letters/DTLLdated06062011.pdf)

*Currently, IHS is working on finalizing language that would be included in all grant notices of award (NoAs) with the prohibition on the use of federal funds related to medical marijuana. This is still being worked on internally and I will continue to follow up with DGM and OGC on the status. For now, you can update the grantee with the link and brief explanation above that was provided to me by OGC.*

Let me know your thoughts and/or concerns. I will await your guidance on this.

Thanks again for your help, I do appreciate it. Have a great day!

**Audrey Solimon, MPH**

*Public Health Analyst*

*SASP/MSPI Program National Coordinator*

Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

---

**From:** Wolf, Michael H. (IHS/HQ) <[Michael.Wolf@ihs.gov](mailto:Michael.Wolf@ihs.gov)>

**Sent:** Thursday, December 12, 2019 10:23 AM

**To:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>; Slacter, Ann R (IHS/HQ) <[Ann.Slacter@ihs.gov](mailto:Ann.Slacter@ihs.gov)>

**Subject:** RE: MSPI Funding - medical marijuana

Good morning Audrey! Annie still is out on extended leave. .

The same restriction would apply to IHS funds that applies to SAMHSA – it applies to the use of all federal funds. I believe the latest communication from IHS on this matter is this 2011 DTLL from Dr. Karol (it does not refer specifically to grant funds):

[https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2011\\_Letters/DTLLdated06062011.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2011_Letters/DTLLdated06062011.pdf)

I believe there is language being finalized that would go in all HHS grant notices of award with the prohibition on the use of the funds related to medical marijuana -- I'm going check with grants to see where that stands. . It includes the following:

“Grant funds shall not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana, even if such acts are lawful in your state/jurisdiction.”

Let me know if you have further questions.

Mike Wolf

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**From:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>

**Sent:** Wednesday, December 11, 2019 3:33 PM

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**Cc:** Wolf, Michael H. (IHS/HQ) <[Michael.Wolf@ihs.gov](mailto:Michael.Wolf@ihs.gov)>  
**Subject:** FW: MSPI Funding - medical marijuana  
**Importance:** High

Hello Annie,

It's been a long time since we've talked so I hope that you are doing well these days.

I was asked by Dr. Tamara James to reach out to OGC regarding the following inquiry we received from one of our MSPI/SASP program grantees on medical marijuana and IHS written guidance we can provide regarding the use of these grant funds. Although not an urgent issue now (the grantee is merely inquiring since they received guidance from SAMHSA), DBH does anticipate needing to provide guidance to future grantees for the MSPI/SASP and Opioid programs when we have new funding cycles. Can you tell me if IHS has similar guidance to what SAMHSA has on the subject? It appears that it is HHS guidance – would that same language apply to IHS grantees?

This topic will also be placed on the OGC-DBH meeting agenda for 12/19/19 and I will be participating in that meeting with Dr. James and Capt. Hunt, so I will be happy to elaborate and/or answer any questions you might have. I've copied Mike on this email as well, since it appears you are out of the office at the moment.

Thanks in advance to you and Mike for your guidance – I always appreciate your help.

Have a good day,

**Audrey Solimon, MPH**

Public Health Analyst

MSPI National Program Coordinator

Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

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**Sent:** Tuesday, December 10, 2019 10:35 AM

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Thank you for your guidance on this. Have a great day.

*Amanda*

---

**From:** Paulette Jobe <[Paulette.Job@okkthc.com](mailto:Paulette.Job@okkthc.com)>

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**Subject:** MSPI Funding

*Amanda, According to our SAMHSA award we had to provide a letter stating we would comply with the following. I wanted to follow up as to whether there is a rule for IHS related to funds that has this language. Can you please clarify.*

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*being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.*

Thank you,

Paulette Jobe, LCSW

Kickapoo Tribal Health Center-Behavioral Health

PO Box 1360

McLoud, OK 74842

405.964.2618 Ext. 312

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## Solimon, Audrey (IHS/HQ)

---

**From:** Bradley, Amanda (IHS/HQ)  
**Sent:** Monday, January 27, 2020 8:06 AM  
**To:** Solimon, Audrey (IHS/HQ)  
**Subject:** RE: MSPI Funding - medical marijuana

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Thank you for your response Audrey! I will give this information to the Project Director.

Have a great day.

*Amanda*

---

**From:** Solimon, Audrey (IHS/HQ) <Audrey.Solimon@ihs.gov>  
**Sent:** Monday, January 27, 2020 7:27 AM  
**To:** Bradley, Amanda (IHS/HQ) <Amanda.Bradley@ihs.gov>  
**Subject:** RE: MSPI Funding - medical marijuana

Good Morning Amanda,

I spoke with OGC last month and they are continuing to look in to specific on this, but for now, here is what you can provide to the grantee who is inquiring on this issue:

*The same restriction would apply to IHS funds that applies to SAMHSA – it applies to the use of all federal funds. The latest communication from IHS on this matter was the 2011 Dear Tribal Leader Letter from Dr. Karol, the IHS Chief Medical Officer at the time. Note that it does not refer specifically to grant funds, but is still relevant in this case:*

[https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2011\\_Letters/DTLL\\_dated06062011.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2011_Letters/DTLL_dated06062011.pdf)

If and when I receive any updates I will make sure to update all the APOs, but please also feel free to connect with me again in the future, should you need to do so.

Let me know if you have any questions and thank you,

**Audrey Solimon, MPH**  
Public Health Analyst  
SASP/MSPI Program National Coordinator  
Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

---

**From:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>  
**Sent:** Friday, January 24, 2020 8:53 AM  
**To:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>  
**Subject:** RE: MSPI Funding - medical marijuana

Good morning Audrey,

I just wanted to follow up on this question my project had regarding medical marijuana. Were you all able to meet with the OGC on this issue? I appreciate your time and help with this.

Respectfully,

*Amanda*

---

**From:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>

**Sent:** Wednesday, December 11, 2019 9:13 AM

**To:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>

**Subject:** RE: MSPI Funding - medical marijuana

Hi Amanda,

I'm sure that IHS follows the same guidance, and could possibly use the same HHS guidance. I'll ask Tamara/Hunt to put this on the OGC meeting agenda – we have a meeting scheduled for next week, so that would be a good time for us to vet this with our legal counsel. I hope to have a response to you for the grantee by next week, but for now, just let Paulette know that we are looking in to the IHS guidance and any requirements that we may have for MSPI/SASPP grantees.

Thanks for reaching out on this one. This is important, especially as we look to the new funding cycle for the substance use arm of SASPP – we will likely need to have this guidance prepared to provide any new grantees/awardees next when the new funding cycle begins.

Thanks so much,

**Audrey Solimon, MPH**

*Public Health Analyst*

*MSPI National Program Coordinator*

Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

---

**From:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>

**Sent:** Tuesday, December 10, 2019 10:35 AM

**To:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>

**Subject:** FW: MSPI Funding - medical marijuana

Good morning Audrey,

I received a call/email from the Project Director for the Kickapoo Tribe MSPI project. She is wanting to know if there are any stipulations regarding this grant and medical marijuana. Please see email below. She is only asking for informational purposes because medical marijuana is legal here in Oklahoma and there have been many questions come up. She would like to have something in writing (similar to what SAMHSA provided) that she can share with the tribe if/when they get questions.

Thank you for your guidance on this. Have a great day.

*Amanda*

---

**From:** Paulette Jobe <[Paulette.Job@okkthc.com](mailto:Paulette.Job@okkthc.com)>  
**Sent:** Tuesday, December 10, 2019 8:53 AM  
**To:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>  
**Subject:** MSPI Funding

*Amanda, According to our SAMHSA award we had to provide a letter stating we would comply with the following. I wanted to follow up as to whether there is a rule for IHS related to funds that has this language. Can you please clarify.*

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Thank you,  
Paulette Jobe, LCSW

Kickapoo Tribal Health Center-Behavioral Health  
PO Box 1360  
McLoud, OK 74842  
405.964.2618 Ext. 312

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## RE: MSPI Funding - medical marijuana

Bradley, Amanda (IHS/HQ) <Amanda.Bradley@ihs.gov>

Mon 1/27/2020 8:05 AM

To: Solimon, Audrey (IHS/HQ) <Audrey.Solimon@ihs.gov>

Thank you for your response Audrey! I will give this information to the Project Director.

Have a great day.

*Amanda*

---

**From:** Solimon, Audrey (IHS/HQ) <Audrey.Solimon@ihs.gov>

**Sent:** Monday, January 27, 2020 7:27 AM

**To:** Bradley, Amanda (IHS/HQ) <Amanda.Bradley@ihs.gov>

**Subject:** RE: MSPI Funding - medical marijuana

Good Morning Amanda,

I spoke with OGC last month and they are continuing to look in to specific on this, but for now, here is what you can provide to the grantee who is inquiring on this issue:

*The same restriction would apply to IHS funds that applies to SAMHSA – it applies to the use of all federal funds. The latest communication from IHS on this matter was the 2011 Dear Tribal Leader Letter from Dr. Karol, the IHS Chief Medical Officer at the time. Note that it does not refer specifically to grant funds, but is still relevant in this case:*

[https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2011\\_Letters/DTLLdated06062011.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2011_Letters/DTLLdated06062011.pdf)

If and when I receive any updates I will make sure to update all the APOs, but please also feel free to connect with me again in the future, should you need to do so.

Let me know if you have any questions and thank you,

**Audrey Solimon, MPH**

*Public Health Analyst*

*SASP/MSPI Program National Coordinator*

Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

---

**From:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>

**Sent:** Friday, January 24, 2020 8:53 AM

**To:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>

**Subject:** RE: MSPI Funding - medical marijuana

Good morning Audrey,

I just wanted to follow up on this question my project had regarding medical marijuana. Were you all able to meet with the OGC on this issue? I appreciate your time and help with this.

Respectfully,

*Amanda*

---

**From:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>

**Sent:** Wednesday, December 11, 2019 9:13 AM

**To:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>

**Subject:** RE: MSPI Funding - medical marijuana

Hi Amanda,

I'm sure that IHS follows the same guidance, and could possibly use the same HHS guidance. I'll ask Tamara/Hunt to put this on the OGC meeting agenda – we have a meeting scheduled for next week, so that would be a good time for us to vet this with our legal counsel. I hope to have a response to you for the grantee by next week, but for now, just let Paulette know that we are looking in to the IHS guidance and any requirements that we may have for MSPI/SASPP grantees.

Thanks for reaching out on this one. This is important, especially as we look to the new funding cycle for the substance use arm of SASPP – we will likely need to have this guidance prepared to provide any new grantees/awardees next when the new funding cycle begins.

Thanks so much,

**Audrey Solimon, MPH**

*Public Health Analyst*

*MSPI National Program Coordinator*

Email: [Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)

---

**From:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>

**Sent:** Tuesday, December 10, 2019 10:35 AM

**To:** Solimon, Audrey (IHS/HQ) <[Audrey.Solimon@ihs.gov](mailto:Audrey.Solimon@ihs.gov)>

**Subject:** FW: MSPI Funding - medical marijuana

Good morning Audrey,

I received a call/email from the Project Director for the Kickapoo Tribe MSPI project. She is wanting to know if there are any stipulations regarding this grant and medical marijuana. Please see email below. She is only asking for informational purposes because medical marijuana is legal here in Oklahoma and there have been many questions come up. She would like to have something in writing (similar to what SAMHSA provided) that she can share with the tribe if/when they get questions.

Thank you for your guidance on this. Have a great day.

*Amanda*

---

**From:** Paulette Jobe <[Paulette.Job@okkthc.com](mailto:Paulette.Job@okkthc.com)>

**Sent:** Tuesday, December 10, 2019 8:53 AM

**To:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>

**Subject:** MSPI Funding

*Amanda, According to our SAMHSA award we had to provide a letter stating we would comply with the following. I wanted to follow up as to whether there is a rule for IHS related to funds that has this language. Can you please clarify.*

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Thank you,  
Paulette Jobe, LCSW

Kickapoo Tribal Health Center-Behavioral Health  
PO Box 1360  
McLoud, OK 74842  
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## RE: MSPI Funding

Bradley, Amanda (IHS/HQ) <Amanda.Bradley@ihs.gov>

Mon 1/27/2020 8:40 AM

To: Paulette Jobe <paulette.job@okkthc.com>; Paulette Jobe - IHS  
<Paulette.Job@ihs.gov>

Hi Paulette,

I hope you are doing well today. Please see the response from the IHS Office of General Counsel (OGC) on this issue.

*The same restriction would apply to IHS funds that applies to SAMHSA – it applies to the use of all federal funds. The latest communication from IHS on this matter was the 2011 Dear Tribal Leader Letter from Dr. Karol, the IHS Chief Medical Officer at the time. Note that it does not refer specifically to grant funds, but is still relevant in this case:*

[https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2011\\_Letters/DTLLdated06062011.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2011_Letters/DTLLdated06062011.pdf)

If there are any further updates regarding this matter, I will be sure to provide that information to you. Please let me know if you have any questions.

Thank you and have a great day.

*Amanda*

---

**From:** Bradley, Amanda (IHS/HQ)  
**Sent:** Wednesday, December 11, 2019 9:39 AM  
**To:** 'Paulette Jobe' <Paulette.Job@okkthc.com>  
**Subject:** RE: MSPI Funding

Good Morning Paulette,

I reached out to the MSPI Program Lead and we are looking in to the IHS guidance and any requirements that we may have for MSPI/SASPP grantees. I hope to get back with you by the end of next week.

Thank you and have a great day.

*Amanda*

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**From:** Paulette Jobe <[Paulette.Jobe@okkthc.com](mailto:Paulette.Jobe@okkthc.com)>  
**Sent:** Tuesday, December 10, 2019 8:53 AM  
**To:** Bradley, Amanda (IHS/HQ) <[Amanda.Bradley@ihs.gov](mailto:Amanda.Bradley@ihs.gov)>  
**Subject:** MSPI Funding

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"reply to sender only" message and destroy all electronic/hard copies of the communication.

**From:** [Sollock, Nikki Held \(IHS/HQ\)](#)  
**To:** [Penland, Teddra R \(IHS/HQ\)](#); [James, Tamara \(IHS/HQ\)](#); [Solimon, Audrey \(IHS/HQ\)](#); [Fore, Chris L \(IHS/HQ\)](#); [Kinlacheeny, JB \(IHS/HQ\)](#); [End of Horn, Pamela \(IHS/HQ\)](#); [Segay, Glorinda \(IHS/HQ\)](#)  
**Cc:** [Slacter, Ann R \(IHS/HQ\)](#); [Richards, Monique \(IHS/HQ\)](#); [Quinn-Matute, Andrea \(IHS/HQ\)](#)  
**Subject:** RE: DBH Meeting with OGC  
**Date:** Thursday, October 20, 2022 2:43:41 PM  
**Attachments:** [RE Medical Cannabis -- REQUEST UPDATED GUIDANCE .msg](#) 

---

Good afternoon – As discussed, please see OGC recent advice re: cannabis attached.

Thank you!

Nikki

-----Original Appointment-----

**From:** Penland, Teddra R (IHS/HQ) <Teddra.Penland@ihs.gov>  
**Sent:** Monday, August 16, 2021 1:09 PM  
**To:** Penland, Teddra R (IHS/HQ); James, Tamara (IHS/HQ); Solimon, Audrey (IHS/HQ); Fore, Chris L (IHS/HQ); Kinlacheeny, JB (IHS/HQ); End of Horn, Pamela (IHS/HQ); Segay, Glorinda (IHS/HQ)  
**Cc:** Slacter, Ann R (IHS/HQ); Richards, Monique (IHS/HQ); Quinn-Matute, Andrea (IHS/HQ); Sollock, Nikki Held (IHS/HQ)  
**Subject:** DBH Meeting with OGC  
**When:** Thursday, October 20, 2022 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Skype Meeting

Dr. James will be facilitating the discussion this afternoon.

Monthly calls occur the 3<sup>rd</sup> Thursday of each month.

Please be prepared to provide legal-related updates and bring questions for OGC staff. Add any topics, or revise updates as needed. Teddi Penland will maintain changes to the tracker.

New Skype link

.....  
[Join Skype Meeting](#)

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[301-945-9555](#) (All Locations) English (United States)

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For assistance, please contact the IHS IT Service  
Desk at 888-830-7280 or [itsupport@ihs.gov](mailto:itsupport@ihs.gov)

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**From:** [Sollock, Nikki Held \(IHS/HQ\)](#)  
**To:** [Gunderson, Cynthia \(IHS/BEM/AO\)](#); [Dooley, Sean M \(IHS/HQ\)](#)  
**Cc:** [Harrison, Geniel \(IHS/POR\)](#); [Allmaras, Kristin \(IHS/BEM/RDL\)](#); [Slacter, Ann R \(IHS/HQ\)](#)  
**Subject:** RE: Medical Cannabis -- REQUEST UPDATED GUIDANCE  
**Date:** Friday, October 14, 2022 3:13:00 PM

---

Hi Cindy,

IHS's current policies regarding the use of Federal funds for marijuana are tied to marijuana's classification as a Schedule I Controlled Substance under the Controlled Substances Act. Because the Schedule 1 classification is intended for the most dangerous substances, IHS has historically elected not to use or recommend marijuana in any context, as a matter of both federal law and agency policy. The latest language that OGC has cleared describing the agency's position on medical marijuana reads as follows:

Despite a growing number of states that have legalized either medical or recreational use of marijuana, Federal law specifically prohibits the use of marijuana under all but very controlled research protocols. Federal employees, grantees, and contractors (including Indian Self-Determination and Education Assistance Act contractors), must comply with Federal laws that prohibit marijuana use and any use of Federal funds for marijuana.

In accordance with these laws, the IHS does not prescribe, administer, or dispense marijuana for medical use in its facilities. Although 30 states have legalized medical marijuana, it remains listed as a Schedule I Controlled Substance by the Controlled Substances Act (CSA), which means that it has no medically accepted use in treatment in the United States (U.S.), and that it is still prohibited under Federal law (see <https://www.dea.gov/druginfo/csa.shtml>).

The IHS *Indian Health Manual* (IHM), Part 3, Professional Services, Chapter 7, Pharmacy, has provisions for investigational drugs, but not for Schedule I controlled substances. The IHM lists only schedules (II-V) as acceptable drugs for use within the Agency. That means that the IHS will not use Schedule I controlled substances as a matter of Agency policy. Additionally, the U.S. Food and Drug Administration (FDA) considers marijuana an unapproved drug.

In the future, if the FDA changes the status of marijuana to an approved status for any medical indication and Congress reclassifies marijuana to another controlled substance schedule (II-V) in the Controlled Substances Act, the IHS will revisit this position.

However, President Biden's recent announcement regarding marijuana reform included a directive to HHS and the Attorney General to "review expeditiously how marijuana is scheduled under federal law." See [Statement from President Biden on Marijuana Reform | The White House](#). This directive has the *potential* to result in FDA changing the status of marijuana as an unapproved drug, and possibly in DEA pursuing a change in marijuana's Schedule 1 classification. These steps would provide IHS with dramatically more policy flexibility than what exists today, but are likely to take quite some time – if they happen at all.

Short of federal statutory/regulatory changes, we can nevertheless understand the desire for IHS policy to reflect current realities, where our patients may be utilizing recreational cannabis – or seeking medical cannabis treatment at non-IHS facilities. We would be happy to review any draft policy language that HOPE is considering, including in Chapter 30 (I believe the latest draft we had seen was a 2020 version). In case it's helpful as a point of comparison, the official version of the VA's policy can be found at [VA and Marijuana – What Veterans need to know - Public Health](#). To the extent that HOPE would like to issue something similar to the VA's guidance, we would of course recommend engagement with the Acting IHS Principal Pharmacy Consultant, as well.

Thank you,  
Nikki

Nikki Held Sollock  
Senior Attorney  
Office of the General Counsel, Public Health Division, Indian Health Service Branch  
U.S. Department of Health and Human Services  
(b) (6)  
(b) (6)  
Pronouns: she/her

---

**From:** Gunderson, Cynthia (IHS/BEM/AO) <Cynthia.Gunderson@ihs.gov>  
**Sent:** Friday, October 7, 2022 10:10 AM  
**To:** Sollock, Nikki Held (IHS/HQ) <Wallis.Sollock@ihs.gov>; Dooley, Sean M (IHS/HQ) <Sean.Dooley@ihs.gov>  
**Cc:** Harrison, Geniel (IHS/POR) <geniel.harrison@ihs.gov>; Allmaras, Kristin (IHS/BEM/RDL) <Kristin.Allmaras@ihs.gov>  
**Subject:** Medical Cannabis -- REQUEST UPDATED GUIDANCE

Good morning. Time permitting -- requesting review and updated guidance regarding the IHS stance on medical cannabis. Specifically requesting guidance regarding potential statutory references/recommendations to assist IHS facilities with relating to increasing tribal medical cannabis dispensaries.

The updated IHM 3:30 has not yet been approved. This pending policy update includes provider guidance for patient-centered language and collaborative treatment planning for use of medical cannabis for chronic pain syndromes (and follows VHA policy guidance (<https://veteran.com/va-medical-marijuana/>). Anecdotally, our current practices for de-prescribing opioids/gabapentin with positive THC in Urine Drug Screens may contribute to increased illicit opioid use.

Is there a way under current statutory authority or HHS/IHS policy to issue an informal guidance regarding medical cannabis?

Thank you for your review and recommendations,  
Cindy

CAPT Cynthia A. Gunderson, PharmD  
Chair, IHS National Committee on Heroin, Opioids, and Pain Efforts

(b) (6)

Desk: 218- 444-0470

## Meservey, David (IHS/HQ)

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**From:** Gunderson, Cynthia (IHS/BEM/AO)  
**Sent:** Monday, October 31, 2022 2:31 PM  
**To:** Cindy Gunderson  
**Subject:** FW: Cannibus and Pain Contracts for Chronic Opioid Therapy Patients

---

**From:** James, Tamara (IHS/HQ) <Tamara.James@ihs.gov>  
**Sent:** Thursday, October 20, 2022 2:05 PM  
**To:** Gunderson, Cynthia (IHS/BEM/AO) <Cynthia.Gunderson@ihs.gov>  
**Cc:** Kinlacheeny, JB (IHS/HQ) <JB.Kinlacheeny@ihs.gov>; Segay, Glorinda (IHS/HQ) <Glorinda.Segay@ihs.gov>  
**Subject:** Cannibus and Pain Contracts for Chronic Opioid Therapy Patients

As it relates to recent development and legalization of recreational cannibus, our OGC call discussed whether or not we needed to provide supplemental information for our facilities/providers in the care coordination of chronic opioid therapy patients. Chris discussed having this topic brought up under Pain Contracts but it also sounds like VA has taken the lead on creating public facing information that would be useful for their service pop and potentially ours.

Nikki said she would share what CAPT Gunderson sent her way from VA, she also shared that HHS (possibly lead by FDA) has convened a workgroup on this topic.

Unknown if it includes DEA at this time but of course until the schedule II status is changed we are limited on what our providers can include in patient visits as it relates to prescribing practices, formulary considerations, and pain contract terms.

I am recommending we consider following VA lead on this topic, as a site or information to be provided (to possible assist our providers), also that we review what we can change as it relates to Pain Contracts (is this in the IHM for Chronic Pain) and any flexibility. Finally, find out more about the workgroup and determine if IHS should be attending or represented at those meetings.

Thanks,

Tamara D. James, PhD

Division of Behavioral Health

Indian Health Service

Office of Clinical and Preventive Services

5600 Fishers Lane, MS 08N13

Rockville, MD 20857

Phone: 301-443-1872

## Meservey, David (IHS/HQ)

---

**From:** Grund, Teresa (IHS/BEM)  
**Sent:** Monday, November 22, 2021 11:01 AM  
**To:** Cushman, Nicholas Alen (IHS/POR); Hall, Ted (Ho-Chunk); Gunderson, Cynthia A. (IHS/BEM); Allmaras, Kristin (IHS/BEM); Townsend, Travis J (IHS/BEM); Rose, Judy (IHS/BEM)  
**Subject:** Re: GUIDANCE ON PAIN AGREEMENTS AND THC

I agree with Nick and here in Red Lake we don't discharge our patients from the chronic pain clinic if there is evidence they are using marijuana. We try to have conversations surrounding what they are using the marijuana to treat and offer effective alternatives therapies that may help reduce the symptoms their attempting to treat with the marijuana. Anecdotally, we have had patients who stop using marijuana when the pain has been better controlled.

Teresa Grund R.Ph. BCPS. BCPP.

LCDR USPHS Red Lake IHS Hospital

24760 Hospital Dr.

Red Lake, MN 56667

E-mail [teresa.grund@ihs.gov](mailto:teresa.grund@ihs.gov)

Phone 218-679-2825

Fax 218-679-0189

---

**From:** Cushman, Nicholas Alen (IHS/POR) <Nicholas.Cushman@ihs.gov>  
**Sent:** Monday, November 22, 2021 11:36 AM  
**To:** Hall, Ted (Ho-Chunk) <ted.hall@ho-chunk.com>; Grund, Teresa (IHS/BEM) <Teresa.Grund@ihs.gov>; Gunderson, Cynthia A. (IHS/BEM) <Cynthia.Gunderson@ihs.gov>; Allmaras, Kristin (IHS/BEM) <Kristin.Allmaras@ihs.gov>; Townsend, Travis J (IHS/BEM) <Travis.Townsend@ihs.gov>  
**Subject:** Re: GUIDANCE ON PAIN AGREEMENTS AND THC

Any input from our faculty for CAPT Rose?

---

**From:** Cushman, Nicholas Alen (IHS/POR) <Nicholas.Cushman@ihs.gov>  
**Sent:** Wednesday, November 17, 2021 11:04 AM  
**To:** Hall, Ted (Ho-Chunk) <ted.hall@ho-chunk.com>; Grund, Teresa (IHS/BEM) <Teresa.Grund@ihs.gov>; Gunderson, Cynthia A. (IHS/BEM) <Cynthia.Gunderson@ihs.gov>; Allmaras, Kristin (IHS/BEM) <Kristin.Allmaras@ihs.gov>; Townsend, Travis J (IHS/BEM) <Travis.Townsend@ihs.gov>  
**Subject:** Fw: GUIDANCE ON PAIN AGREEMENTS AND THC

Another question that I thought you all may be better able to address? I imagine nothing "official" given the federal status of marijuana, but wanted to double check what people were seeing or hearing.

Here is what I offered before mentioning that I would ping our network: "Anecdotally, I have seen all of the above regarding the use of marijuana. It would appear that more and more sites are becoming lenient re: + THC tests as the bigger picture is taking precedence."

-Nick

---

**From:** Rose, Judy (IHS/BEM) <Judy.Rose@ihs.gov>  
**Sent:** Wednesday, November 17, 2021 10:28 AM  
**To:** Cushman, Nicholas Alen (IHS/POR) <Nicholas.Cushman@ihs.gov>  
**Subject:** GUIDANCE ON PAIN AGREEMENTS AND THC

Hello Nick,

I have a general policy question that I think you can probably provide some insight on.

On a broad/national level, how are sites handling patients on pain agreements using marijuana legally (at the state level)?

Obviously, as we are a federal practice, we cannot advocate for its use but are sites:  
-including THC in their UDS panels? (or not testing for it as a "don't ask, don't tell" approach), or  
-deeming those w/continued use to be ineligible to receive opioids (or other substances covered by the pain agreement)?

We are struggling with how to best address this locally so thought I'd reach out to you, as well as the other federal BEM sites.

Feel free to re-direct me to other sources. I looked thru the NPC meetings for the last 3 months and did not find anything relevant and the search bar did not work for me.

Hope you are enjoying your new locale.

Thank you for your time and assistance.

Judy

**Judy L. Rose, Pharm.D.**

White Earth Service Unit Pharmacy Director  
CAPT, United States Public Health Service  
40520 Co Hwy 34  
Ogema, MN 56569  
(218) 983-6372



## Meservey, David (IHS/HQ)

---

**From:** Fretland, Kailee L (IHS/BEM/RDL)  
**Sent:** Monday, October 31, 2022 5:55 AM  
**To:** Gunderson, Cynthia (IHS/BEM/AO)  
**Cc:** Harrison, Geniel (IHS/POR); Allmaras, Kristin (IHS/BEM/RDL)  
**Subject:** RE: Medical Cannabis -- REQUEST UPDATED GUIDANCE

Good Morning,  
Please let me know how I can assist.  
Thank you,  
Kailee

*Kailee Fretland, PharmD, BCPS  
Captain, U.S. Public Health Service  
Acting Principal Pharmacy Consultant  
Office of Clinical and Preventive Service  
Indian Health Service Headquarters*

(b) (6)  
(b) (6)

*Kailee.fretland@ihs.gov*

---

**From:** Gunderson, Cynthia (IHS/BEM/AO) <Cynthia.Gunderson@ihs.gov>  
**Sent:** Friday, October 14, 2022 4:31 PM  
**To:** Sollock, Nikki Held (IHS/HQ) <Wallis.Sollock@ihs.gov>; Dooley, Sean M (IHS/HQ) <Sean.Dooley@ihs.gov>  
**Cc:** Harrison, Geniel (IHS/POR) <geniel.harrison@ihs.gov>; Allmaras, Kristin (IHS/BEM/RDL) <Kristin.Allmaras@ihs.gov>; Slacter, Ann R (IHS/HQ) <Ann.Slacter@ihs.gov>; Fretland, Kailee L (IHS/BEM/RDL) <kailee.fretland@ihs.gov>  
**Subject:** RE: Medical Cannabis -- REQUEST UPDATED GUIDANCE

Thank you for your review and recommendations. The updated IHM 3:30 from 2020 includes the preferred language for marijuana.

Thank you for the VA sample--we will confer with Kailee on potential next steps for similar guidance.

Thank you,  
Cindy

---

**From:** Sollock, Nikki Held (IHS/HQ) <[Wallis.Sollock@ihs.gov](mailto:Wallis.Sollock@ihs.gov)>  
**Sent:** Friday, October 14, 2022 4:14 PM  
**To:** Gunderson, Cynthia (IHS/BEM/AO) <[Cynthia.Gunderson@ihs.gov](mailto:Cynthia.Gunderson@ihs.gov)>; Dooley, Sean M (IHS/HQ) <[Sean.Dooley@ihs.gov](mailto:Sean.Dooley@ihs.gov)>  
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Hi Cindy,

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most dangerous substances, IHS has historically elected not to use or recommend marijuana in any context, as a matter of both federal law and agency policy. The latest language that OGC has cleared describing the agency's position on medical marijuana reads as follows:

Despite a growing number of states that have legalized either medical or recreational use of marijuana, Federal law specifically prohibits the use of marijuana under all but very controlled research protocols. Federal employees, grantees, and contractors (including Indian Self-Determination and Education Assistance Act contractors), must comply with Federal laws that prohibit marijuana use and any use of Federal funds for marijuana.

In accordance with these laws, the IHS does not prescribe, administer, or dispense marijuana for medical use in its facilities. Although 30 states have legalized medical marijuana, it remains listed as a Schedule I Controlled Substance by the Controlled Substances Act (CSA), which means that it has no medically accepted use in treatment in the United States (U.S.), and that it is still prohibited under Federal law (see <https://www.dea.gov/druginfo/csa.shtml>).

The IHS *Indian Health Manual* (IHM), Part 3, Professional Services, Chapter 7, Pharmacy, has provisions for investigational drugs, but not for Schedule I controlled substances. The IHM lists only schedules (II-V) as acceptable drugs for use within the Agency. That means that the IHS will not use Schedule I controlled substances as a matter of Agency policy. Additionally, the U.S. Food and Drug Administration (FDA) considers marijuana an unapproved drug.

In the future, if the FDA changes the status of marijuana to an approved status for any medical indication and Congress reclassifies marijuana to another controlled substance schedule (II-V) in the Controlled Substances Act, the IHS will revisit this position.

However, President Biden's recent announcement regarding marijuana reform included a directive to HHS and the Attorney General to "review expeditiously how marijuana is scheduled under federal law." See [Statement from President Biden on Marijuana Reform | The White House](#). This directive has the *potential* to result in FDA changing the status of marijuana as an unapproved drug, and possibly in DEA pursuing a change in marijuana's Schedule 1 classification. These steps would provide IHS with dramatically more policy flexibility than what exists today, but are likely to take quite some time – if they happen at all.

Short of federal statutory/regulatory changes, we can nevertheless understand the desire for IHS policy to reflect current realities, where our patients may be utilizing recreational cannabis – or seeking medical cannabis treatment at non-IHS facilities. We would be happy to review any draft policy language that HOPE is considering, including in Chapter 30 (I believe the latest draft we had seen was a 2020 version). In case it's helpful as a point of comparison, the official version of the VA's policy can be found at [VA and Marijuana – What Veterans need to know - Public Health](#). To the extent that HOPE would like to issue something similar to the VA's guidance, we would of course recommend engagement with the Acting IHS Principal Pharmacy Consultant, as well.

Thank you,  
Nikki

Nikki Held Sollock  
Senior Attorney  
Office of the General Counsel, Public Health Division, Indian Health Service Branch  
U.S. Department of Health and Human Services

(b) (6)  
(b) (6)

Pronouns: she/her

---

**From:** Gunderson, Cynthia (IHS/BEM/AO) <[Cynthia.Gunderson@ihs.gov](mailto:Cynthia.Gunderson@ihs.gov)>  
**Sent:** Friday, October 7, 2022 10:10 AM  
**To:** Sollock, Nikki Held (IHS/HQ) <[Wallis.Sollock@ihs.gov](mailto:Wallis.Sollock@ihs.gov)>; Dooley, Sean M (IHS/HQ) <[Sean.Dooley@ihs.gov](mailto:Sean.Dooley@ihs.gov)>  
**Cc:** Harrison, Geniel (IHS/POR) <[geniel.harrison@ihs.gov](mailto:geniel.harrison@ihs.gov)>; Allmaras, Kristin (IHS/BEM/RDL) <[Kristin.Allmaras@ihs.gov](mailto:Kristin.Allmaras@ihs.gov)>  
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The updated IHM 3:30 has not yet been approved. This pending policy update includes provider guidance for patient-centered language and collaborative treatment planning for use of medical cannabis for chronic pain syndromes (and follows VHA policy guidance (<https://veteran.com/va-medical-marijuana/>). Anecdotally, our current practices for de-prescribing opioids/gabapentin with positive THC in Urine Drug Screens may contribute to increased illicit opioid use.

Is there a way under current statutory authority or HHS/IHS policy to issue an informal guidance regarding medical cannabis?

Thank you for your review and recommendations,  
Cindy

CAPT Cynthia A. Gunderson, PharmD  
Chair, IHS National Committee on Heroin, Opioids, and Pain Efforts

(b) (6)

Desk: 218- 444-0470



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

JUL 13 2020

Indian Health Service  
Rockville, MD 20857

Mr. Chuck Hoskin Jr.  
Principal Chief  
Cherokee Nation  
P.O. Box 948  
Tahlequah, OK 74465-0948

Dear Principal Chief Hoskin:

I am responding to your June 9 inquiry regarding Indian Health Service (IHS) policy on the medicinal use of marijuana.

Despite a growing number of states that have legalized either medical or recreational use of marijuana, Federal law specifically prohibits the use of marijuana under all but very controlled research protocols. Federal employees, grantees, and contractors (including Indian Self-Determination and Education Assistance Act contractors), must comply with Federal laws that prohibit marijuana use and any use of Federal funds for marijuana.

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In the future, if the FDA changes the status of marijuana to an approved status for any medical indication and Congress reclassifies marijuana to another controlled substance schedule (II-V) in the Controlled Substances Act, the IHS will revisit this position.

If you have further questions, please contact CAPT Kevin Brooks, Principal Pharmacy Consultant, IHS, by e-mail at [kevin.brooks@ihs.gov](mailto:kevin.brooks@ihs.gov), or by telephone at (301) 443-1820.

I trust this information is helpful.

Sincerely yours,

*Michael Toedt*

Digitally signed by Michael E. Toedt -S  
Date: 2020.07.13 11:18:52 -04'00'

RADM Michael Toedt, M.D., F.A.A.F.P.  
Assistant Surgeon General, U.S. Public Health Service  
Chief Medical Officer

**From:** [Weahkee, Michael \(IHS/HQ\)](#)  
**To:** [Czajkowski, Julie A \(IHS/HQ\)](#)  
**Cc:** [HQE Sr. Staff](#); [Watts, Travis \(IHS/OKC/AO\)](#)  
**Subject:** FW: Letter-Chief Hoskin/medicinal marijuana guidance  
**Date:** Wednesday, June 10, 2020 8:22:36 AM  
**Attachments:** [LTR-Medical Marijuana Ltr to IHS 6.9.20.pdf](#)  
[IHS Medical Marijuana Letter.pdf](#)

---

Julie:

Good morning. Can you please log the attached letter from Cherokee Nation Chief Hoskin and assign it to Dr. Michael Toedt, Chief Medical Officer for coordination of our official Agency response. Thank you.

Michael

RADM Michael D. Weahkee  
Assistant Surgeon General, USPHS  
Director, Indian Health Service

-----Original Message-----

From: Kim Teehee <[kim-teehee@cherokee.org](mailto:kim-teehee@cherokee.org)>  
Sent: Tuesday, June 9, 2020 4:52 PM  
To: Weahkee, Michael (IHS/HQ) <[Michael.Weahkee@ihs.gov](mailto:Michael.Weahkee@ihs.gov)>  
Cc: Watts, Travis (IHS/OKC/AO) <[Travis.Watts@ihs.gov](mailto:Travis.Watts@ihs.gov)>  
Subject: Letter-Chief Hoskin/medicinal marijuana guidance

Admiral Weahkee,

I hope you're well. Attached is a letter from Chief Hoskin requesting updated guidance on the prescription and use of medical marijuana. Also attached is the 2011 guidance communicated from Dr. Susan Karol. We believe this is the most recent guidance from IHS. We look forward to your response.

Warmly,

Kim  
Cherokee Nation &  
Cherokee Nation Businesses  
(202) 615-9505



JUN 6 2011

Dear Tribal Leader:

In response to an increasing number of inquiries from patients and health care providers regarding the legality and prudence of using medical marijuana, the Indian Health Service (IHS) has recently concluded an extensive review of this issue. Our findings have been provided for your review (see enclosure).

Federal law specifically prohibits the use of marijuana under all but very controlled, investigational circumstances. As IHS Chief Medical Officer, I recommend that all IHS, Tribal, and Urban programs fully adhere and comply with Federal law by not prescribing, recommending, possessing, cultivating, processing, manufacturing, or distributing marijuana for medical or other purposes.

Any questions regarding this statement may be directed to CAPT Chris Watson, Principal Pharmacy Consultant, IHS. He can be reached by telephone at (301) 443-4330 or via e-mail at [chris.watson@ihs.gov](mailto:chris.watson@ihs.gov).

Sincerely,

/Susan Karol, M.D./

Susan Karol, M.D.  
Chief Medical Officer

Enclosure

## Indian Health Service Findings Medical Use of Marijuana

- From 1997 to 2007, the amount of oxycodone used in the United States increased by 1027 percent.<sup>i</sup> Americans are using 80 percent of the world's supply of all opioids and 99 percent of the world's hydrocodone.<sup>ii</sup>
- Findings from a study published in July 2006 showed that 9 percent of patients with chronic pain abused prescribed pain medications, and 16 percent utilized illicit drugs.<sup>iii</sup> The National Survey on Drug Use and Health reported that 16.7 million Americans aged 12 years and older have used marijuana at least once the month prior to the survey, and youth aged 12 - 17 years have increased marijuana use from 6.7 percent in 2008 to 7.3 percent in 2009.<sup>iv</sup>
- Seventeen (17) states and the District of Columbia have passed legislation regarding the use of medical marijuana in direct violation of the Federal Controlled Substances Act (CSA).<sup>v</sup> States have the authority to regulate all things within their borders that have not specifically been assigned to Federal control. The CSA specifically assigns the regulation of controlled substances to the Drug Enforcement Administration (DEA). As such, this is a federally regulated area. States may be more restrictive in the regulation of controlled substances, but not more lenient.<sup>vi</sup>
- The CSA lists marijuana as a Schedule I controlled substance.<sup>vii, viii</sup> This requires a special DEA registration for the investigational use and manufacture of the drug. The DEA continues to actively prosecute CSA violators.<sup>ix, x, xi, xii</sup>
- The IHS Health Manual (Part 3 - Professional Services, Chapter 7 - Pharmacy) has provisions for investigational drugs, but not for Schedule I controlled substances.<sup>xiii</sup> The IHS Health Manual lists only schedules (II) - (V) as acceptable items for use within the Agency. That means that the IHS will not use Schedule I controlled substances as a matter of Agency policy. In a 1981 ruling, the U.S. Department of Health and Human Services prohibited reimbursement for unapproved drugs, or drugs listed by the Food and Drug Administration (FDA) as ineffective through the Drug Efficacy Study Implementation (DESI).<sup>xiv</sup> The FDA considers marijuana an unapproved drug. This policy has been applied to Federal employees, facilities, and contractors.
- Tribal Annual Funding Agreements require the Tribal entity to meet all applicable laws. The CSA is also applicable here. Not meeting Federal statutes and regulations would put any provider outside the scope of his or her employment. As a consequence, the provider would not be covered under the Federal Tort Claims Act.<sup>xv</sup>
- The National Organization for the Reform of Marijuana Laws (NORML), a medical marijuana advocacy organization, states that physicians may not prescribe medical marijuana without fear of losing his or her license. NORML also states that individuals should expect fines and or jail time if he or she is convicted of possession.<sup>xvi</sup>

## REFERENCE LISTING -- IHS Findings -- Medical Use of Marijuana

- 
- i <http://www.drugabuse.gov/PDF/CEWG/CEWGJan09508Compliant.pdf>
  - ii *Pain Physician* 2007; 10:399-424; <http://www.painphysicianjournal.com/2007/may/2007;10;399-424.pdf>
  - iii <http://www.ncbi.nlm.nih.gov/pubmed/16886030>
  - iv <http://www.drugabuse.gov/Infofacts/marijuana.html>
  - v [http://norml.org/index.cfm?Group\\_ID=4516](http://norml.org/index.cfm?Group_ID=4516)
  - vi <http://caselaw.lp.findlaw.com/data/constitution/article06/02.html#1>
  - vii <http://www.deadiversion.usdoj.gov/21cfr/cfr/index.html>
  - viii <http://www.deadiversion.usdoj.gov/21cfr/21usc/812.htm>
  - ix [http://www.deadiversion.usdoj.gov/fed\\_regs/notices/2001/fr0418/fr0418c.htm](http://www.deadiversion.usdoj.gov/fed_regs/notices/2001/fr0418/fr0418c.htm)
  - x [http://www.deadiversion.usdoj.gov/fed\\_regs/notices/2001/fr0418/fr0418a.htm](http://www.deadiversion.usdoj.gov/fed_regs/notices/2001/fr0418/fr0418a.htm)
  - xi [http://www.deadiversion.usdoj.gov/fed\\_regs/actions/2002/fr1220.htm](http://www.deadiversion.usdoj.gov/fed_regs/actions/2002/fr1220.htm)
  - xii [http://www.deadiversion.usdoj.gov/fed\\_regs/actions/2007/fr05033.htm](http://www.deadiversion.usdoj.gov/fed_regs/actions/2007/fr05033.htm)
  - xiii [http://home.pharmacy.ihs.gov/DOCS/docs\\_news\\_gen/1/Manualchapter7.pdf](http://home.pharmacy.ihs.gov/DOCS/docs_news_gen/1/Manualchapter7.pdf)
  - xiv [https://www.cms.gov/MedicaidDrugRebateProgram/12\\_LTEIRS Drugs.asp](https://www.cms.gov/MedicaidDrugRebateProgram/12_LTEIRS Drugs.asp)
  - xv <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=29833157cbd65f9b7e69ad6cf10103a7&rgn=div6&view=text&node=25:2.0.4.10.1.13&idno=25>
  - xvi <http://norml.org>



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918-453-5000 • [www.cherokee.org](http://www.cherokee.org)

Office of the Chief

**Chuck Hoskin Jr.**  
*Principal Chief*

**Bryan Warner**  
*Deputy Principal Chief*

June 9, 2020

Rear Admiral Michael D. Weahkee  
Director  
Indian Health Service  
5600 Fishers Lane  
Rockville, MD 20852

Dear Rear Admiral Weahkee:

On behalf of the Cherokee Nation, I am writing to request information on the Indian Health Service's current policy regarding the medicinal use of marijuana. To my knowledge, the last communication to tribes from the Indian Health Service regarding the use of medical marijuana was from Dr. Susan Karol on June 6, 2011. A copy of that communication is attached. Dr. Karol's communication recommended "*all IHS, Tribal, and Urban programs adhere and comply with Federal law by not prescribing, recommending, possessing, cultivating, processing, manufacturing, or distributing marijuana for medical or other purposes.*" Cherokee Nation Health Services has followed this recommendation and our providers do not prescribe or facilitate patients in obtaining medical marijuana.

As you know, the political landscape regarding both medical marijuana and recreational marijuana use has changed dramatically since 2011. Over 30 states have approved the use of medical marijuana and more are considering similar measures. In 2018, Oklahoma voters approved State Question 788 that legalized the licensed cultivation, use, and possession of marijuana for medicinal purposes. Since that time, the state has established the Oklahoma Medical Marijuana Authority and promulgated a robust framework of rules and regulations regarding medical marijuana. Oklahoma now has a thriving medical marijuana industry and its prescription and use have become more commonplace.

With this in mind, Cherokee Nation is carefully reviewing marijuana and hemp regulations at the tribal, state and federal levels. I request that you provide an updated position and/or policies regarding the prescription and use of medical marijuana within the Indian Health Service. If a workgroup or task force needs to be created to address this issue more thoroughly, Cherokee Nation would be happy to provide assistance.

Thank you for your time and consideration. If you have any questions or would like to follow up with further details, please contact our Director of Government Relations, Kim Teehee, at [kim-teehee@cherokee.org](mailto:kim-teehee@cherokee.org) or 202-615-9505.

Respectfully,

A handwritten signature in black ink that reads "Chuck Hoskin, Jr." The signature is written in a cursive, flowing style.

Chuck Hoskin, Jr.  
Cherokee Nation Principal Chief

**From:** [Gunderson, Cynthia \(IHS/BEM/AO\)](#)  
**To:** [Sollock, Nikki Held \(IHS/HQ\)](#); [Dooley, Sean M \(IHS/HQ\)](#)  
**Cc:** [Harrison, Geniel \(IHS/POR\)](#); [Allmaras, Kristin \(IHS/BEM/RDL\)](#); [Slacter, Ann R \(IHS/HQ\)](#); [Fretland, Kailee L \(IHS/BEM/RDL\)](#)  
**Subject:** RE: Medical Cannabis -- REQUEST UPDATED GUIDANCE  
**Date:** Friday, October 14, 2022 4:30:56 PM

---

Thank you for your review and recommendations. The updated IHM 3:30 from 2020 includes the preferred language for marijuana.

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Thank you,  
Cindy

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**Cc:** Harrison, Geniel (IHS/POR) <geniel.harrison@ihs.gov>; Allmaras, Kristin (IHS/BEM/RDL) <Kristin.Allmaras@ihs.gov>; Slacter, Ann R (IHS/HQ) <Ann.Slacter@ihs.gov>  
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Thank you,  
Nikki

Nikki Held Sollock  
Senior Attorney  
Office of the General Counsel, Public Health Division, Indian Health Service Branch  
U.S. Department of Health and Human Services

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(b) (6)

Pronouns: she/her

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**From:** Gunderson, Cynthia (IHS/BEM/AO) <[Cynthia.Gunderson@ihs.gov](mailto:Cynthia.Gunderson@ihs.gov)>

**Sent:** Friday, October 7, 2022 10:10 AM

**To:** Sollock, Nikki Held (IHS/HQ) <[Wallis.Sollock@ihs.gov](mailto:Wallis.Sollock@ihs.gov)>; Dooley, Sean M (IHS/HQ) <[Sean.Dooley@ihs.gov](mailto:Sean.Dooley@ihs.gov)>

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<[Kristin.Allmaras@ihs.gov](mailto:Kristin.Allmaras@ihs.gov)>

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CAPT Cynthia A. Gunderson, PharmD  
Chair, IHS National Committee on Heroin, Opioids, and Pain Efforts

(b) (6)

Desk: 218- 444-0470

# Department of Health and Human Services

Mr. Chuck Hoskin Jr.  
Principal Chief  
Cherokee Nation  
P.O. Box 948  
Tahlequah, OK 74465-0948

Dear Principal Chief Hoskin:

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I trust this information is helpful.

Sincerely yours,

RADM Michael Toedt, M.D., F.A.A.F.P.  
Assistant Surgeon General, U.S. Public Health Service  
Chief Medical Officer

File Copy	Office	Surname	Date	Office	Surname	Date	Office	Surname	Date
	HOPE	Cynthia A. Gunderson -S	<small>Digitally signed by Cynthia A. Gunderson -S Date: 2020.07.02 09:06:54 -0500</small>	OGC	Wallis H. Sollock -S	<small>Digitally signed by Wallis H. Sollock -S Date: 2020.07.06 10:10:59 -0400</small>			
	DCCS	Marcella R. Ronyak -S	<small>Digitally signed by Marcella R. Ronyak -S Date: 2020.07.02 10:39:17 -0400</small>	ESS	Stephanie I. Clement -S	<small>Digitally signed by Stephanie I. Clement -S Date: 2020.07.09 14:48:08 -0400</small>			
	OCPS	Darrell W. Laroche -S	<small>Digitally signed by Darrell W. Laroche -S Date: 2020.07.08 07:35:19 -0400</small>						

Julie A. Czajkowski -S Digitally signed by Julie A. Czajkowski -S  
Date: 2020.07.09 15:22:11 -0400

Prepared By: IHS/OCPS/DCCS:KBROOKS: 61493-1 Cherokee Nation Medicinal  
Marijuana:06.16.2020: 301-443-1820

Revised by: IHS/OD/PFCG/ESS:SCLEMENT:sc:7/1/2020:301-443-1011

Parklawn:08E86: O:\OD\PFCG\ESS\61493-1 Principal Chief Hoskin ESS Rev for Guidelines  
6-30-20

Revised by: IHS/OCPS/DCCS:MRONYAK: mr 7/2/2020: 301-443-6458

Parklawn:08N11: O:\OCPS\DCCS\ATS\61493-1 Principal Chief Hoskin ESS Rev for  
Guidelines 6-30-20