



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MEMORANDUM OF UNDERSTANDING

Between

THE U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE ASSISTANT SECRETARY – INDIAN AFFAIRS

and

NATIVE AMERICANS IN PHILANTHROPY

Regarding

ENHANCING PUBLIC-PRIVATE PARTNERSHIPS FOR TRIBAL COMMUNITIES

I. PURPOSE:

This Memorandum of Understanding (MOU) is entered into by and between the U.S. Department of the Interior Office of the Assistant Secretary – Indian Affairs (ASIA) and Native Americans in Philanthropy (NAP), collectively "the Parties." This MOU sets forth the intent of the Parties to cooperate on: a) efforts to increase the capacity of tribal communities to engage and collaborate with foundations and other entities to leverage federal and Tribal resources to support Tribally-led community based initiatives, and b) research and develop best practices for fostering and increasing Tribal-philanthropic partnerships to provide resources to Tribes interested in developing partnerships, as well as provide guidance to philanthropic organizations interested in engaging directly with Tribal Nations (collectively, the "Office of Strategic Partnerships" or the "OSP"). DOI's participation in the OSP will be carried out under the Office of the Assistant Secretary-Indian Affairs Public-Private Partnership Pilot Project as well as other federal agencies that support public-private initiatives. Through this collaborative effort, the Parties seek to maximize the benefits of shared learning and shared resources on strategies and policies to better support Tribal communities implementing new partnership programs.

II. BACKGROUND: DOI Office of the Assistant Secretary-Indian Affairs Public-Private Partnership Pilot Project (ASIA PPP Pilot Project)

The goal of the ASIA PPP Pilot Project is to provide coordination and collaboration to build partnerships, leverage resources, and promote innovative solutions for Indian Country. The ASIA PPP Pilot Project will serve as a convener and a catalyst for enhanced collaboration between Tribes and Tribal organizations, the federal government, and philanthropy to foster creative solutions and leverage resources. The project will bring awareness of the needs and unique status of tribal communities as federal-philanthropic initiatives and programs are

developed. Additionally, the project will focus on working with Tribal leaders on policy and project development, relationship building with philanthropy, and coordination with other federal agencies.

NAP, an organization described in Section 501(c)(3) of the Internal Revenue Code, promotes equitable and effective philanthropy in Native communities. NAP's vision is for all Native communities to be restored to full health and sustainability through responsibility. To accomplish this, NAP aims to further the following goals within the scope of NAP's mission, which are subject to development over time at NAP's discretion: to increase philanthropic investment in Native communities to strengthen and expand community-based solutions; strengthen supports for Native, philanthropic and nonprofit leaders to further diversify the sector; and improve the availability of regular, reliable data and Indigenous-led research on philanthropic giving to Native communities.

III. AUTHORITY:

AISA enters into this MOU under the authority of 25 U.S.C. §2, 25 U.S.C. § 13 (Snyder Act), 25 U.S.C. § 5341, and other authorities related to partnership development with Tribal Nations.

IV. MUTUAL INTERESTS AND GOALS OF THE OSP AND THE ASIA PPP PILOT PROJECT:

The United States has a special trust responsibility and relationship to Tribes that includes programmatic and funding responsibilities. Historically, there has been little formal coordination of efforts between federal and private-philanthropic programs that support Tribes. This disconnect has resulted in many programs being under-leveraged and opportunities have been missed for maximum impact and innovation. This recognition of opportunities missed calls for the federal government to work with Tribes, Tribal organizations, and philanthropy to create public/private partnerships that foster culturally appropriate, sustainable, intergenerational health and economic development programs. Philanthropy cannot take the place of federal funding or programs and vice versa, however greater collaboration is needed to increase opportunities and understanding. Tribes and Tribal communities are often overlooked and excluded during the development of public policy initiatives and solutions. By committing to and assisting with the development of public-private partnerships for Tribes, the federal government can help to fulfill and uphold its responsibility to Tribal Nations.

ASIA and NAP recognize the challenges posed by the confluence of these factors and the importance of local partner coordination and capacity. Therefore, ASIA and NAP intend to collaborate on mutual priorities through supporting the establishment of the ASIA PPP Pilot Project to maximize the benefits of shared learning and shared resources on strategies and policies for the efficient and equitable leverage and coordinate philanthropic and federal funding to support Tribally-led initiatives throughout Indian Country. The pilot will help lay the groundwork for comprehensive, sustainable pathways to building and creating Tribal-federal-philanthropic partnerships to foster public/private investments are made at scale.

Topics that DOI and NAP intend to collaborate on include but are not limited to the following:

- Coordination of federal funding streams and leveraging philanthropic resources.
- Capacity building for Tribal governments and Tribally-led organizations.
- Ensuring deployment of federal funding is centered on Tribally-led initiatives.

V. CONTRIBUTIONS OF THE PARTIES:

To effectuate the objective of this MOU, ASIA and NAP intend to use their best efforts to implement the ASIA PPP Pilot Project, which will include the following initiatives and such other activities as mutually agreed in writing by ASIA and NAP from time to time:

A. Establishment of New Position

1. ASIA intends to establish a new full-time 1.0 FTE staff position for the purpose of leading the ASIA PPP Pilot Project initiatives and milestones described in this MOU (the “Partnerships Advisor”) for an initial two (2) year period (the “Initial Funding Period”), with a two (2) year extension option upon mutual agreement of the Parties (the “Extended Funding Period”). The Partnerships Advisor shall have the following primary job responsibilities:

a. The Partnership Advisor will work as part of a team to build and strengthen partnerships with the private sector. The Partnership Advisor will collaborate with colleagues throughout the Indian Affairs, primarily in Washington, but also with field colleagues as needed. The Partnership Advisor will also build strong relationships within DOI, engaging with Bureaus which house initiatives focused on driving innovation through public-private sector engagement. In addition, the Partnership Advisor must build relationships across the broader philanthropic and non-profit community wishing to develop partnership initiative with Tribal communities. The Partnerships Advisor will also collaborate regularly with the White House Council on Native American Affairs and Native Americans in Philanthropy.

2. NAP will hire and fund a qualified individual for purposes of entering into an Intergovernmental Personnel Act agreement for that individual to perform the duties of the Partnership Advisor position during the Initial Funding Period, and, if extended by mutual agreement of the Parties, NAP will continue to make such payments for the Extended Funding Period. Notwithstanding the foregoing, NAP shall not be required to continue to fund the Partnerships Advisor under this MOU if and at such time as such position is funded within DOI.

3. The Partnerships Advisor shall initially commence a 90-day training period at NAP (the “Training Period”), during which the Partnerships Advisor will work directly with NAP leadership and staff on initial stages of implementing the ASIA PPP Pilot Project. During this time, it is expected that all or most of the Partnerships Advisor’s time will be committed to learning from and working with the NAP team. After the conclusion of the Training Period, the Partnerships Advisor will transition to working

within DOI to continue advancing the ASIA PPP Pilot initiative and the milestones described in this MOU.

B. Early Milestones: Coordination, Technical Assistance, Planning, and Pilot Program Support

1. Consistent with the goals of the Initiative, the Parties agree to coordinate efforts to promote, and support Tribes and tribal organizations in establishing public-private partnerships. This may include:
 - a. Connecting Parties to interested tribes and tribal organizations.
 - b. Facilitating meetings between interested tribes, tribal organizations; philanthropic groups, NGOs and federal agencies;
 - c. Facilitating relevant trainings, technical assistance, capacity building activities and other resources amongst interested tribes, tribal organizations, and other interested parties; and
 - d. Develop an Interagency Personnel Act agreement (IPA), pursuant to the authority in 5 USC 3371 *et seq.* (and related regulations), to support an IPA position within ASIA to further the pilot project goals outline in this MOU.
2. Within two weeks of entering this MOU, the Parties will work towards establishing a mutually agreed upon schedule of regular meetings for the furtherance of identified responsibilities pursuant to this MOU.
3. In consideration of the potentially sensitive nature of the records and information, especially tribal information, the Parties agree to protect records and information that are collected and shared pursuant to this MOU as strictly confidential, to the extent allowed by applicable law. The Parties recognize that information shared with or obtained by ASIA will be subject to certain disclosures as described more fully in Article VII.
4. The Parties shall store and maintain all records and information obtained pursuant to this MOU in manner that is secured from access by unauthorized persons.
5. The Parties agree to coordinate information sharing efforts to promote, and support Tribes and tribal organizations in establishing public-private partnerships.

VI. STATEMENT OF NON-BINDING OBLIGATION AND NO FINANCIAL COMMITMENT:

- A. ASIA and NAP enter into this MOU to work together on this Collaboration, but will maintain their own separate and unique missions, mandates, and accountabilities.
- B. Pursuant to 31 U.S.C. § 1341, nothing contained in this MOU shall be construed to obligate ASIA, the Department of the Interior, or the United States to any current or future expenditure of funds in advance or in excess of the availability of

appropriations from Congress and their administrative allocation for the purposes of this MOU, nor does this MOU obligate ASIA, the Department of the Interior, or the United States to spend funds on any particular project or purpose, even if funds are available.

- C. This MOU in no way restricts ASIA or NAP from participating in similar activities with other public or private agencies, organizations, and/or individuals under separate agreement.
- D. Nothing in this MOU will be construed as limiting or affecting the legal authorities of ASIA or NAP to perform beyond their respective authorities or to require either of the Parties to assume or expend funds.
- E. Nothing in this MOU shall grant to either Party the right to make commitments of any kind for or on behalf of any other Party without the prior written consent of that party. Nothing in this MOU is intended as, and nothing will be construed to create, an employer/employee relationship, agency, partnership, or joint venture relationship between the Parties, or other form of joint enterprise or fiduciary relationship between the Parties.
- F. This MOU is strictly for internal management purposes for each of the Parties. The Parties intend to work together in good faith to achieve the purposes and milestones described in this MOU, but recognize and agree that it is not legally enforceable and shall not be construed to create any legal obligation on the part of either Party.

VII. SHARING OF INFORMATION AND USE OF PARTIES' NAMES AND SEALS

A. Sharing of Information between ASIA and NAP: In the course of fulfilling their obligations under this MOU, the Parties may exchange information generated by themselves or by others. ASIA intends to provide to NAP publicly available information in the form of summary reports, data, lessons learned, and other publicly available information as shall be requested from time to time. ASIA will not provide information to NAP that is not publicly available under law, nor will ASIA provide the types of information that would put NAP in a position to be excluded from future contracts and grants.

B. Public Disclosures: Public disclosure of information under the control of ASIA regarding activities conducted under this MOU will be subject to the Freedom of Information Act (5 U.S.C. § 552), the Trade Secrets Act (18 U.S.C. § 1905), and the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). Prior to disclosure of requested information, the Parties will consult with each other about the scope and material of the disclosure request. The Parties anticipate that NAP may from time to time provide to ASIA information that is considered confidential, such as certain commercial or financial information of persons or organizations, and in such instances NAP will mark such materials as confidential. Any such privileged or confidential information that ASIA receives from NAP that is marked as confidential -e.g., proprietary trade secrets or

business information-will be handled pursuant to the Departmental FOIA regulations at 43 CFR Subpart F.

C. Use of ASIA and NAP Name and Seal: Except as specifically permitted by this MOU, NAP must consult with and obtain the written approval of ASIA before using the Department's name or seal in any publicly disseminated information or third-party communication. Except as specifically permitted by this MOU, ASIA must consult with and obtain the written approval of NAP before using its name, logo, or reference its name (or any other organization partnering with NAP) in third-party communications.

VIII. PUBLICITY

1. Publicity: The Parties shall coordinate all public statements and other disclosures with regard to this MOU, and neither of the Parties may enter into any publicity regarding this MOU unless ASIA and NAP consult and agree in advance on the form, timing, and contents of any such publicity, announcements, or disclosure.

The Parties may develop standard language that does not require approval beyond the initial approval. Where standard language has not been developed, the Parties will use best efforts to review, approve, or deny such materials within 15 business days of receipt. Each Party agrees that failure on its part to meet the (X) day target will serve as an automatic approval of that proposed language.2. Events: Except as specifically permitted by this MOU, NAP will not use the name of ASIA or any of its components, except in factual publicity for a specific event. Factual publicity includes dates, times, locations, purposes, agendas, fees, and speakers involved with an event. Such factual publicity shall not imply that the involvement of ASIA serves as an endorsement of the general policies, activities, or products of NAP. Where confusion could result, publicity should be accompanied by a disclaimer to the effect that no endorsement is intended. NAP will clear all publicity materials for the event with ASIA to ensure compliance with this paragraph.

3. Appropriations Law Restrictions on Publicity: In partnering with ASIA, NAP must abide by the agency public relations activities and propaganda restrictions of 5 U.S.C. § 3107, which prohibits the use of appropriated funds to hire publicity experts. The appropriations law "publicity and propaganda" clauses restrict the use of appropriated funds for puffery of an agency, purely partisan communications, and covert propaganda.

4. Use of Internet and Social Media: All internet publicity, social media publicity and electronically disseminated information related to this partnership are subject to ASIA and NAP review and mutual approval, which shall not be unreasonably withheld by either party.

5. Permissible Disclosures in Furtherance of Shared Goals: Notwithstanding the other limitations in Articles VII and VIII, NAP may use information collected in the course of its participation in the OSP and the ASIA PPP Pilot Project as is necessary for

achieving the purposes and goals of this MOU. In addition, NAP may use such information, and may share a description of the OSP and ASIA PPP Pilot Project as described in this MOU, for purposes of promoting and educating NAP members, the philanthropic community, members of the public, and others regarding the broader movement and specific initiatives advanced by the MOU.

6. Endorsement: The Parties shall not publicize or circulate any materials (including advertisements, solicitations, brochures, press releases, speeches, pictures, movies, articles, manuscripts, or other publications) suggesting, expressly or implicitly, that the United States of America, the Department of the Interior, ASIA, or any government employee endorses any business, brands, goods or services.

7. Limitations on Lobbying. The Parties agree that they will not lobby for or otherwise seek the appropriation of funds from Congress to meet that commitment. The Parties may not use any appropriated funds (including property, utilities, or services acquired with, or supported by, Congressionally- appropriated funds) to lobby or attempt to influence Congress or any official of any government

IX. DURATION, AMENDMENTS, AND TERMINATION

A. The effective date of this MOU shall be as of the date of its execution and shall remain in effect for five (5) years or until the MOU is terminated by either Party. This MOU may be extended at any time through an addendum mutually agreed upon and signed by the Parties. Annually, the Parties will meet in good faith to discuss the terms by which they will continue to advance the ASIA PPP Pilot Project, and will amend this MOU, as provided in this section..

B. Each Party may terminate its participation in the MOU, in whole or in part, for any reason, and at any time, upon written notice of such termination to the other Party. Such notice must be signed by an authorized representative of the terminating Party, effective upon receipt provided, however, that the terminating Party should endeavor to provide thirty (30) days written notice to the other Party.

3. This MOU may be modified or amended, as agreed in writing between the Parties.

X. PUBLIC AVAILABILITY

This Memorandum of Understanding shall be publicly available.

XI. SIGNATURE OF AGENCY OFFICIALS

The signing of this MOU does not represent a legally binding agreement. Rather, it implies that the signatories will strive to reach, to the best of their abilities, the objectives stated in this MOU.

On behalf of the organization I represent, I acknowledge acceptance of this MOU, and agree to participate and contribute to the further development of the objectives stated in this Memorandum of Understanding.

APPROVALS



Bryan Newland
Assistant Secretary – Indian Affairs
U.S. Department of the Interior

12/2/2022

Date



Erik Stegman
Chief Executive Officer
Native Americans In Philanthropy

12/2/2022

Date