Public Health Mutual Aid Agreements for Tribes and Local Health Jurisdictions in Washington State

2018 Tribal Environmental Public Health Summit

January 9, 2018
American Indian Health Commission

- Forum for 29 tribal governments and 2 urban Indian health programs
- Working to improve the health status of American Indian/Alaska Native people
- Providing Technical Support and Advocacy
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Today’s Presentation

PART 1: Protecting Your Community through Mutual Aid

PART 2: Understanding Mutual Aid Agreements

PART 3: Overview of AIHC Mutual Aid Agreement Projects

PART 4: How You Can Get Involved
Part 1

Protecting Your Community Through Mutual Aid
Why is collaboration between Tribes, Local Governments, and the State **vital** to community health and safety?
Every emergency and public health incident is experienced first and is responded to first by local, tribal, and state personnel.

Public health issues, emergencies and disasters know no boundaries.
No federal, state, local, or tribal government has the capacity to respond to every public health incident or emergency that may occur within its jurisdiction without assistance.
During a catastrophic event, some areas of Washington State may have to wait up to 7 days for state and/or federal assistance.
The unfolding of a catastrophic event is a poor time to begin learning how to collaborate with neighboring jurisdictions, their capabilities and available resources.
Diminishing Federal Funding

Public Health Emergency Preparedness Funding (2006-2014) in Millions

Federal funding to states for infectious disease outbreaks and other public health emergencies has dropped 44 percent since 2006.

Source: U.S. Centers for Disease Control and Prevention
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Part 2

Understanding Mutual Aid Agreements
6 Key Benefits of Tribal-LHJ MAA

1. Faster and more organized access to resources from other jurisdictions in time of need.
2. Reduces legal disputes that may occur after a joint response to an incident or emergency.
5 Key Benefits of Tribal-LHJ MAA

3. Facilitates the ability for an impacted government to receive reimbursement from FEMA and Washington State

-- FEMA requires Mutual Aid Agreement for reimbursement of eligible mutual aid costs.

-FEMA Disaster Assistance Policy, DAP9523.6
5 Key Benefits of Tribal-LHJ MAA

4. Opportunity for governments to better understand each jurisdiction’s system of government and builds relationships.
5 Key Benefits of Tribal-LHJ MAA

5. Provides a tool to support regional partners to regularly exercise emergency response practices and strengthen the region’s capacity to respond and recover from incidents and emergencies.
5 Key Benefits of Tribal-LHJ MAA

6. Helps a government fulfill its duty to protect the lives, health and welfare of its people from threats caused by attack or extraordinary natural hazards.
Best Practices

- Develop a Mutual Aid Plan/Guidance that operationalizes the MAA
- Gain support of county and tribal leadership
Guiding Principles

Mutual Aid Agreement and Mutual Aid Guide
- Consistent with NIMS and ICS
- Where appropriate, consistent with WAMAS

Mutual Aid Guide
- MAG consistent with Mutual Aid Agreement
- Pass the 2:00am “First-Timer” test
- Exercised and updated annually
Mutual Aid Agreement Elements

1. Purpose and Intent
2. Authority
3. Control of Resources
4. Compensation for Injury
5. Liability to Third Parties & Governmental Immunity
Mutual Aid Agreement Elements

6. Indemnification
7. Reimbursement
8. Licensure
9. Dispute Resolution
Unique Legal Considerations of Tribal Mutual Aid Agreements

Tribal Granting of Temporary Authority to Local Public Health Officer

Unless a Tribal Government specifically grants temporary authority to a Local Public Health Officer, that Health Officer has **NO JURISDICTION** on tribal lands.
Unique Legal Considerations of Tribal Mutual Aid Agreements

Tribal Sovereign Immunity

- 3rd Party Liability
- Indemnification
Unique Legal Considerations of Tribal Mutual Aid Agreements

Dispute Resolution

- Binding Arbitration
- Governing Law
- Venue
Mutual Aid Operational Guide Components

1. Preparation
2. Invoking Assistance and Responding to a Request for Assistance
3. Deployment and Coordination
4. Demobilization
5. Reimbursement
Mutual Aid Operational Guide

- Checklist format
- Provides a step-by-step approach
- Shows parallel actions for Requesting Parties and Responding Parties to execute
- Provides guidance to complete the Tribal-Public Health Mutual Aid Form
Mutual Aid Request Form

- Tool to document a Requesting Party’s request for assistance and a Responding Party’s offer or declination to assist
- Designed not to be a barrier to a timely response
Part 3

OVERVIEW OF AIHC MUTUAL AID AGREEMENT PROJECTS
AIHC Mutual Aid Agreement Project
2008-2010

• 2008-2010: Dr. Tom Locke and Dr. Scott Lindquist led the development of a Region 2 Tribal-LHJ Mutual Aid Agreement with the support DOH provided funding

• All 7 Tribes and 3 LHJs signed the agreement

• CDC highlighted the work as a groundbreaking national model
OBJECTIVE 1: Revise the existing Operational Plan for Region 2

OBJECTIVE 2: Facilitate a collaborative process for tribes and local health jurisdictions in Regions 1 and 3 to develop mutual aid agreements
## Partners by Region

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Mutual Aid Operational Guide and Mutual Aid Request Form

- Initial draft
- Outreach to Tribes and LHJs
- 11 in-person workshops
- Tabletop exercise
- Integrated participants’ edits

Mutual Aid Agreement

- Initial Draft
- Attorney-to-attorney individual outreach
- Attorney workshops
- Multiple Drafts
Project Workshop Participation

Operational Staff

County: 50
Tribal: 36

Attorneys

County: 5
Tribal: 18

22 Tribes
13 Counties
State Laws
15 Sets of Tribal Laws
Federal Standards
County Policies
History
Lessons Learned

1. **Trust** is key

2. **History** is always in the room

3. Working with governments that possess **different immunity laws** remains a challenge

4. Parties must **weigh risk** of entering into agreements vs. not entering into agreements
“In Clallam County, I tried to get the County and the four local Tribes to establish an agreement. We created draft documents, but the project crashed and burned when the lawyers got involved.”

Dr. Tom Locke, Local Health Officer, discussing Olympic MAA Process
It’s all about Compromise

MAAs are not possible without parties being willing to give...

End result may not be what parties wanted in the beginning, but something they can live with
Additional Project Outcomes

- Increased understanding of neighboring jurisdictions’ resources, operations and concerns
- New relationships established
- Increased awareness of regional preparedness needs
Current Status

New Mutual Aid Agreement for Tribes And Local Health Jurisdictions In WA State - Regions 1 and 3

- Received 3 counties’ signed agreements
- Received 5 tribes’ signed agreements
- Several additional tribes and counties expected to submit signed agreements
- Additional follow-up next 5 months

2010 Agreement - Region 2

- All 7 tribes and all 3 counties signed agreement
AIHC Next Steps

1. Continue follow-up with Region 1 and 3 Tribes and Counties to obtain signatures

2. Continue follow-up with Region 2 to obtain share site documents

3. Maintain share sites

4. Seek funding to facilitate Tribal-Public Health Mutual Aid in the remaining 6 regions
AIHC Next Steps

5. Facilitate the *Strengthening Cross-Jurisdictional Collaboration and Mutual Aid Project*

- Tribes and LHJs in all 9 regions
- Collaboration and tabletop planning meeting for each region
- Tabletop exercise will test managing and distributing medical materiel across jurisdictions
How You Can Get Involved

• Please send tribal representatives to the two CJC meetings:
  (Tribal Leaders, Tribal Health Directors, Medical Directors, CHRs, Clinic Managers, Emergency Managers, YOU)

• If your jurisdiction has not yet signed the “Mutual Aid Agreement for Tribes and Local Health Jurisdictions in Washington State,” please consult with your legal counsel to finalize the agreement for your tribe
AIHC MUTUAL AID PROJECT

Mutual Aid Agreement for Tribes and Local Health Jurisdictions In Washington State
