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## MEMORANDUM

November 2, 2020

TO: Tribal Health Clients

FROM: Hobbs, Straus, Dean & Walker, LLP

RE: ***NIHB All Tribes Call: Vaccine Planning Informational Webinar***

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On October 30, 2020, the National Indian Health Board (NIHB) held an informational call with officials from the Indian Health Service (IHS) and the Centers for Disease Control and Prevention (CDC) to discuss IHS's COVID-19 Pandemic Vaccine Draft Plan (Draft Plan). Agency representatives provided an overview of the Draft Plan, discussed the expected timeline for finalizing the plan, and answered questions from tribal leaders and tribal health care providers.

*Please note, the U.S. Department of Health and Human Services has extended the deadline for tribes to choose whether to receive vaccine through IHS or a state immunization program until November 6, 2020. Tribes wishing to receive vaccine through IHS should contact IHS. Tribes wanting to receive vaccine through a state immunization program should contact their state health authority.*

### ***Vaccination Phases***

Vaccine will be distributed in three phases. During Phase 1, there will be limited doses of vaccine available. IHS said its facilities will prioritize the vaccination of 55,000 health care personnel. IHS said this number is based on information that facilities have provided to the agency. The amount of vaccine tribes and tribal health care facilities receive depends on the population information they provide to IHS through the agency's pre-planning tool. IHS said it is contacting providers who have not completed this submission. It also said providers may amend the numbers they previously submitted. Please ensure that your program has submitted all population information to IHS. IHS also said it will use population numbers from providers to determine vaccine storage locations' proximity to priority populations.

Phase 2 will involve wide distribution of the vaccine throughout the country. Phase 3 will come after the initial push to get everyone vaccinated and will be incorporated into routine vaccination programs.

### ***Enrolling in the CDC's COVID-19 Vaccination Program and Ordering and Distributing Vaccine***

*Facilities Receiving Vaccine through IHS.* Facilities which elect to receive vaccine through IHS must enter into a program agreement with the CDC to enroll in the COVID-19 Vaccination Program. IHS said there are three separate program provider agreements—a tribal program agreement, a UIO agreement, and an IHS Direct Service agreement. IHS said the agreements are currently under HHS review and will be distributed soon. IHS said RADM Weahkee has signed an MOU with the CDC for all IHS direct service facilities.

IHS said it is utilizing the National Supply Service Center (NSSC) for vaccine ordering and distribution during Phase 1. IHS anticipates that an IHS Area vaccine point of contact will collect vaccine orders from facilities and provide them to NSSC. Next, IHS said, the NSSC will review orders before submitting them to the CDC; orders will be based on vaccine availability and other factors. In Phase 2, IHS direct service facilities will be able to order vaccine through the Oracle web portal developed by Operation Warp Speed (OWS).

IHS said the total amount of vaccine it will receive will be an allocation from the CDC. This allocation is based on a percentage of the total vaccine supply available and the population estimates tribes, tribal organizations, and UIOs have provided to IHS. Although IHS has not finalized its population estimate, IHS's current estimate for Indian country is 1,733,370.

IHS said it will take into account storage and transportation considerations when distributing vaccine. IHS said it will have a process in place for transferring ultra-cold vaccine and noted that ultra-cold vaccine will remain viable under refrigeration for up to five days.<sup>1</sup> IHS said NSSC is not purchasing ultra-cold freezers, but is reviewing whether to purchase the gloves needed to handle ultra-cold vaccine and dry ice. IHS also said there is no shortage of dry ice. Citing storage concerns and the need to use the same vaccine brand for both doses, IHS said OWS may retain the second dose of the vaccine until sites are ready to administer it.

IHS explained that, while it is unclear when the Food and Drug Administration will issue an Emergency Use Authorization or approve a vaccine, IHS is preparing to distribute vaccine as early as November 15, 2020. We note, however, that manufacturers have indicated a vaccine may not be ready until late December. IHS said tribes and tribal health care providers should contact their IHS Area and site vaccine points of contact to begin planning.

*Facilities Receiving Vaccine through States.* IHS said state vaccination programs will enroll through a provider agreement with the CDC and use their state immunization programs for ordering and distribution. Accordingly, IHS said, facilities receiving

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<sup>1</sup> “The ultra-cold COVID-19 vaccine can also be stored for up to five days at two to eight degrees Celsius (refrigerated temperatures).” INDIAN HEALTH SERV., *COVID-19 Vaccine Planning*, <https://www.ihs.gov/coronavirus/vaccine/> (last visited Nov. 2, 2020).

vaccine through states must order through the state's immunization program process. IHS said facilities' orders will be reviewed by the state and submitted to the CDC based on vaccine availability and other factors defined by the state.

### ***Administration***

IHS said the first round of vaccinations during Phase 1 should be by invitation only, with a focus on the chosen priority population. IHS said tribes and providers should consider how they will contact and schedule their priority groups for the first and second doses of vaccine. IHS also said it will send health care providers a survey to determine vaccine acceptance and estimate uptake.

IHS said it will provide training materials to the vaccine point of contact at each facility. IHS said tribes and tribal health care providers may need to think unconventionally and engage non-traditional vaccinators to ensure that vaccination events are fully staffed. IHS also said additional support staff will be needed to perform the duties associated with COVID-19 vaccination events. IHS suggested that tribes and tribal health care providers estimate the number of staff needed based on the time required to complete a vaccination, which IHS estimates is 7 minutes. IHS said it is developing tools like checklists to help facilities plan vaccination events.

IHS also said tribes, tribal organizations, and UIOs participating in the COVID-19 Vaccination Program may vaccinate non-beneficiaries. IHS said it recently shared this information with providers via Dear Tribal Leader and Dear Urban Indian Organization letters.<sup>2</sup> We note that Tribes that have already elected to serve non-beneficiaries could do so already. However, IHS has noted that UIOs cannot use IHS funds received under IHCIA contracts and grants to vaccinate non-beneficiaries.

### ***Data Management***

*Facilities Receiving Vaccine through IHS.* IHS said the CDC is requiring daily data reporting. To use EHR/RPMS, IHS said all current patch updates must be installed and facilities must report the data through the Health Level Seven version 2.5.1 message to the National Data Warehouse. From there, IHS said it will collect the data and transmit it to the CDC. If EHR/RPMS patches are not feasible, IHS said facilities will use the CDC's Vaccine Administration Management System.

*Facilities Receiving Vaccine through a State.* IHS said facilities receiving vaccine through a state will upload data to the state's Immunization Information System (IIS) or other state-prescribed process. IHS said the state will then transmit the

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<sup>2</sup> The Dear Tribal Leader Letter is available at [https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2020\\_Letters/DTL\\_L\\_DTUIOLL\\_10292020.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2020_Letters/DTL_L_DTUIOLL_10292020.pdf). The Dear Urban Indian Organization letter is available at [https://www.ihs.gov/sites/newsroom/themes/responsive2017/display\\_objects/documents/2020\\_Letters/DTL\\_L\\_DTUIOLL\\_10292020.pdf](https://www.ihs.gov/sites/newsroom/themes/responsive2017/display_objects/documents/2020_Letters/DTL_L_DTUIOLL_10292020.pdf).

information to the CDC. IHS added that, if facilities are not currently uploading to the state IIS, they must document vaccine data according to the state's recommendations.

***Funding***

IHS said there is no charge for the vaccine itself. However, IHS said, there is also no tribal set aside for COVID-19 vaccine administration. IHS said programs must look at their existing funding sources to support the administration of the vaccine.

***Vaccine Brand***

IHS said states and IHS will receive the same brand of vaccine and that the vaccine will be allocated equally across states and IHS. IHS noted, however, that states may choose to forgo an ultra-cold vaccine.

***IHS Draft Plan Feedback Received During Consultations***

IHS said it is using comments from tribal consultation and urban confer to inform the final IHS COVID-19 Vaccination Plan (Final Plan). It said it is drafting a summary of the comments and that it anticipates releasing the Final Plan the week of November 2, 2020. IHS's plan is due to the CDC on November 6, 2020.

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If you have any questions or would like further information on the topics raised during these calls, please contact Elliott Milhollin ([emilhollin@hobbsstrauss.com](mailto:emilhollin@hobbsstrauss.com) or 202-822-8282); Geoff Strommer ([gstrommer@hobbsstrauss.com](mailto:gstrommer@hobbsstrauss.com) or 503-242-1745); or Violet Rush ([vrush@hobbsstrauss.com](mailto:vrush@hobbsstrauss.com) or 202-822-8282).