

**Department of
Veterans Affairs**

MAR 02 2020

Memorandum

Date:

From: Assistant Secretary for Human Resources and Administration/Operations,
Security, and Preparedness (006)

Subj: VA-Federal Bureau of Prisons Memorandum of Understanding (VIEWS #148905)

To: Secretary (00)

1. The attached Veterans Affairs (VA)-Federal Bureau of Prisons (BOP) Memorandum of Understanding (MOU) is an agreement between the two agencies to work together to fulfill the President's goals for improving the reentry to society of formerly incarcerated Americans. The MOU creates a framework which authorizes VA to provide information, access, and services for BOP inmates who are Veterans as defined by regulation or whose Veteran status is confirmed by receipt of VA benefits. The MOU does not transfer funding. Instead, the MOU outlines implementation, controlling law, rules, regulations, and other governing policies and procedures. This MOU shall remain in effect for 5 years from the latest signature date from VA and BOP.

2. Veterans Health Administration, Veterans Benefit Administration, the Office of Resolution Management, the Office of General Counsel (OGC), and BOP representatives assisted in the collaborative effort that produced the MOU. Specifically, OGC reviewed the MOU and added language to safeguard the legal interests of VA. All parties concur on the MOU as written, and the Director of the Federal Bureau of Prisons has expressed her willingness to sign the MOU.

3. The Office of Resolution Management (ORM) requests you to review and sign the VA-BOP MOU.

4. The point of contact for this report is Dr. William Preston, ORM Chief of Policy and Compliance, at (202) 461-5457.

/signed/
February 27, 2020
Daniel R. Sitterly

Attachments

Approve/Disapprove:

Robert L. Wilkie

MAR 02 2020

Robert L. Wilkie
Secretary

Date

**MEMORANDUM OF UNDERSTANDING
BETWEEN
U.S. DEPARTMENT OF VETERANS AFFAIRS
AND
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS
FOR
INFORMATIONAL CONTACTS IN CORRECTIONAL FACILITIES**

This Memorandum of Understanding (MOU) is entered between the Federal Bureau of Prisons (BOP) and the U.S. Department of Veterans Affairs (VA). The parties hereby agree as follows:

I. PURPOSE AND SCOPE

VA and BOP are jointly developing services for the inmates incarcerated in BOP custody who are Veterans as defined in 38 United State Code (U.S.C.) § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required. This MOU does not transfer funding. Instead, it outlines how the program will be implemented, subject to controlling law, rules, or regulations, or to other governing policies and/or procedures.

- A. This MOU is intended to provide a framework by which VA can effectively provide information, access, and services for BOP inmates who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required. This is an initiative to enable them to utilize or obtain Veterans benefits and other entitlements associated with their military service.
- B. This MOU outlines the roles of both BOP and VA in the provision of services for inmates in BOP facilities.
- C. This MOU supersedes any prior agreements between the parties as to matters discussed herein.
- D. This MOU shall not affect any pre-existing independent relationship or obligation between the parties as to matters not discussed herein or with other parties.
- E. VA enters into this agreement pursuant to its authority under the following:
 - 1. 38 U.S.C. § 523 to coordinate provision of benefits and services (and information about such benefits and services) with appropriate programs (and information about such programs) conducted by state and local governmental agencies and by private entities at the state and local level; and
 - 2. 38 U.S.C. § 6306(c) to coordinate with any Federal department or agency, state or local governmental agency, or recognized national or other organization on outreach

to eligible Veterans and dependents regarding benefits and services administered by VA.

II. PERFORMANCE

A. The Bureau of Prisons shall:

1. Provide guidelines to BOP facilities to allow representatives employed or contracted with VA access to all 122 BOP facilities.
2. Designate the Women and Special Populations Branch Administrator (or equivalent) as the Point of Contact (POC) and liaison to VA.
3. Designate an associate warden as the POC at each selected BOP institution to coordinate, assist, and develop a working partnership with representatives employed or contracted with VA.
4. Ensure institutions will disseminate information provided by VA regarding eligibility for VA services to inmates who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required and are incarcerated in BOP custody.
5. Allow benefits counselors and compensation examiners, employed or contracted with VA, physical access to inmates who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required who are incarcerated in BOP custody when all requirements are met for such access. The BOP warden always retains the right to remove any individual from the institution at his or her discretion.
6. Allow benefits counselors and compensation examiners employed or contracted with VA remote access through video teleconference when available.
7. Provide prison medical records to benefits counselors and compensation examiners employed or contracted with VA when a signed release from the inmates, who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required and are incarcerated in BOP custody, is received.
8. Allow compensation examiners employed or contracted with VA to perform diagnostic tests as necessary to assess claims for benefits when available. This access is subject to BOP's rules and regulations governing visitors to the institution.

B. The Department of Veterans Affairs shall:

1. Assist inmates incarcerated in BOP custody who are Veterans, as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required, in navigating VA processes and procedures regarding benefits

to include requesting records, completing forms as required, and scheduling compensation examinations when applicable.

2. Ensure officials from VA do not provide treatment to inmates who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required and are in custody at BOP facilities. VA outreach to Veterans, including as described in the Veterans Health Administration Directive 1162.06, *Veterans Justice Programs*, is not considered treatment for the purposes of this agreement.
3. Ensure VA staff attend institution-hosted informational visits, as resources and security requirements permit, at all 122 BOP facilities. Information may also be provided through other means, e.g. video conferencing or recognized third parties such as accredited Veterans Service Organizations.
4. Ensure benefit counselors coordinate visits to inmates who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required through a locally established POC.
5. Make benefits information, compensation examinations, and teleconferences available for inmates incarcerated in BOP custody who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required, if feasible, including that BOP provide appropriate access and hardware to the inmates.
6. Ensure benefit counselors and compensation examiners employed or contracted with VA coordinate with BOP institutions through a designated POC to schedule compensation and pension (C&P) examinations when feasible. Once an examination is scheduled, VA will:
 - a. Mail the mutually agreed C&P appointment information (date and time) to the inmates who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required incarcerated in BOP custody at least ten (10) days prior to the examination.
 - b. Provide inmates incarcerated in BOP custody who are Veterans as defined in 38 U.S.C. § 101(2) or who submitted to VA a claim for a benefit for which status as a Veteran is required with VA Form 21-4142 (or any form with which VA replaces VA Form 21-4142) to sign, authorizing the prison to release treatment records and provide said document to the designated BOP POC.

III. GENERAL PROVISIONS

A. ANTI-DEFICIENCY ACT:

Nothing contained herein shall be construed to require that BOP or VA obligate or expend funds in excess or in advance of appropriations. Such a requirement could lead to a violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

B. PERIOD OF AGREEMENT/TERMINATION:

1. This MOU shall become effective upon the date of final signatures of both parties and shall remain in effect for five (5) years.
2. This MOU may be terminated at any time by mutual written concurrence of either party or by either party providing sixty (60) days advanced written notice to the other party.
3. Neither party shall be responsible for delays or failures in performance from acts beyond the reasonable control of such party and which could not have been avoided through the exercise of due care (e.g., natural disasters, terrorist activities).

C. MODIFICATION PROCEDURES: Either party may propose to modify this MOU at any time. All proposed modifications shall be in writing and shall become effective only upon the written agreement of the authorized representatives of both parties except for termination.

D. SURVIVAL AND SEVERABILITY: The provisions of this MOU that require performance after termination shall remain in force notwithstanding termination of this MOU. If any provisions of this MOU are determined to be invalid or unenforceable, the remaining provisions shall continue in force and unaffected to the full extent permitted by law and regulation.

E. LIABILITY AND INDEMNIFICATION: Each party is responsible for any liability arising from its own conduct. Each party shall cooperate with the other party in the investigation and resolution of claims and/or litigation arising from conduct related to the provisions of this MOU.

F. DISPUTE RESOLUTION: In the event of a dispute between the parties, the parties shall use their best efforts to resolve the dispute informally through consultation and communication or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

G. THIRD-PARTY CLAIM: This MOU is for the sole and exclusive benefit of the signatory parties and shall not be construed to bestow any legal right or benefit upon any other persons or entities.

H. CONTACT INFORMATION: Each party shall provide to the other party the names, positions, telephone numbers, and email addresses for contact persons authorized to implement this MOU and coordinate additional operational details. At the time of signature, the parties have designated the following points of contact:

*Bureau of Prisons
Designated Point of Contact (Primary):*

Scott Posti
Assistant Director for Outreach
Office of Field Operations
Veterans Benefits Administration

*Department of Veterans Affairs
Designated Point of Contact:*

Alix McLearn
Acting Deputy Assistant Director
Reentry Services Division
Federal Bureau of Prisons

IN WITNESS WHEREOF, the undersigned, duly-authorized officers hereby subscribe their names on behalf of the Federal Bureau of Prisons and the Department of Veterans Affairs. This MOU shall become effective on behalf of the parties by signature of the undersigned.



MAR 02 2020

Robert L. Wilkie
Secretary of Veterans Affairs

Date



Michael Carvajal
Director, Federal Bureau of Prisons

3/5/2020
Date