

August 4, 2015

Dear Tribal Leader:

The Children's Bureau (CB) within the Administration for Children and Families (ACF) is planning to hold a Tribal Consultation Session on our approach to obtaining tribal population data used in determining the amount of funding tribes receive under title IV-B of the Social Security Act. We are seeking your input as we recognize that decisions on this matter may have substantial direct effects on one or more Indian tribes with respect to the amount of funding tribes receive to support their child welfare programs under the title IV-B programs.

This Children's Bureau tribal consultation session will take place as part of ACF tribal consultation on **September 14, 2015 from 9:00am Eastern Time to 5:15pm Eastern Time at:**

**901 D Street SW
7th Floor Multipurpose Room
Washington, DC 20447**

Determinations of funding allocations for tribes under the programs authorized by title IV-B, subparts 1 and 2, are based on a count of each tribe's population of children and youth under the age of 21. For the title IV-B, subpart 1 program (Stephanie Tubbs Jones Child Welfare Services), a tribe's allotment is taken from the funds that would otherwise be provided to the state(s) in which the tribe is located. For title IV-B, subpart 2, there is a statutory set aside of funding from which all tribal allotments are made, based on the population of each tribe.

Since Fiscal Year (FY) 2003, ACF has allotted funds to tribes based on the number of children under the age of 21, as reflected in the 2000 Decennial Census, unless a tribe has certified an alternative number that has been approved by ACF. In announcing our policy at that time, ACF recognized that the census data might not be accurate. Therefore, we have also allowed tribes to submit a form, certified by the tribal president/chairperson and the tribal enrollment officer, providing an alternative count if the tribe determines that the census data are not accurate.

With the passage of time, we recognize that it is now necessary to identify updated Census data and to consider whether additional guidance may be required with respect to the parameters for submitting alternative population counts. Therefore, before we issue grants for FY 2016, we are seeking to consult with tribal leaders on these issues.

To help you prepare for this consultation, we have prepared the attached brief overview of the Title IV-B program. We have also outlined several questions on which we particularly seek your input. We look forward to discussing these matters with you at the ACF consultation session on September 14, 2015.

We also invite the submission of written testimony on these issues. The deadline for the receipt of testimonies is September 8, 2015. However, this deadline does not preclude anyone from providing testimony at the session and we will, to the extent that time allows, hear your testimony. To facilitate the discussion we ask that presenters provide a brief overview of their testimony and include the specific issues to be addressed in the session.

The Children's Bureau will keep the testimony record open for 30 days after the date of the Tribal Consultation session. After that time, Children's Bureau will provide a written report responding to all testimonies received and will also issue guidance informing tribes of steps they need to take to provide information on tribal populations prior to the award of the title IV-B grants in FY 2016.

Testimonies can be submitted to: **anacommissioner@acf.hhs.gov**

Hard copy testimony can be mailed to:

Joo Yeun Chang
Children's Bureau, Office of the Associate Commissioner
1250 Maryland Ave. SW
Washington, DC 20024

ACF is providing a webinar connection for this session with an audio line. Link to Tribal Consultation: **<http://hhs.adobeconnect.com/r6x905xgnyi/>**. **The call in number is 866-796-9393, passcode: 4449449**. If you experience difficulties with the adobeconnect link, please contact the ACF Operational Administrative and Technical Support number **1-877-922-9ANA (1-877-922-9262)**.

To register for the consultation, in person or via webinar, please email: **anacommissioner@acf.hhs.gov** with the names, titles, and tribe/organization name. If you plan to provide testimony, please indicate that you wish to address the Children's Bureau.

Should you have any questions about the tribal consultation session, please feel free to contact Heather Zenone (Senior Advisor, Tribal Children) at **heather.zenone@acf.hhs.gov** (202) 205-2629.

Sincerely,

/s/

JooYeun Chang
Associate Commissioner
Children's Bureau

Enclosure

Overview of Title IV-B of the Social Security Act and Questions for Consultation

Under title IV-B of the Social Security Act (the Act), the federal government provides funds to states, tribes, and territories to help ensure children's safety, permanence, and well-being through the provision of child welfare-related services to children and their families. Title IV-B funds are primarily distributed via two formula grant programs – title IV-B, subpart 1, the Stephanie Tubbs Jones Child Welfare Services (CWS) program, and title IV-B, subpart 2, the Promoting Safe and Stable Families (PSSF) program. The Children's Bureau within the Administration for Children and Families (ACF) administers these programs, in conjunction with the ACF Office of Grants Management.

Program Overview:

Funds under the **Stephanie Tubbs Jones Child Welfare Services Program (title IV-B, subpart 1)** may be used for:

1. protecting and promoting the welfare of all children;
 2. preventing the neglect, abuse, or exploitation of children;
 3. supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner;
 4. promoting the safety, permanence, and well-being of children in foster care and adoptive families; and
 5. providing training, professional development, and support to ensure a well-qualified child welfare workforce.
- In fiscal year (FY) 2015, 184 Tribes received approximately \$6.6 million in funding under title IV-B-1.
 - Grant awards ranged from approximately \$1,200 to \$802,000.

Funds under the **Promoting Safe and Stable Families Program (title IV-B subpart 2)** may be used to support services in the following four areas:

1. family preservation;
 2. family support;
 3. time-limited family reunification; and
 4. adoption promotion and support services.
- In FY 2015, 134 Tribes received approx. \$10.3 million in funding under IV-B-2.
 - Grant awards ranged from approximately \$10,100 to \$1,266,000.
 - To receive a grant under the program, a tribe must have a minimum allocation of at least \$10,000.

To receive funding for one or both programs, a tribe must submit a five-year Child and Family Services Plan (CFSP) and then Annual Progress and Services Reports (APSRs).

Allocation Formulas

For both title IV-B programs, tribal allotments are based on the tribe's population of children and youth under age 21.

- For title IV-B, subpart 1 (CWS) each eligible tribe's allotment of funding is derived from the allotment for the State in which the tribe is located and *is based on the State population under 21, the number of Indian children in the Tribal population, and the multiplication factor determined by the Secretary in accordance with federal regulations at 45 CFR §1357.40(d)(6)*. If an eligible tribe includes population from more than one state, a proportionate amount of the grant will be paid from each state's allotment.
- For title IV-E, subpart 2 (PSSF), tribal funding is derived from a 3% set-aside of the mandatory and discretionary appropriations provided for the program (see sections and 436(b)(3) and 437(a)(3) of the Act). From the amounts reserved, each approved tribe is to receive an allotment based on "an amount that *bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary*. If a consortium of Indian tribes submits a plan approved under this subpart, the Secretary shall allot to the consortium an amount equal to the sum of allotments determined for each Indian tribe that is part of the consortium."

Previous Guidance

In August 2002, the Children's Bureau in the Administration on Children, Youth and Families (ACYF) within ACF issued Program Instruction (PI) **ACYF-CB-PI-02-07** outlining its process for obtaining tribal population data to be used in determining allotments for grants made under title IV-B, subparts 1 and 2. In that issuance, the Children's Bureau stated that ACF would allot funds to tribes based on the number of children under the age of 21 as reflected in the 2000 Census Bureau data, unless a tribe has certified an alternative number that has been approved by ACF. The PI clarified:

The Census Bureau chart that will be used lists the number of individuals on the reservation and trust lands, by age and sex, who report themselves as American Indian or Native Alaskan only, and who are members of a specific Tribe. This chart is the closest representation of the population of all tribal children under 21 that the Census Bureau produces.

In ACYF- CB-PI-02-07, the Children's Bureau also recognized that Census data may not be accurate at the tribal level and therefore allowed tribes to self-certify an alternative count, if the tribe determined that Census data was inaccurate. Tribes were instructed to submit a certification form, signed by the Tribal Leader and the Tribal Enrollment Coordinator providing the alternative count and supporting information on the reason it differed from Census data and was deemed more accurate.

ACF has continued to follow that process through the grant awards made in FY 2015.

Need for Tribal Consultation

ACF recognizes that with the passage of time, use of 2000 Census Data is no longer appropriate and we must identify newer population data to determine more accurate and fair tribal population counts. In addition, ACF has received questions in recent years about the parameters of the population to be counted when a tribe self-certifies an alternative population count. Because we recognize that the decisions we make will affect funding provided to many tribes, we deemed it appropriate to engage in tribal consultation on these issues.

In [ACYF-CB-PI-15-04](#), our most recent PI providing instructions for the submission of Annual Progress and Services Reports (APSRs) used to request annual title IV-B funding, the Children's Bureau announced its intent to consult with tribes on these issues. "Beginning with the FY 2016 grant awards, ACF intends to identify updated Census Data to use as the default population estimate for tribes that do not submit a new population certification form. In addition, ACF plans to continue to accept submission of a tribal population certification form as an alternative figure to be used in making title IV-B allocations. Before we identify updated data or provide additional guidance on submission of an alternative population certification, ACF intends to consult with tribes, in accordance with ACF's Tribal Consultation Policy. Once we have completed tribal consultation, we will issue timely guidance on how tribal allocations will be determined and how to submit updated population certification forms, if needed, prior to the calculation of FY 2016 grants for the title IV-B programs." (p. 12)

Questions for Consultation

During the Session, Children's Bureau Associate Commissioner Joo Yeun Chang is looking forward to discussing the following issues with Tribal Leaders:

Issue 1: Primary Source of Tribal Population Data:

In the past, ACF has used U.S. Census Bureau Data from the 2000 Decennial Census as the source of population data for tribes (unless the tribe self-certifies an alternative number). Based on our research to date, we believe that the 2010 Decennial Census Data is now the most appropriate source of information to use. We are aware of other data collected by the Census Bureau, including the American Community Survey, which is updated more frequently, but our understanding is that information is likely to be less accurate and reliable, especially for smaller tribal population.

Questions:

- Based on your knowledge of Census Data, do you concur that the 2010 Census Data is the best publicly available data source?
- Are you aware of any other publicly available data source that would collect child population data for all federally recognized tribes?
- Should we consider requiring each tribe to self-certify its own population count rather than continuing to use Census Data as a default data source? Why or why not?

Issue 2: Clarifying the Population for Tribes that Self-Certify

For tribes that self-certify an alternative population count, we are aware that there have been questions as to who may be counted. Based on our preliminary review of the issue, we believe it would be helpful to clarify this point, to ensure that all tribes have the opportunity to identify the comparable counts of children and youth. Consistent with a tribe's ability to identify its service area for purposes of the title IV-B program, we believe tribes may have some flexibility in determining the children and youth to be counted in the population estimate, provided that all children being counted are eligible to receive services under the tribe's title IV-B program. In addition, for tribes with populations located in more than one state, the tribe must be able to break out the number of children in its population by state, since this information is required for allocations under the title IV-B, subpart 1 program (CWS).

Within these parameters, we are considering providing guidance that would allow tribes to count the following categories of children and youth under the age of 21:

- Enrolled members of the tribe who are living on or near the tribe's reservation/ tribal lands or title IV-B service area;
- Children eligible for enrollment in the tribe and who are living on or near the tribe's reservation/tribal lands or title IV-B service area;
- Other native children who are residing on or near the reservation, or tribal lands, if these children will be eligible for services under the tribe's title IV-B plan;
- Enrolled members of the tribe who are not residing on or near the reservation/tribal lands/service area, provided the tribe can explain how these children will be eligible for services under the tribe's title IV-B plan.

Questions:

- Does the list above include all categories of children and youth served by your title IV-B programs?
- Are there other categories of individuals you believe should be considered to be part of the population count?
- Are there any concerns with the categories identified?
- Will your tribe have the ability to obtain accurate population counts for these categories of children and youth? Are there any that are more difficult to count?
- Are you able to break out tribal population counts by state?
- Are there other questions regarding self-certification of tribal population data you would like us to answer?