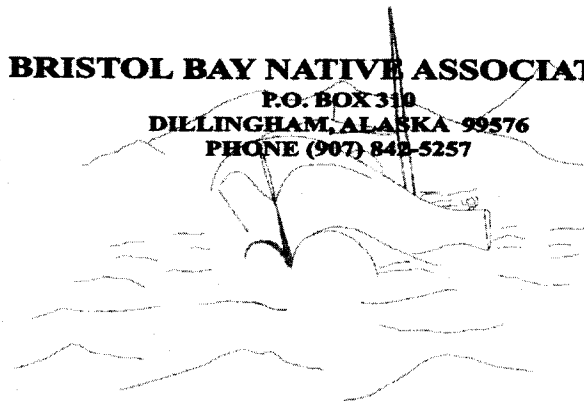


# BRISTOL BAY NATIVE ASSOCIATION

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April 14, 2014

*Aleknagik*

*Chignik Bay*

*Chignik*

*Lagoon*

*Clarks Point*

*Curyung*

*Egegik*

*Ekuk*

*Ekwok*

*Igiugig*

*Iliamna*

*Ivanof Bay*

*Kanatak*

*King Salmon*

*Kokhanok*

*Koliganek*

*Levelock*

*Manokotak*

*Naknek*

*New*

*Stuyahok*

*Newhalen*

*Nondalton*

*Pedro Bay*

*Perryville*

*Pilot Point*

*Port Heiden*

*Portage*

*Creek*

*South Naknek*

*Togiak*

*Twin Hills*

*Ugashik*

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**RE: Comments on PL 102-477 Proposed Changes**

## **Background:**

Public Law 102-477 enacted in 1994 the "477 Program," authorized tribal governments to consolidate up to thirteen different programs from the Department of Interior, Department of Labor, Department of Education, and Department of Health and Human Services into a single plan, approved by the Secretary of the Interior, to foster employment and economic development in Indian Country. While PL 102-477 is still technically a "demonstration project," the 477 Program has existed for over two decades and there are currently over 250 tribes that consolidate multiple programs into a single 477 Plan. The 477 Program provides tribal governments with the flexibility to design employment, training, and economic development plans that utilize funding from several federal programs to best meet the needs of their local communities.

P.L. 102-477 allows tribal governments to tailor multiple programs under one plan to meet the need of their memberships. PL 102-477 greatly reduces administrative burden by streamlining program reports into a statistical, narrative and financial reporting requirement. Tribes operating under 477 Plans complete a single narrative, statistical, and financial report based on their approved 477 Plan rather than completing multiple individual programs reports each quarter. This significantly reduces administrative burdens allowing more funding on direct services rather than duplicating reports.

Despite nearly two decades of success, the 477 Program was jeopardized in 2008 when the Department of Interior and the Department of Health and Human Services threatened to end the transfer of 477 Program funds via the Indian Self-Determination and Education Assistance Act. In 2009, OMB Circular A-133 included a proposed requirement to require 477 Tribes to report expenditures by individual funding source. These two developments threatened the continued viability of the 477 Program. After tribal leaders expressed their frustration with the unilateral actions taken by federal officials, the two proposals were suspended pending tribal/federal negotiations.

After tribal and federal officials struggled to resolve outstanding differences regarding the 477 Program, Congress included language in FY 2012 Interior Appropriations legislation that

instructed the federal agencies to engage in consultation with tribal officials to reach consensus and permanently resolve their issues. This language led to the formation of the Public Law 102-477 Administrative Flexibility Workgroup. The Workgroup is composed of both federal and tribal representatives. BBNA has participated in the workgroup meetings.

After two plus years of conference calls and face-to-face meetings, the Workgroup concluded its initial phase on January 24, 2014. Thus far, the Workgroup has reached compromise positions on several issues. The Workgroup developed a checklist for the Federal officials to help streamline the 477 Plan review and approval process. The Workgroup developed a financial reporting system based on five functional cost categories: 1.) cash assistance, 2.) child care services, 3.) education, employment, training and supportive services, 4.) program operations, and 5.) administrative costs. The Workgroup developed a revised narrative report that Tribes will use to highlight the programs included in their 477 Plans along with financial, statistical, and narrative forms and instructions that the Department of Interior published for comment and consultation on February 14, 2014. The forms developed should not be misconstrued as being approved by tribes. OMB circular A-133 Compliance Supplement suspension does not require reporting by program funding which support the continued use of the existing 477 financial reporting form.

**BBNA Comments:**

BBNA believes PL the 102-477 ACT embodies the intent of Congress for tribal self-governance and self-determination with over 20 years of successful tribal programs consolidating limited funding together to address their unique needs and goals of their tribe and tribal membership. The Office of Management and Budget gave the 477 Program the highest rating of any program in the DOI/DHHS, which documents the success and past performance of the 477 Program. These successes can be attributed to stream-lined funding through ISDEAA allowing flexibility for tribes to integrate separate programs into one consolidated Plan organized in a manner that best meets the unique local needs of their respective communities.

BBNA is concerned with the proposed P.L 102-477 reporting changes. BBNA believes the current reporting system is appropriate and satisfies all reporting requirements necessary under the law. The proposed reporting changes will increase tribal administrative burdens while limiting tribal flexibility under the law.

The Administrative Flexibility Workgroup developed financial, statistical, and narrative forms and instructions that the Department of Interior published for comment. The following are specific issues with the proposed changes:

1. The document titled *A Reporting System for Public Law 102-477, Indian Employment, Training, and Related Services Demonstration Act:*
  - a. Under the Paperwork Reduction Act Statement, this section states, *"The report is used to monitor the progress of the grantees in delivering services to Tribal members, to identify unmet needs, to identify any other problems, and to provide information to justify budget submissions by the three federal agencies involved."* However, the first paragraph (correctly) identifies four federal agencies. Three should be corrected to four.
  - b. Under the Financial Expenditure Report, we recommend that this section explain the reporting methodology by Plan Period. For example: An Annual Report shall be

prepared and submitted for each Plan Period until all of the funds available for the Plan Period have been fully expended and reported. When all funds have been expended in a plan period, mark the report as final.

- c. The date in which the new reports will be effective needs to be clarified allowing tribes adequate time and provide additional funding necessary to make changes in accounting systems and for training on the use of the new forms.

2. Narrative Report:

- a. Item 2 second paragraph stated if the Tribal TANF grantee has submitted the information in #2a-f in its Tribal Assistance Plan (TFAP). This has no explanation of what #2 a-f is.
- b. It states substantive change in certain data elements but does not say detail the elements.

3. The Statistical Report :

- a. Section II.A.4. asks for the Average Adult Earnings Gain. However, in the column for Cash Assistance Recipients both adults and youth are included. Is the average earnings gain to be listed only for adult cash assistance recipients?

4. Statistical Report Instructions:

- a. Instructions should specify that the age of the participant is determined at time of application, for both total participants and total terminees. (If the participant was 22 or older at time of application, the participant should be counted in the first column labeled, "Adult", except for persons receiving cash assistance.)
- b. Instructions should specify that individuals receiving cash assistance is also determined at time of enrollment, or within six months prior to enrollment, or deemed eligible to receive cash assistance at time of enrollment. (If individuals can be terminated as a cash assistance recipient because they received cash assistance during participation, it is conceivable that you would have more cash assistance terminees than total cash assistance participants.)
- c. Instructions for Terminee Outcomes need to clarify that terminees can be counted once in each category. (i.e. Employment Objective, Education/Training Objective, and Miscellaneous Objective Achieved).

5. Annual Financial Expenditure Report:

- a. OMB suspended A-133 Compliance Supplement but the new PL 102-477 Proposed Annual Financial Expenditure Report now re-directs tribes to report again by program funding stream.
- b. The Indirect Cost information is not identified on this form, which is inconsistent with the SF425 Federal Financial Report.
- c. The Program Income is not identified on this form, which is inconsistent with the SF425 Federal Financial Report.
- d. Increases administrative burden on tribes with implementing the use of "cost categories" as tribes will have to redesign their tribal financial systems to comply with reporting needs.

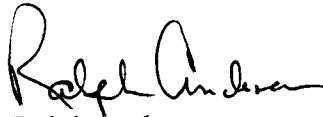
6. Annual Financial Expenditure Report Instructions:

- a. Under item 5. Final Report, we suggest " When a plan period ends and funds have been fully expended mark the report as final. Do not mark as final if there are funds carried over into following report period."

- b. There are no instructions as to how to report (or not report) Program Income.
  - c. The financial reporting instructions do not address indirect rates in a report year
  - d. The items listed for the various cost categories are confusing and subjective.
  - e. Financial instructions do not clarify the language in TANF purpose 3 and 4 or other TANF assistance
  - f. Clarify how to determine who is required to report child care quality improvements based on level of funding received.
7. Combined Functional Cost Categories:
- a. Administrative Cost document under the Guidance section, the last bullet point is incomplete. It states, *“Other costs for goods and services required for administration, including rental or purchase of equipment, utilities, and office supplies; and”*
  - b. Administrative Cost document under the Guidance section, we recommend guidance language regarding administrative cost caps.
8. OMB guidance issued December 26, 2013 on Uniform Administrative requirements, cost principals and audit requirements for federal awards, final rule is being rolled out to federal programs during 2014. Will this affect future reporting issues for tribal programs or allow further flexibility in reporting?

Thank you for the opportunity to provide comments on these proposed changes to the PL102-477 Initiative.

Sincerely,



Ralph Andersen  
President & Chief Executive Officer