



April 14, 2014

SENT VIA EMAIL

Mr. James West
Office of Indian Energy and Economic Development
Assistant Secretary—Indian Affairs
1951 Constitution Avenue NW.
MS—20 SIB
Washington, D.C. 20240
Facsimile: (202) 208-4564
JimR.West@bia.gov

Re: *Comments on Information Collection, 79 F.R. 8986 (February 14, 2014)*

Dear Mr. West:

Cook Inlet Tribal Council (CITC), an Alaska Native tribal non-profit organization, serves as the primary education and workforce development center for Native people in Anchorage. CITC has been designated tribal authority through Cook Inlet Region Inc., organized through the Alaska Native Claims Settlement Act and recognized under Section 4(b) of the Indian Self-Determination Act and Education Assistance Act, P.L. 93-638. CITC builds human capacity by partnering with individuals to establish and achieve both educational and employment goals that result in lasting, positive change for themselves, their families, and their communities.

The purpose of this letter is to provide CITC's comments pursuant to Bureau of Indian Affairs' ("BIA") Notice for Revision of Agency Information Collection for Reporting Systems for Public Law 102-477 Demonstration Project, published February 14, 2014 in the Federal Register.¹

¹ See 79 Fed. Reg. 8985 (Feb. 14, 2014). The notice was republished on February 21, 2014, in order to correct a date in the notice. See 79 Fed. Reg. 9915 (Feb. 21, 2014). The notice announced the revision and publication of reporting forms for P.L. 102-477, and sought comments on or before April 15, 2014. The BIA held a tribal consultation session on the proposed revisions on March 13, 2014 in Washington, D.C. This letter provides CITC's comments pursuant to the Federal Register notice.

pb.
907 793.3600
fx.
907 793.3602
web.
CITCI.org

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Demographics and Expanding Service Population

CITC's programs serve Alaska Native and American Indian people in the Cook Inlet Region, which includes Alaska's most urbanized and populated communities, and is home to an Alaska Native/American Indian population of more than 40,000, approximately 40% of the Native population of the state of Alaska. In Anchorage alone, the Native population is approximately 22,000, about 20% of the total Native population in the state. CITC's programs address many of the social, economic, and educational challenges faced by Alaska Native people. For example, Alaska Native students are *twice as likely* to drop out as their non-Native peers; 33% of Alaska's unemployed are Alaska Native people, and almost 20% of Alaska Native people have incomes below the federal poverty line – nearly three times the rate of non-Native people.

In-migration from rural, largely Alaska Native communities to the urban areas in the Cook Inlet Region is accelerating as Alaska Native people find it increasingly difficult to make a living in rural Alaska. 59% of CITC's participants have been in Anchorage for five years or less; and employment, training, and education are frequently cited as reasons for moving to Anchorage. In contrast, the current Bureau of Indian Affairs funding formula for CITC is based on the population figure of 14,569 -- from the 1990 Census -- which leaves CITC with a funding shortfall to meet the needs of the 40,000 Alaska Native and American Indian people currently residing in our service region. CITC is able to create and maintain successful programs, despite this shortfall, due to flexibility granted by the 477 program that allows us to leverage our existing funding and maximize efficiencies.

Public Law 102-477 is Essential to Effective Service Provision

The Indian Employment Training and Related Services Demonstration Act, Pub. L. 102-477, as amended, 25 U.S.C. §§ 3401-3417 (or the "477 program"), currently administered by the Office of Indian Energy and Economic Development in the Department of the Interior, provides a critical foundation for maximizing the effectiveness of CITC's programs. The law allows the consolidation of funding streams from the U.S. Departments of Interior, Health and Human Services, and Labor into a single education, employment and training program. The 477 program enables flexibility on the part of the receiving organization to plan the programming to best fit the needs of the community and minimize administrative redundancy by merging reporting requirements, while still adhering to the Government Performance Results Act's stringent accountability standards. 267 Tribes and tribal organizations operate through 63 plans under the 477 program, making this a program of national significance. In addition to allowing tribal governments to tailor multiple programs to meet the need of their citizens,

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PL 102-477 greatly reduces administrative burden by streamlining program, statistical, and financial reporting requirements. Tribes operating under 477 Plans complete a single narrative, statistical, and financial report based on their approved 477 Plan rather than completing multiple reports for individual programs. This reduced administrative burden allows for more time and money to be spent on direct services rather than duplicative reporting requirements.

CITC 477 Programs

The 477 Program is essential to the success of our program as it allows CITC to increase effectiveness and innovation, enhance interoperability, and eliminate inefficiency while maximizing program outcomes. CITC's Employment & Training Services Department (ETSD) provides comprehensive services to assist Native job seekers, including job training and placement, TANF, and child care. CITC's employment and training programs are based on the premise that effective solutions to workforce development require integrated approaches to ensuring job readiness, training, and placement. By working closely with state and federal programs, community and tribal non-profits, universities, vocational training centers, employers, and Native corporations, CITC is able to provide a wide array of training and employment assistance, coupled with supportive services, to help overcome many barriers to employment and self-sufficiency for our people.

CITC is the sole provider of Tribal TANF in Anchorage, a key component of our 477 program. Our TANF program is built on an integrated service model that connects participants to the range of programs offered throughout CITC's departments. Through our integrated service model, CITC has reduced caseloads as well as effectively implemented TANF prevention. This is precisely the type of innovation and interoperability that would be impossible without the flexibility provided by the 477 program.

Furthermore, efficiencies gained within the TANF program resulted in a **5-year savings of \$8.4 million** – savings that have been re-invested in supportive services and programs going directly to TANF participants. 477 allows Tribes and Tribal entities (e.g. CITC) to administer federally funded employment and job training programs as a single program, with a single budget and single set of reporting requirement. **CITC relies on the 477 program to provide our people more effective and integrated services while reducing costly administrative redundancy.**

Over the Past 5 Years CITC 477-supported programs have:

- Provided **8,989** job seekers with career exploration, training and job search assistance; **4,671** (52%) of these individuals were placed in jobs. The average hourly wage (AHW) of a job seeker coming to CITC for services increased by **\$6.66 per hour**.
- Transitioned **over 2100** TANF recipients from welfare to work, entering with no job experience or income, and leaving with an AHW of **\$11.53**.
- Provided training opportunities and job placement in critical employment sectors, including: **Customer Service/Retail Management** (AHW \$11.01); **Driver's Education** (AHW \$14.16) and CDL Driver's Certification (AHW \$16); **Weatherization Training** (AHW \$14.77 - \$22.15); **Healthcare: CNA, LPN, RN, Medical Coding** (AHW \$13.79)

CITC has demonstrated that the 477 program is very successful in connecting people to long term, meaningful jobs. In short, the 477 program is a "win-win" for the federal funders and CITC, since it eliminates wasteful inefficiency while maximizing program outcomes. In addition to being successful on the ground, the 477 program is fully accountable. It achieved the highest Office of Management and Budget PART (Program Assessment Rating Tool) rating in Indian Affairs.

Similarly, the 477 program on a national level has excellent results. These programs provide Tribes and tribal organizations the ability to leverage their federal job training and job placement funding for DOI, HHS and DOL-- including TANF, Childcare other programs. As a result, the **2012 477 national report shows that tribal programs served almost 44,000 people, of whom over 99% completed their education or employment objectives**. More importantly, of those who obtained employment: **1) Adults gained \$7 per hour over their previous hourly wage; 2) Youth gained \$6.80 per hour over their previous hourly wage; and 3) people on cash assistance gained \$5 per hour over their previous hourly wage**. The 477 program is critical to our effectiveness, especially in this environment of shrinking funding sources.

Subject of the Consultation:

The BIA proposes changes to forms used for reporting the expenditure of funds in approved 477 Plans implemented by Tribes and tribal organizations pursuant to the tribal employment and

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training program established by P.L. 102-477 ("477 Program" or "477 Act").² This proposal follows on and responds to meetings and negotiations of the P.L. 102-477 Administrative Flexibility Work Group ("Workgroup"), which included representatives of Tribes and tribal organizations that administer approved 477 Plans, and of the federal agencies involved in the 477 Program.³ The agencies and Tribes engaged in a comprehensive review of the 477 program, and developed a better understanding of the language and purpose of the 477 Act and the history of the 477 Act's implementation. Thus far, the Workgroup has reached compromise positions on several issues. The Workgroup has developed a checklist for the use of Federal officials to help streamline the 477 Plan review and approval process. The Workgroup also had compromised on 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 also agreed in principle on a revised Narrative Report that Tribes will use to highlight the programs included in their 477 Plans. Many of these compromise positions are reflected in the updated financial, statistical, and narrative forms and instructions that the Department of Interior published for comment and consultation on February 14, 2014. As the tribal representatives repeatedly informed the agencies, however, the Workgroup's work did not constitute consultation, and the forms would need to be submitted for approval to the larger tribal community. After two years of weekly teleconferences and several face-to-face meetings, the Workgroup met for the last time on January 24, 2014.

Federal agency representatives at the March 14, 2014 consultation on the proposed forms characterized the changes in reporting forms as having been agreed to and adopted as a result of the 477 Flexibility Work Group's extensive deliberations. However, Tribal representatives to the 477 Flexibility Work Group consistently argued that consideration of reporting by cost categories

² The Indian Employment, Training, and Related Services Demonstration Act, 25 U.S.C. §§ 3401-3417, as amended by Public Law 106-568, the Omnibus Indian Advancement Act of 2000.

³ Eligible federal programs include, **from DOI:** General Assistance, Tribal Work Experience, BIA Employment Assistance - Adult Vocational Training, BIA Employment Assistance - Direct Employment, BIA Higher Education, BIA Adult Basic Education, and Johnson-O'Malley Programs; **from HHS:** Native Employment Works, Tribal Temporary Assistance to Needy Families (TANF), and Child Care and Development Fund Programs; and **from the Department of Labor (DOL):** Workforce Investment Act, Section 166 Comprehensive Services, and Section 166 Supplemental Youth Services Programs.

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was tied to other principles consistent with longstanding administration of tribal 477 Plans: reporting in aggregate and not by funding source; tribal authority to re-budget and reallocate program funds in an approved Plan; implementation in a manner that does not require Tribes to create and maintain additional separate records or create additional administrative costs in the current implementation of a tribal program; testing in a pilot program for 477 Tribes to determine its impact on efficiency and cost-effectiveness of 477 Plans, with corresponding continued funding through ISDEAA and suspension of the 2009 Circular A-133 until final review and implementation is completed. Tribal representatives also made clear that any agreements in principle reached in the 477 Flexibility Work Group would have to be reviewed and approved by the broad body of 477 Tribes implementing the 477 Act, such detailed review necessary to ensure that the proposed general reporting system that has been devised is consistent with the wide variation in the structure and operation of individual tribal 477 Plans.

CITC objects to the form and manner in which the proposed revisions to reporting forms are being adopted. The proposed reporting requirements will not be complete until OMB approves new accounting instructions to replace OMB Circular A-33. Without the new instructions, 477 Tribes and tribal organizations are unable to evaluate the impact of the proposed changes to the forms on their administration of the 477 Program. Moreover, the information collection authorized in the amended reporting forms, if adopted, will expire January 31, 2017, the date through which the current reporting procedures also expire, thus providing no extended certainty in how programs will be reporting in the future.⁴

Background

Since 1992, the 477 program has allowed Tribes and tribal organizations to combine programmatic employment related funding from various federal agencies, while streamlining program approval, accounting and reporting mechanisms. Streamlined funding for 477 Plans through transfers under the provisions of the ISDEAA has been an essential element of the success of the 477 Program. 477 Program funds have been transferred to participating Tribes either through agreements authorized under Title I (self-determination contracts) or Title IV (self-governance compacts) of the ISDEAA. In addition, the Act authorizes Tribes and tribal organizations to develop programs that combine and re-budget the agency program funds to fit tribal priorities and needs. This flexibility facilitates the

⁴ The current reporting system is approved and in place with expiration date of January 31, 2017, OMB Control No. 1076-0135.

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creation of culturally appropriate programs, adds no costs for the federal government, and frees up program funding for direct client services by eliminating duplicative administration. In short, it increases cooperation between agencies, reduces administrative burden and maximizes federal dollars where they are most needed. Congress has consistently supported the 477 Program, and in July 2013 Senate and House members urged the President and the Administration to continue implementation of the 477 Act consistent with the Tribes' position on transfer and reporting of program funds.⁵

Unitary funding and transfer through ISDEAA is consistent with the purpose of the 477 Act to allow Indian tribal governments to use funds from the various sources in order to integrate the employment, training and related services in one program. Single reporting under the 477 Act has allowed participating Tribes to eliminate duplicative administrative costs while enhancing the quantity and quality of services to Native people nationwide.

The advantages of a 477 Plan include improved client services, better utilization of Program staff, use of a single intake system, more uniform treatment of clients, significant reduction in federal paperwork, regulatory and statutory waivers possible under all programs, use of a single budget, and improved cash flow. Having Tribes in direct control of employment programs also ensures services are provided to clientele in a manner that is respectful and culturally sensitive. The success and importance of the 477 Program to participating Tribes cannot be overstated. In short, the 477 program has continued with the same process and the same audits that have been successfully in place for over 20 years.

Reporting

The 477 Act authorizes Tribes to develop 477 program plans to integrate services and combine and reallocate expenditures from various agency programs in a single, coordinated, comprehensive Tribal program plan with a single budget and a single annual report delivered to the Department of the Interior. The reporting system in use since 1992 includes OMB-approved statistical, narrative, and financial reporting forms. In the past few years, however, the federal

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agencies have sought to impose additional terms and conditions to restrict a tribe's ability to reallocate program funds to fit tribal needs and to require Tribes and tribal organizations to report 477 expenditures separately by funding source. We believe this is contrary to the fundamental purpose and intent of the 477 Act.

The agencies have not identified any perceived "problems" requiring the proposed changes in reporting requirements. For twenty years the Tribes have used a single budget and a single reporting system, and have accounted for all 477 expenditures through a single agency audit which reviews consolidated 477 expenditures and complies with the Single Audit Act requirements. Although HHS, alone, now insists that more detailed information about expenditures of TANF and other HHS funds is necessary, it has failed to identify any problem or shortcoming in the Tribes' prior reporting. In short, throughout the Flexibility Work Group discussions, the agencies have not responded to the Tribes' repeated requests for identification of problems, and an explanation how the proposed report and audit changes are consistent with the 477 Act's single reporting system.

The 477 Flexibility Work Group was not able to resolve this difference. The agencies' insistence that Tribes do supplemental reports on cost categories that match the agency programs is inconsistent with the purpose of the Act to allow Tribes and tribal organizations to consolidate and re-budget and reallocate agency funds to fit the needs of the tribe as set out in the approved tribal program plan. For two decades auditors have been able to review tribal plans and year-end reports and determine that funds have been spent as allocated in the approved plans. The agencies' new reporting system, while providing for reporting expenditures by functional cost categories, threatens to undermine the single reporting requirement of the 477 Act and disrupts the historic implementation of this important tribal program.

CITC's Comments on the Proposed Reporting System

First and foremost, we question the need for these proposed changes as the current reporting system is appropriate, provides important data, and satisfies all reporting requirements. Just as importantly, these proposed changes do not allow for the flexibility and decreased administrative burden allowed under PL 102-477. CITC asserts that in principle, these proposed changes do not follow the original intent of the law. **Most importantly, Tribes and tribal organizations had been and continue to report fully and adequately about the program results (as described above), and there is no need to change reporting forms.** CITC offers the following comments specific to the consultation:

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Agency Request for Comments

The February 14, 2014 notice solicits comments on the following specific areas: 1) whether the information collected is necessary for the agencies to perform their functions, including whether the information will have practical utility; 2) the accuracy of the agency's estimate of the burden (hours and cost) on Tribes created by the collection of information, including the validity of the methodology and assumptions used; 3) ways the agencies could enhance the quality, utility, and clarity of the information to be collected; and 4) ways the agencies could minimize the burden of the collection of the information. *See* 79 Fed. Reg. at 8986. CITC offers the following specific comments:

Necessity and utility of information collection

The Federal Register notice does not explain the reason for the collection of information required by the new reporting forms or the purpose served under the 477 Act by the change in information collection. Under the current reporting system, in place for two decades, auditors have been able to review tribal plans and year-end reports and determine that funds have been spent as allocated in the approved 477 Plans. The proposed change in the fundamental nature of current reporting practices is inconsistent with the purpose of the Act to allow Tribes and tribal organizations to consolidate and re-budget and reallocate agency funds to fit the needs of the tribe as set out in the approved tribal program 477 Plan.

Burden on Tribes by implementing the reporting requirements

The proposed reporting system has not been tested in practical application. Because the 477 Plans implemented by Tribes vary in terms of the number and size of programs incorporated into a 477 Plan, the design of the tribal program implemented in the Plan, and the number of tribal members served by the Plan will have a variable effect on the burden. The agencies' estimate that the "burden" on Tribes in responding to the reporting requirements includes a range from 2 to 40 hours, and a dollar cost of \$310.00 does not reflect necessary changes to systems of reporting or operations time devoted to training on different reporting mechanisms. *See* 79 Fed. Reg. at 8986. As noted above, the effect of the proposed reporting requirements will not be ascertainable until OMB approves new accounting instructions to replace OMB Circular A-33. Without the new instructions the Tribes are unable to evaluate the burden or the cost of implementing the proposed reporting changes, including any new recordkeeping practices that Tribes may have to develop to

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be able to comply with reporting requirements. Such requirements are precluded by the express terms of Section 14(a)(1) of the Act: "Nothing in this section shall be construed as requiring the tribe to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among such individual programs."

Quality, utility and clarity of information collected

As stated above, the data and information collected in the current reporting system, in place for two decades, has been sufficient to allow the Tribes and agencies to evaluate the efficiency of the Tribal 477 Plans and to describe the benefits accruing to tribal members served by the 477 Plans. The success and importance of the 477 initiative to Tribes cannot be overstated and has been repeatedly recognized. In fact, in 2008 the Office of Management and Budget gave the 477 Program the highest PART rating of any program in the Department of the Interior. The current reporting system has also enabled auditors to review tribal plans and year-end reports and determine that funds have been spent as allocated in the approved 477 Plans. Given the past and lengthy record of the Tribes' performance under the 477 Program and record of service to tribal members served by the 477 Plans, the burden is on the agencies to justify the additional requirements the agencies seek to impose with the new reporting system.

Minimizing the burden on 477 Tribes

As stated above, the status quo already minimizes the burden on 477 Tribes, and there is no evidence that the cost categories will further reduce the reporting burden.

Recommended action

1. CITC recommends that the BIA withdraw the Notice for Revision of Agency Information Collection for Reporting Systems for Public Law 102-477 Demonstration Project and maintain the status quo. As noted above, the current reporting system is approved by OMB through January 31, 2017, providing sufficient time for agreement and implementation of any revised reporting system. The current reporting system is adequate and consistent with the 477 Act, and should remain in place.

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2. CITC recommends that the agencies conduct a meaningful test application of the proposed reporting system to the varied tribal 477 Plans that have been implemented under the 477 Act in order to evaluate whether it minimizes the collection burden on the Tribes.

Technical Comments on Proposed Forms

In the event the BIA declines to withdraw the February 14, 2014 Notice for Revision of Agency Information Collection for Reporting Systems for Public Law 102-477 Demonstration Project, and proceeds with action to implement the new reporting system, the Tribes' recommend the following changes to clarify to the forms in order to clarify the scope and manner of use of the forms.

Financial Expenditure Report Form & Instructions

- a. In the Financial Expenditure Report, column 8, make the following change:

Strike line 8(e)(i), "Child Care Quality Improvement (non-add)" and insert it as line 8(c)(i). The reason for this change is that only those Tribes with a CCDF allotment of \$500,000 or more are required to account for Child Care Quality Improvement expenditures.

- b. In the Financial Expenditure Report, line 9, add language as follows:

Certification: This is to certify that the information reported on all parts of this form is accurate and true to the best of my knowledge and belief and that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived, and that all funds have been expended in accordance with the Tribe's approved 477 Plan.

- c. In the Financial Expenditure Report, add language that explains how to report based on 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."

Narrative Report

- a. Page 2, item #1. Strike the first sentence because such a report is required only for Tribes with a CCDF allotment of \$500,000 or more:

~~If the Tribe includes Child Care and Development Funds (CCDF) in its P.L. 102-477 project, the narrative report should describe any efforts that were implemented to promote higher quality child care (e.g., provider training and professional development, health and safety requirements, etc.). (Tribes with a CCDF allotment of \$500,000 or more are required to spend a minimum of 4 percent of CCDF expenditures on activities to improve the quality of care; those Tribes are required to address this question in the narrative.)~~

- b. On the General Overview of the Program Document on the 2nd page in the Narrative Report Section, second paragraph of number 2 refers to " If the Tribal TANF grantee has submitted the information required in #2a-f in its Tribal Family Assistance Plan (TFAP)" As there is no longer a separate TANF report, this reference does not make sense and should be removed.

Statistical Report Form and Statistical Report Form Instructions

- a. In the Statistical Report Form, Section II "Terminee Outcome," at Subsection B(1), insert a forward slash "/" between Degree and Certificate (Degree/Certificate) in order to distinguish the separate types of documents.
- b. In the Statistical Report Form Instructions, at page 3, Section II(A)(4), "Average Adult Earnings Gain," there needs to be a category for Average Youth Earnings Gain.
- c. 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.)
- d. 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

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recipient because they received cash assistance during participation, it is conceivable that you would have more cash assistance termines than total cash assistance participants.)

- e. Instructions for Terminee Outcomes need to clarify that termines can be counted once in each category. (i.e. Employment Objective, Education/Training Objective, and Miscellaneous Objective Achieved).

Functional Cost Categories

In the Category form for "Program Operations," strike the second sentence in the Definition section, which reads "Reporting for child care quality improvement . . . Tribes receiving less than \$500,000 in CCDF" and insert it in the Definition section in the Category form for "Child Care Services." The reason for this change is that "child care" is a specific type of activity and it would be less confusing to have the function match the expenditure.

Conclusion

The 477 Act has allowed Tribes and tribal organizations to develop meaningful programs that have increased tribal members' direct access to employment programs and self-sufficiency. Tribes have been able to merge up to thirteen separate programs into one program with a single budget, one annual report, and a single consolidated audit of the entire 477 program. The decrease in administrative costs has increased the provision of client services. The ability of Tribes to design tribal programs to fit their own specific needs and priorities has eliminated barriers to employment services that were dictated by restrictions in the separate funded programs. The Act has facilitated tribal self-determination by authorizing Tribes to design services to fit each individual tribe's needs, and the reporting system now in existence has fulfilled the requirements of the Single Audit Act and program needs.

Please contact Gloria O'Neill at goneill@citci.org, (907) 793-3401, or Lisa Rieger at lrieger@citci.org, (907) 793-3403 if you have any questions or we can be of further assistance.

Sincerely,



Gloria O'Neill
President and CEO