

House Interior Appropriations Subcommittee on Interior, Environment, and Related Agencies
Public Witness Hearing - American Indian & Alaska Native Day I
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Chairman Simpson, Ranking Member Pingree, and Members of the Committee, thank you for the opportunity to provide testimony regarding the Department of Interior budget. I have had the privilege to serve as President and CEO of Cook Inlet Tribal Council (CITC) for 30 years, during the entirety of which CITC has utilized the benefits of Public Law 102-477 to integrate our employment and training and supportive services with holistic, wraparound services that connect individuals and families to life-changing self-determination. I have also seen the benefits that the Bureau of Indian Affairs’ Tiwaha program can bring in a similar wrap-around style for child welfare. Lastly, in my capacity as Chair of the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, I have worked to identify key appropriations changes that will significantly impact outcomes for Native children and youth.

CITC BACKGROUND:

CITC serves as the primary education and workforce development center for Alaska Native and American Indian (AN/AI) people in the Anchorage area. Approximately 70,000 AN/AI people – more than 40% of Alaska’s total AN/AI population – live in the Cook Inlet region. CITC serves any AN/AI person seeking services, regardless of their Tribal affiliation or original home areas, totaling approximately 12,000 AN/AI people yearly. A vital component of those services is CITC’s role as the sole Tribal TANF provider in Anchorage and the Mat-Su Valley, which has seen tremendous success in moving people from cash assistance to work largely through its Employment and Training Services Department and 477 Plan.

1. ADDRESS 477 IMPLEMENTATION:

Designed to reduce administrative burdens and support Tribal Self-Determination, the 477 Program is a federal initiative that allows Tribes and Tribal Organizations to integrate multiple federally-supported Tribal programs under a single 477 Plan, approved by the Department of the Interior (DOI). In turn, the Tribe or Tribal Organization reports back on an annual basis using a single consolidated reporting form. When allowed to function as Congress intended, the 477 Program is a model of success that we hope will be emulated and expanded across federal programs. However, there are still a few issues in implementation that must be noted for the Committee:

Expansion of Self Determination and Administrative Flexibility: DOI, and its Division of Workforce Development (DWD), has over the last year or so stepped fully into its role as Lead Agency under the 477 statute, as amended, and the more recently finalized 2023 MOA. DWD has supported Tribes and

Tribal Organizations through the Plan approval and amendment processes as more Tribes join the Program and more programs are integrated appropriately with the other federal agencies. Unfortunately, DWD's workload now outstrips their current resources and available personnel. *CITC urges the Committee to work to provide additional resources to be used toward these goals.*

Reduction in Reporting Burdens: Another positive development has been the overall simplification in reporting burden imposed on Tribes and Tribal organizations operating 477 Plans. If a Tribe were to operate independently each of the 44 federal programs currently integrated under a 477 Plan, for example, that Tribe would be required to provide at least 153 different individual reports. Under 477, that burden is simplified to a single three-component annual report, and the resources that would have otherwise gone to developing each of those individual reports can instead be used to provide services to the community. However, the current 477 annual report form will expire in November, 2024. CITC supports a Federal/Tribal work group working to produce an updated and simplified form.

Simplified Grant Renewal Processes: Several federal agencies, including the Department of Labor (WIOA Program) and the Department of Health and Human Services (CSBG Program), have provided specific instructions or simplified pathways for Tribes and Tribal Organizations seeking to renew their grants while incorporating them into a 477 Plan. *CITC supports these efforts and requests that this Committee direct DOI to work with the other agencies to achieve consistency and flexibility across agencies.*

Unlawful Holding of Funds by DOJ: Through the 477 statute, BIA recently approved a Tribe's 477 Plan amendment to integrate DOJ's Tribal Victim Services Set-Aside program. During the plan review process, DOJ rejected integration of these programs, purporting that Tribes may only integrate programs that are authorized specifically for employment and training. This assertion was unfounded, as the Tribe proposed to implement those programs "for the purpose of job training, [job] skill development, assisting Indian youth and adults to succeed in the workforce, and encouraging self-sufficiency," as well as "services related to th[ose] activities" under 25 U.S.C. § 3404(a)(1). Furthermore, Congress explicitly rejected the DOJ's viewpoint when developing the 2017 amendments to the 477 statute (in fact, that was one of the main purposes of the 2017 amendments), and the affected federal agencies did as well in the 2023 MOA. DOJ then took the position (happily reversed prior to a legislative oversight hearing) that it can refuse to transfer the funds even though the Plan amendment has been approved. This is flatly contrary to the 477 statute's funds-transfer requirements, and if allowed to stand, would undermine those funds transfer requirements. *We request that this Committee include language to discourage actions such as those taken by DOJ.*

Delayed Funds Transfers: Problems persist with certain agencies and programs regarding transfer of funds to BIA to be passed on to Tribes and Tribal Organizations operating 477 Programs. For example, one Tribal Organization has waited for funds from the Department of Commerce's Minority Business Development Agency for more than a year. Similarly, Tribes and Tribal Organizations waiting for Bureau of Indian Education funds have been delayed by nearly two years. *We request that the Committee include language to address these delays.*

Frequency of TANF reporting: The Office of Family Assistance (OFA) has insisted on a quarterly reporting requirement for Tribes and Tribal organizations receiving TANF funds through their 477 Plans, though it is clear that 477 statute requires only one consolidated annual report for all programs. OFA should mandate only one annual report, as required by the legislation. *We strongly urge the Committee to ensure that the TANF program continues to receive reports in the integrated statistical report developed by the federal agencies in conjunction with the 477 Tribal Workgroup.* That report contains all necessary information and keeps TANF in alignment with the requirements of the 477 statute. As OFA is aware, that statute provides that “Notwithstanding any other provision of law” – only one report is required, and separate accounting of individual programs within a 477 Plan is not consistent with that Congressional direction.

Misunderstanding of the Waiver Process and Opportunity: Requests for waiver under the 477 statute allow the federal departments to waive both *regulatory and statutory* provisions as long as they are not in opposition to the underlying program requirements. Merely stating that a law requires quarterly reporting does not fulfill the required 477 waiver analysis. Unless in opposition to the underlying program goals and purpose, agency interpretation of allowable waivers must be flexible in order to fulfill the statutory requirement to grant waivers.

Unlawful Meddling in Tribal Hires: Citing to the 2 CFR Part 200 Uniform Guidance regulations, some federal agencies, such as the Department of Education, have required federal approval for personnel decisions made by Tribes and Tribal organizations operating pursuant to a 477 Plan. This is contrary to both the letter and spirit of the 477 statute, and nothing in the Part 200 regulations allows or requires this action.

Inconsistent Compliance Supplement: The May 2023 OMB Compliance Supplement has detailed requirements regarding the investment of 477 funds. However, 25 U.S.C. § 3413(g)(2) requires only that those funds are “managed in accordance with the prudent investment standard.” *We request that this Committee include language so that OMB updates the compliance report to be consistent with the statute and remove any additional requirements.*

Lessons from Commission on Native Children: Finally, CITC calls the Committee’s attention to “The Way Forward: Report of the Alyce Spotted Bear and Walter Soboleff Commission on Native Children,” for which I served as Chair. Recommendations throughout the report reference the importance and success of braiding and consolidating funding and programs to benefit Native children and youth and improve their outcomes. In particular, Recommendation 25 specifically addresses the benefits of 477 and the importance of expanding its reach, and calls for increased funding to accomplish these goals. Other recommended priorities for this Committee in that report are noted later.

2. EXPAND TIWAHE FUNDING:

Tribes and tribal organizations have achieved success when they have secured adequate funding to transform their child welfare systems with thorough integration of cultural values and traditions. The Tiwahe Initiative within the BIA provides Tribes the opportunity to accomplish this change. The Commission also recommended full funding for this crucial program. Through Tiwahe, Tribes and

Tribal organizations have the flexibility to combine Bureau funds related to child welfare – including social services, ICWA, Housing Improvement, anti-recidivism, law enforcement, and courts – into a consolidated, multiyear program to effectuate meaningful change for Native children and families.

Red Lake Nation, Pascua Yaqui Tribe, Association of Village Council Presidents, and Ute Mountain Ute Tribe, among 65 others, have all shown significant improvements in their comprehensive Tribal child welfare and justice systems utilizing this innovative initiative. To wit, Pascua Yaqui effectively expanded its presence in Arizona state courts and built its tribal court system to address child wellbeing. Similarly, Red Lake Nation created a new system for child welfare, Ombimindwaa Gidinawemaaganinaadog (Uplifting all of our Relatives), a culturally aligned and whole-family approach to support and sustain adult recovery. From 2017 to the present, this new system led to a 63% reduction in the number of children in out-of-home placement.

3. COMMISSION ON NATIVE CHILDREN RECOMMENDATIONS

The Commission specifically recommended expansion of 477 and Tiwahe. In addition, the Commission identified the following initial expansion of appropriations (among others) that would have significant effects on transforming outcomes for Native children and youth:

- Fund a comprehensive Indian Child Welfare Act training program for state child welfare agencies and courts developed and delivered by Native professionals.
- Direct in appropriations that “all funds allocated for juvenile corrections/detention/probation officers can be used for counselors, coaches, and community-based juvenile prevention and supervision activities so that secure detention is not a requirement of personnel funds,” and reverse the direction that all treatment must be funded through IHS and SAMHSA, not the BIA.
- Fund specific programs to be delivered in public, tribal and BIE schools about trauma, suicide and substance abuse.
- Fund short-term investments to support Native entities’ capacity for third-party billing.
- Increase funding for salaries and benefits to attract higher quantity and quality workforces in social services, healthcare, juvenile justice, courts, and education, such that salaries and benefits meet local standards and match other federal employees.
- Fund and remove barriers to Native and non-Native professionals serving Native communities such as described in S.3022.

CONCLUSION

1. If its full potential is realized, PL102-477 provides an unparalleled opportunity to streamline funding and programs for the maximum benefit to American Indian and Alaska Native people.
2. Fully funding Tiwahe, in order to make this integrated funding available in the child welfare context, will have outsized impacts on Native child and youth wellbeing.
3. Attention to implementing the Commission on Native Children’s appropriations recommendations will bring the long-needed changes that will transform the future for Native children and youth.