



# NATIONAL CONGRESS OF AMERICAN INDIANS

## TESTIMONY OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

### U.S DEPARTMENT OF HEALTH AND HUMAN SERVICES 2013 ANNUAL BUDGET AND POLICY CONSULTATIONS RECOMMENDATIONS FOR THE TRIBAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM

March 8, 2013

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The National Congress of American Indians (NCAI) is the oldest, largest, and most representative intergovernmental body for American Indian and Alaska Native tribal governments. For almost seventy years, tribal governments have come together through NCAI to deliberate issues of critical importance to tribal governments and endorse consensus policy positions. As such, NCAI provides the following testimony for the 15<sup>th</sup> Annual Department of Health and Human Services (HHS) Tribal Budget Formulation and Consultation Session for Fiscal Year (FY) 2015.

Just as in previous years, HHS has worked energetically to uphold the United States' commitment to the federal trust responsibility through active engagement with tribal leaders and tribal governments. As a means of active engagement, consultation is critical to continuing essential funding for the Indian Health Service (IHS) and tribal programs such as Tribal Temporary Assistance for Needy Families (TANF) program. Additionally, tribal consultation is an important opportunity to provide policy recommendations to move forward mutual goals.

NCAI has hosted and supported a Tribal TANF Task Force since 2012. Thirty tribal leaders, numerous technical advisors, national organizations, and program managers worked collectively to develop the administrative recommendations. The NCAI membership approved recommendations from the Task Force in 2012, and it is with the permission of NCAI membership that we provide the following recommendations:

- **Promote tribal consultation within the Administration for Children and Families (ACF).** A unique government-to-government relationship exists between federally recognized tribes and the federal government. President Obama reaffirmed this relationship with Executive Order 13175, which requires each federal agency to develop a plan to implement consultation and coordination with tribal governments. Currently, ACF does not provide sufficient time to facilitate meaningful discussion on TANF, especially when these sessions are held in conjunction with HHS meetings. Both HHS and ACF have tribal consultation policies that require adequate consultation on any policies that impact tribal governments and Native people.
- **Establish a Tribal Advisory Committee within ACF.** To improve all ACF programs, including TANF, ACF should develop a Tribal Advisory Committee that represents all of the tribal regions. TANF experts and administrators should be represented on this committee as well.

- **Enforce P.L. 102-477 compliance.** Public Law 102-477 lists HHS as an affected organization, noting specifically the Tribal TANF program. Many tribes are unable to operate under the 477 process because of recent changes in interpretation of the application of the 477 process with tribal programs by ACF. ACF must comply with 477 guidelines in order to allow federally recognized tribes and Alaska Native entities to combine formula-funded federal grant funds, which are employment and training-related, into a single plan, budget, and reporting systems. This change will offset burdensome reporting requirements.
- **Establish standard TANF training programs.** Since tribes are relatively new to welfare program administration, ACF should provide training for tribes on the development and operation of TANF that is nationally consistent and enables tribes to provide the same standard of services as states. ACF should use a variety of training approaches that involve recognized experts from Indian Country, peer-to-peer technical assistance, and culturally appropriate methods and content. ACF should also establish a training that focuses on the flexibility of tribal TANF provisions and require that all central and regional ACF TANF staff receive this training annually.
- **Ensure that HHS provides clear, consistent, and timely guidance in the administration of TANF.** Tribes are unable to successfully manage their tribal TANF programs and finances when HHS does not promptly respond to tribal inquiries. For instance, when tribes submit TANF plan renewals or amendments to their respective regional offices, ACF is not required to respond within a specific time period. Tribes also receive inconsistent responses to policy questions, which vary among regional offices and HHS headquarters. Therefore, communication needs to be significantly improved to ensure that tribes receive consistent and timely responses to program questions. Additionally, ACF should provide timely determinations to submitted tribal TANF plans.
- **Waive or Change OMB-A-87 Language.** Waive or change the OMB-A-87 language that references related party-less than arm's length methodology on leases between consortia tribe and tribes due to tribal sovereignty and fair market requirements under 25 CFR on Indian Trust Land.

Thank you for this opportunity to share the recommendations of the NCAI Tribal TANF Task Force. We look forward to continuing our partnership with HHS and ACF. Please contact Terra Branson, Legislative Associate, if you have additional questions at 202-466-7767 or [tbranson@ncai.org](mailto:tbranson@ncai.org).