



2017 TRIBAL SELF-GOVERNANCE ANNUAL CONSULTATION CONFERENCE

APRIL 23-27, 2017 | SPOKANE CONVENTION CENTER-SPOKANE, WA
PROGRESSIVE PARTNERSHIPS: INVESTING IN TRIBAL NATION BUILDING

Recorder Form

Onsite Contact Jackie Eagle 918-520-6334

Recorder: Linda Austin

Date: 4/25/17

Session Title: The New 477 Legislation and Tribal Opportunities

Panelists:

- Margaret Zientek, Asst Director Employment & Training, Citizen Potawatomi Nation and Co-Chair P.L. 102-477 Tribal Work Group
- Andrea Smith, Attorney, Port Gamble S'Klallam Tribe

Moderator: Lloyd Miller, Partner, Sonosky, Chambers, Sachse, Miller, Monkman & Fiannery, LLP

Summary of Issues and Items Discussed:

Lloyd Miller Legislation Revision History and New Provisions Overview

- History of the Indian employment, training and related services consolidation act of 2017 (H.R.228; S.91) from 1992 thru 2014 highlighting the hiccup in 2010 requesting tribes to account fund by fund followed by the start-up of the Tribal Workgroup
- Efforts to rewrite law pursued starting in 2014 with goal of reducing administrative, reporting and accounting burdens on tribes. The bill is currently being held at the Senate desk to be able to pass under unanimous consent
- Types of programs under 477—Expands the kinds of programs that can be pulled into a consolidated plan
- Agencies: expands 477 to ten additional agencies DOJ, DOA, Commerce, Education, Energy, Homeland Security, HUD, Transportation, and Veterans Affairs
- Waiver Authority strengthens authorities to waive statutory, regulatory and administrative requirements, together with enhanced tribal rights to secure such waivers
- Deadlines and Enforcement—Establishes a strict timeline for Secretarial approval of 477 plans within 90 days
- Training expands the employer training provisions from 12 consecutive months to 24 non-consecutive months
- Payments made within 45 days of receipt of funds
- INTERAGENCY MOA: mandates the development of an interagency memorandum of agreement among all impacted agencies and departments
- ANNUAL MEETING: mandates an annual meeting of Tribes and federal agencies, to be co-chaired by a tribal representative and a representative of the President

- **REPORTING:** prohibits the annual report from requiring expenditure reporting based on fund source or agency code
- **CONTRACT SUPPORT:** Makes clear that the provisions of the Indian Self-Determination Act are not overridden by the 477 law, thus preserving (among other things) the tribal right to receive contract support costs on BIA-transferred funds covered by a 477 Plan
- **TRANSFER DEADLINE:** Mandates that interagency transfers of funds from other agencies to the BIA must occur within 30 days after apportionment of such funds to the transferring agency
- **USE OF SG COMPACTS AND 638 CONTRACTS:** Upon tribal request, mandates the transfer of all 477 funds through existing Indian Self-Determination Act compacts and contracts
- **CARRYOVER AUTHORITY:** Grants Tribes carryover authority modeled on the Indian Self-Determination Act
- **FULL INDIRECT COST RECOVERY:** Expressly authorizes 477 Tribes to recover 100% of their indirect costs, expressly repealing caps on indirect costs that would otherwise apply to some funds consolidated under a Plan

Margaret Zientek

- Overview & Highlights of 477 Revisions from Tribal Perspective
- As of 2017, 65 Tribes operate 477 Programs
- Waiver authority
- Employer training expansion from 12 months to 24 non consecutive months
- Separate records and audits NOT required
- 477 Funds can be used as matching funds
- Final Considerations
 - 477 Program will Evolve
 - New MOUs with Secretaries
 - Report Changes Possible
 - Tribal 477 programs will also evolve
- With changes to the 477 law, how can tribes enhance their workforce
 - DOL/DOJ Reintegration grants
 - VA Veteran Work Programs
 - DOC Economic Development
- Citizen Potawatomi Nation's 477 Program Economic Development Focus
 - Provides flexibility to design program to meet tribal goals and needs
 - Grow businesses and decent wages
 - Stimulate entrepreneurship
 - Improve ability to educate, train and retain quality workforce
 - Support specialized education and training for CPN Pipeline
 - Profile on Ironhorse Industrial Park
 - Tribes need to collect data on economic impact
 - CPN's Keys to Success Overview

Andrea Smith

- Emphasized the importance of wraparound

Questions from the Audience:

1. If President Trump succeeds in eliminating some 477 programs, what happens to standing agreements? Funds would cease to flow into agreements.
2. If you are doing less reporting, do you still make the need case for funding? Programs are still providing what Congress asks for but not in multiple forms. One plan and one report vs multiple with General Assistance being the exception.
3. How do you handle incarceration recidivism? Up to the tribe to set priorities of 477.
4. What performance measures are outlined? Tribal workgroup identified measures based on collaboration with OMB.

5. Question aimed at helping clarify how to merge funding to achieve a common goal? Current law allows comingling of funds for common service goals.
6. Are there any downsides to the '477 program and how much funding is available? Clarification provided that 477 is a mechanism to leverage existing dollars to reach common goals in education, workforce development, economic development, for example.
7. Job training program question regarding workforce placements outside the tribe? Review job training agreement for requirements of sustaining individuals.
8. Does FTCA cover work experience participants? Not sure. FTCA covers employees, not training participants.
9. Can you reprogram welfare assistance to conduct economic development? Depends on what is written in the plan. CPN sectored some GA funds to a CDFI for loan assistance.
10. Who receives the 477 plan? Terrence Park DOI workforce development.
11. How to handle the budgeting for 477 when currently budgeting is not consolidated? Tribe has to decide what is best for their goals.
12. One negative on funding in 477 when combining with Self Governance there are some delays given the transfer of funding

Follow Materials, Documents, Websites for Reference: