



TRIBAL CONSULTATION ON DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, FISCAL YEAR 2018 AND 2019 TRIBAL FUNDING POLICY

The Department issued a Dear Tribal Leaders Letter on October 13, 2017, announcing its intention to conduct a series of listening sessions, consultations, and webinars, and to seek written comments primarily related to the proposed discretionary funding set aside for Tribal justice assistance programs in the Fiscal Year (FY) 2018 President's Budget¹, as well as FY 2019 funds, which may be available. The first listening session was held on October 18, 2017, in association with the National Congress of American Indians' (NCAI) annual meeting in Milwaukee, Wisconsin. A second listening session was held, in association with the Coordinated Tribal Assistance Solicitation (CTAS) orientation and the American Indian Justice Conference, on December 6, 2017, in Palm Springs, California. A consultation will be held at the NCAI Winter Meeting on February 15, 2018, in Washington, DC. The Department is seeking other opportunities to consult with Tribal leaders, possibly including conference calls, webinars, and in-person meetings. Additionally, the Department is accepting written comments at DOJtribalfunding@usdoj.gov.

At the initial listening session, the Department sought tribal comments on two questions.² Building on these questions, the Department, in this Framing Paper and the referenced materials, is providing additional information that responds to feedback received and asking additional questions raised by Tribal leaders. As noted at the listening sessions, the Department is also seeking input on the best methods to build ongoing, consistent methods for feedback and consultation.³

BACKGROUND

For decades, the Federal Government has provided, and continues to provide, state, local, and Tribal governments with funding, either directly or indirectly, to support criminal and juvenile justice, victim rights and services, and public safety activities in Tribal communities. The three major grant-making components at the Department of Justice, the Office of Justice Programs (OJP), the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS), support Tribal governments in addressing their justice and public safety needs. In order to allow Tribes to have flexibility in responding to their unique needs, grant awards are divided into nine distinct purpose areas.⁴ In addition to providing grants to Tribal governments, the components offer training and technical

¹ This set aside was first authorized by Congress in FY 2017. Because of timing issues, in FY 2017 the Department was unable to consult with Tribes regarding the use of funding from this set aside.

² These questions are listed on pages 3-4 of this Framing Paper.

³ <https://www.justice.gov/sites/default/files/otj/docs/doj-memorandum-tribal-consultation.pdf>

⁴ In the CTAS solicitation, grant programs are arranged into purpose areas, which are detailed in the Framing Paper background information linked below.

assistance (TTA), provide information on evidence-based and research-based practices, and support research, statistical analysis, and reporting for justice-related issues.⁵

The Department's OJP has a long history of supporting Tribal nations in addressing issues of criminal and juvenile justice. Tribal governments are eligible to apply for OJP grant programs, available to state and local applicants, as long as they are not restricted by statutory requirements.⁶ In 1996, OJP opened its first Tribal-specific grant program. For many years, OJP's Tribal-specific funding was limited to specific, statutorily-authorized grant programs. As result of the up to 7% Tribal assistance set aside, in recent years and as proposed in the FY 2018 President's Budget, OJP has had greater discretion to fund wide-ranging justice-related activities in Tribal communities. Typically, assistance is provided to Tribes in the form of competitive discretionary grants, formula grants, and TTA.

In recent years, the Department has sought ways to make the range of Tribal assistance more accessible, user-friendly, and relevant to Tribal needs. In October 2009, the Department implemented a new Tribal programs funding policy, CTAS, in which most discretionary tribal-specific funds are provided through a streamlined solicitation process that is a collaboration between OJP, COPS, and OVW. CTAS allows Tribes to apply for tribal-specific grant funding through one vehicle and provides access to most Tribal funds that the Department administers in a single solicitation. Each year, the Department offers an online assessment of the CTAS process that allows Tribes to share their experiences and recommendations for improvements. The Department updates the CTAS process annually, based upon this input and other feedback received informally throughout the year. From FY 2010 through FY 2017, the Department awarded 1,866 grants to federally recognized Tribes through CTAS, totaling approximately \$820 million.

For more information on the Department's Tribal-specific TTA, please visit:

<https://www.justice.gov/tribal/training-and-technical-assistance>.

For more information on the full array of Department grants that Tribes are eligible to apply for, please visit: <https://www.grantsnet.justice.gov/>

For background on the Department's CTAS and Tribal-specific grant programs, please

visit: <https://www.justice.gov/tribal/page/file/1028351/download>

SCOPE OF THE CONSULTATION

In keeping with the Department's commitment to working with Tribes on a government-to-government basis, the Department seeks input, from American Indian Tribes, Alaska Native Villages, Tribal consortia, and Tribal designees, primarily regarding how the Department can make Tribal-specific grant funding more widely accessible and enhance practices to improve public safety. The proposed Tribal set aside resulted from Tribal leaders' recommendations during previous Tribal consultations and listening sessions. This new Tribal consultation relates primarily to the up to 7% discretionary Tribal assistance set aside proposed in the FY 2018 President's Budget, as well as FY 2019 funds, which may be available. The set aside is proposed to be applied to funding appropriated to OJP under the following appropriations accounts in FY 2018: Research, Evaluation, and Statistics; State and Local Law Enforcement Assistance; and Juvenile Justice Programs. Given the potential for increased funding under this new Tribal set aside and the broader flexibility in scope, the Department is consulting with Tribal leaders, hosting listening sessions with Tribal justice leaders, and seeking input via webinars and other methods primarily to inform planning for FY 2018 and FY 2019 funds, which may be available.

⁵ For more information on resources for Tribal justice systems, see the Framing Paper background information linked below.

⁶ A link to DOJ's Program Plan, with a list of all solicitations, is provided below.

The Department will consider feedback received from listening sessions, consultations, and other methods to inform the planned uses of FY 2018 funds⁷ and future funds under the proposed Tribal assistance set aside, as well as the methods for allocating funding for FY 2019 funds, which may be available. By consulting with Tribes regarding the two upcoming fiscal years, the Department can better incorporate both short-term and long-term enhancements. The FY 2018 CTAS planning and solicitation process has already begun, in order to ensure that the Department provides adequate time for applications to be submitted and to ensure a thoughtful peer review and agency coordination process. CTAS will take into consideration relevant feedback from the listening sessions held in October and December of 2017.

A summary of OJP funding for Tribal nations, in FY 2017 and FY 2018 (President's Budget and congressional action), is attached as Appendix A.

QUESTIONS FOR CONSIDERATION

1. What are the preferred methods that could be used to allocate Tribal-specific funding provided to the Department?

1a. Some Tribal leaders have recommended that the Department convert competitive grants to formula grants. The Department is concerned that the amounts received by each Tribe under a formula grant program will be too small to make an impact on public safety and criminal and juvenile justice needs. What are your thoughts on this issue?

1b. Most formula grant programs at the Department use data, such as crime rates and population base, as the basis for the program's formula. Not all Tribes are able to report their crime data to the FBI. Should the Department prioritize strategies to build Tribes' capacity to access, track, and report crime data?

1c. If the Department continues to use discretionary awards, should award amounts be increased, even if this reduces the total number of Tribes receiving awards?

1d. Are there ways that CTAS can be refined to better address the needs of Tribes? Some Tribes have expressed a concern that the CTAS process unfairly burdens smaller Tribes or those seeking to apply for targeted funds. Do Tribal leaders have suggestions about ways to reduce this possible burden?

⁷ The appropriations language for the up to 7% discretionary Tribal assistance set aside proposed in the President's Budget for FY2018 is as follows:

Sec. [213] 210. At the discretion of the Attorney General, and in addition to any amounts that otherwise may be available (or authorized to be made available) by law, with respect to funds appropriated by this title under the headings "Research, Evaluation and Statistics", "State and Local Law Enforcement Assistance", and "Juvenile Justice Programs" *or otherwise appropriated or transferred under this Act for administration by the Office of Justice Programs*:

- (1) *7 percent of funds made available for grant or reimbursement programs, excluding amounts excepted or transferred under paragraph (2), may be transferred to and merged with funds under the heading "State and Local Law Enforcement Assistance", for tribal criminal justice assistance, without regard to the authorizations for such grant or reimbursement programs.*

2. Apart from the law enforcement, juvenile justice, victim services infrastructure, and criminal justice priorities currently being addressed by the Department through tribal-specific grant programs, are there any additional Tribal priorities that should be considered?

2a. In the listening sessions held in 2017, Tribal leaders and Tribal justice officials have consistently identified law enforcement resources as a priority, and most applications from Tribes concern law enforcement activities (CTAS Purpose Area 1). Should the Department continue to prioritize funding for law enforcement?

2b. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has prioritized investments that reflect Tribal leader input, including: community-based supervision and diversion; juvenile healing-to-wellness court services; Tribal youth programs; and juvenile justice and strategic planning. What budget priorities should be continued, expanded, added, or eliminated?

2c. Should the Department continue its support of efforts to enhance the collection of data in Indian Country and to support research on Tribal criminal justice systems and strategies? If so, what specific information needs or topics should be prioritized?

2d. Do the existing TTA and other support available adequately address the need to build the capacity and expertise of Tribal justice systems? What priorities for TTA and other support should be considered?

3. The grant-making components of the Department plan to implement a more consistent method for regular consultation, dialogue, and obtaining feedback from Tribal leaders and Tribal justice officials. Do you have suggestions on how the Department can improve communication with Tribes?

4. H.R. 228 (P.L. 115-93), which was enacted into law on December 18, 2017, adds the Department to the list of agencies that can participate in the Indian Employment, Training and Related Services Act of 1992 (25 U.S.C. § 3404). The subject matter of the Act does not pertain to activities generally within the purview of the Department. Given the Act's focus on employment and related services, what role do you see for the Department in the implementation of this legislation?

5. If the proposed Tribal set aside of the Crime Victims Fund is passed by Congress, what victim-centered programs and services would you prioritize? What are the preferred methods for funding allocation?

CLOSING

The Department looks forward to hearing from Tribal leaders and Tribal justice officials at the Tribal consultation that will be held at the NCAI Winter Executive Session on February 15, 2018, as well as at future events, and the Department welcomes tribal comments, as detailed below. As previously stated, the Department is seeking other opportunities to consult with Tribal leaders, possibly including conference calls, webinars, and in-person meetings. More details on upcoming consultations and other events are available at: <https://ovcttac.wufoo.com/forms/department-of-justice-tribal-consultation/>

Tribal Views Requested

The Department welcomes Tribal views on the Questions for Consideration listed in this Framing Paper. The current deadline for submitting comments will be 30 days after the final consultation session.

To provide input via e-mail, please send comments to DOJtribalfunding@usdoj.gov.

Comments may also be faxed to Eileen Garry, Deputy Administrator, OJJDP, or A. Elizabeth Griffith, Associate Deputy Director, BJA, at 202-514-8723, or sent via mail addressed to Ms. Garry or Mrs. Griffith at 810 Seventh Street, NW, Washington, DC 20531.

For telephone inquiry contact:

BJA – A. Elizabeth “Betsi” Griffith: (202)616-5510

OJJDP – Eileen Garry: (202)307-6226

OVC – Allison Turkel: (202) 305-2117

BJS – Jeri Mulrow: (202) 514-9283

NIJ – Christina Crossland: (202) 616-5166

SMART – Juli Ana Grant: (202) 514-7768

COPS – Matthew Lysakowski: (202) 514-7768

OVW – Sherriann Moore: (202) 514-8804

APPENDIX A

Overview of Funding for Ongoing Department of Justice Tribal Justice Assistance Grant Programs FY 2017 – FY 2018 (dollar amounts in millions)

Program or Set Aside	FY 2017 Enacted (P.L. 115-31)	FY 2018 President's Budget Request	FY 2018 House Bill (H.R. 3267)	FY 2018 Senate Committee Mark (S. 1662)
OJP Programs				
Indian Assistance	\$0	\$0	\$0	\$0
Tribal Youth Program	0	0	0	0
Statutory Tribal Set Asides from OJP Programs ^{1/, 2/}	10.3	TBD	TBD	TBD
OJP - 7% Discretionary Tribal Criminal Justice Assistance Set Aside ^{3/}	50.7	89.6	75.0	94.9
Subtotal, OJP	61.0	239.6	75.0	276.7
COPS Programs				
Tribal Resources Grant Program	0	30.0	0	0
COPS - 7% Discretionary Tribal Criminal Justice Assistance Set Aside ^{4/}	15.5	0	16.4	15.8
Subtotal, COPS	15.5	30.0	16.4	15.8
OVW Programs				
Research on Violence Against Indian Women (NIJ)	1.0	1.0	1.0	1.0
Tribal Special Domestic Violence Criminal Jurisdiction	4.0	2.5	4.0	4.0
Tribal Sexual Assault Services Program ^{5/}	3.5	3.5	3.5	3.5
Sexual Assault Clearinghouse	0.5	0.5	0.5	0.5
VAWA Tribal Government Grants ^{5/}	39.2	38.9	39.2	39.3
VAWA Tribal Coalitions Grants ^{5/}	6.8	6.7	6.8	6.8
Subtotal, OVW	55.0	53.1	55.0	55.1
Total, DOJ Tribal Justice Assistance Programs	\$131.5	\$322.7	\$146.4	\$347.7

^{1/} This line includes funding provided under statutory set asides that apply to the Children's Justice Act Partnerships for Indian Country and Comprehensive Tribal Victim Assistance programs, which are funded under the Crime Victims Fund, as well as the Tribal programs pass-through funding requirement under the Part B Formula Grants Program.

^{2/} Amounts shown as TBD in FY 2018 will not be determined until OJP finalizes its annual spending plan and grant awards under the relevant programs.

^{3/} In the FY 2017 enacted appropriation, this set aside replaces line item appropriations requests for the Tribal Youth Program and the four programs traditionally funded through the Indian Assistance appropriations line item and the COPS Tribal Resources Grant Program. In the FY 2018 President's Budget request, this set aside replaces the same group of line items except for the COPS Tribal Resources Grant Program.

^{4/} This set aside was included in OJP's budget request for the first time in the FY 2018 President's Budget.

^{5/} These programs are funded through statutory funding set asides from programs administered by the Office on Violence Against Women that are authorized under the Violence Against Women Act.