



BUREAU OF JUSTICE ASSISTANCE TRIBAL LISTENING SESSIONS FY 2019 AND FY 2020 TRIBAL FUNDING PRIORITIES

BACKGROUND

As a grant-making component in the Department of Justice's (DOJ) Office of Justice Programs (OJP), the Bureau of Justice Assistance (BJA) supports efforts by tribal governments to address their public safety needs. In addition, BJA provides training and technical assistance (TTA) to tribal governments and supports implementation of evidence- and research-based practices.

During 2019, BJA will host a series of virtual listening sessions to actively solicit input from Indian tribes and tribal stakeholders on how the Department can make grant funding, in particular from BJA's **Tribal Assistance appropriation**, accessible to as many tribes as possible. On February 28, 2019 BJA will host a Tribal Stakeholder Preparatory webinar to provide background for a Virtual Listening Session on March 26, 2019. In-person listening sessions will also be held later in 2019. DOJ administers formula and competitive grants, some only to tribal governments, but most to non-tribal and tribal applicants alike. While the listening sessions will focus primarily on the Tribal Assistance appropriation, BJA also seeks feedback on ways to enhance tribal access to all BJA funding available to tribes.

Feedback from the listening sessions will inform both fiscal year (FY) 2019 and FY 2020 Tribal Assistance funding in order to provide the greatest flexibility possible in response to tribal recommendations. The FY 2019 Coordinated Tribal Assistance (CTAS) solicitation has been released and closes on March 12, 2019. However, recommendations for funding for FY 2019 will not be completed until after the March 26 virtual listening session, so tribal feedback will be considered consistent with the solicitation. Larger refinements to the BJA program approach, based on the feedback, can be integrated into the FY 2020 processes. By applying feedback to two fiscal years' worth of programming, BJA can better incorporate both short- and long-term enhancements to the process.

BJA launched its first tribal grant program, Tribal Strategies Against Violence, in FY 1995. In 2001, BJA's Indian Alcohol and Substance Abuse Demonstration Program was created by the FY 2001 Consolidated Appropriations Act (Public Law 106-553). Also beginning in FY 2001, the Tribal Courts Assistance Program received separate authorizing legislation pursuant to Public Law 106-559 (25 USC 3689(a)). During the previous decade, OJP, first through the Corrections Program Office and then BJA, supported the Correctional Systems and Correctional Alternatives on Tribal Lands (CSCATL) program, now known as the Tribal Justice System Infrastructure

Program.¹ It should be noted that under the American Recovery and Reinvestment Act of 2009, BJA also invested \$225 million in funds for construction of tribal correctional facilities.

In FY 2000, Congress authorized the Tribal Civil and Criminal Legal Assistance (TCCLA) program, 25 U.S.C. 3651, et seq. (Public Law 106-559 (Indian Tribal Justice Technical and Legal Assistance Act of 2000)), though funding was not appropriated until FY 2010. TCCLA’s purpose is to: (1) strengthen and improve the capacity of tribal justice systems to address civil and criminal causes of action under their jurisdiction, (2) ensure their access to quality Training and Technical Assistance (TTA) for their development and enhancement, and (3) provide quality technical and legal civil and criminal assistance. Eligible applicants for TCCLA funding are 501(c) (3) non-profit organizations for Category 1, Civil Legal Assistance and Category 2, Criminal Legal Assistance, and national or regional organizations whose membership consists of judicial system personnel within tribal justice systems.

In FY 2012, Congress began consolidating the BJA tribal specific appropriations and BJA, along with other OJP components, the COPS Office and the Office on Violence Against Women made tribal specific funds available through the Coordinated Tribal Assistance Solicitation (CTAS), which streamlined BJA funding for tribes in two main purpose areas: Purpose Area 3 for programming and operations for tribal justice systems; and Purpose Area 4 for tribal justice infrastructure. These funds also support the DOJ-wide Purpose Area 2, for strategic planning. Here is a summary of funding for the past ten years:

FY	Tribal Assistance	Indian Alcohol and Substance Abuse	Tribal Courts	Tribal Infrastructure	Tribal Civil and Legal Assistance	American Recovery and Reinvestment Act	FY Total
2007		5,000,000	8,000,000	9,000,000			22,000,000
2008		5,180,000	8,630,000	8,630,000			22,440,000
2009		6,000,000	9,000,000	10,000,000		225,000,000	250,000,000
2010		12,000,000	25,000,000	10,000,000	3,000,000		50,000,000
2011		9,940,080	20,708,500	8,283,400	2,485,020		41,417,000
2012	38,000,000						38,000,000
2013	38,000,000						38,000,000
2014	30,000,000						30,000,000
2015	30,000,000						30,000,000
2016	30,000,000						30,000,000
2017*	30,000,000						30,000,000
2018	35,000,000						35,000,000
2019	37,500,000						37,500,000
Program Total	268,500,000	38,120,080	71,338,500	45,913,400	5,485,020	225,000,000	654,357,000

*In FY 2017 Congress appropriated 7% of certain BJA accounts to be used for Tribal Assistance.

¹ This program is authorized by Section 20109, Subtitle A of Title II of the Violent Crime Control and Law Enforcement Act of 1994, as amended, 42 U.S.C. Section 13701 et seq.

CONSULTATION

During the last decade, BJA has engaged in several consultations and listening sessions with tribal leaders and stakeholders, most recently, in Department listening sessions and consultations in October and December 2017 and at a consultation in February 2018 in conjunction with the National Congress of American Indians (NCAI) Winter Meeting. BJA took part in the Tribal Justice, Safety and Wellness Consultations hosted in coordination with DOJ and other federal partners, including the Substance Abuse and Mental Health Services Administration (SAMHSA) and Bureau of Indian Affairs (BIA), reflecting interagency coordination to enhance services to tribal nations. The Tribal Law and Order Act (TLOA) of 2010 mandated that DOJ and the Department of Interior (DOI) develop, in consultation with tribal leaders and tribal justice professionals, a long-term plan to address incarceration, and alternatives to it, in Indian Country. DOJ and DOI received substantial input from tribal justice leaders, including tribal law enforcement, courts, and corrections officials. DOJ and DOI conducted a series of consultations with tribal leaders across the country;² hosted focus groups with tribal justice officials, and webinars; created a multi-agency working grouping on corrections to provide recommendations for action; and drafted a tribal justice plan for public comment. Those comments were incorporated into the final plan submitted to Congress.

Based on this feedback, OJP has identified key priorities for its awards and TTA: alternatives to incarceration, including Healing to Wellness Courts; programming and operations in tribal justice systems, including tribal courts, tribal probation, tribal jails; tribal civil and criminal legal assistance; intergovernmental collaboration to address public safety; and addressing crime tied to substance abuse. BJA recently added a new area of focus, the reentry of tribal members from federal or state facilities. And BJA enhanced its collaboration with BIA to better coordinate federal and tribal resources to support operations and programming in tribal justice systems, including tribal correctional facilities, tribal justice facilities for law enforcement, courts, and treatment and programming.

As a result of the 2009 American Recovery and Reinvestment Act and TLOA provisions, BJA received more latitude to expand the Tribal Justice System Infrastructure Program from a sole focus on tribal corrections to support construction, expansion, and renovation of tribal justice facilities that support alternatives to incarceration. In FY 2012, due to limited availability of funds to support the construction and operational costs of secure facilities, BJA shifted focus to the renovation and expansion of existing facilities. This shift enabled BJA to collaborate with BIA on prioritizing the repair of existing facilities in need of critical renovations to ensure safety. In FY 2015, BJA added a new area of activity for its tribal justice funding: implementation of the new enhanced sentencing authority under the reauthorization of the Violence Against Women Act of 2013. In FY 2018, based on input from a number of tribes and BIA, BJA added permanent modular and pre-fabricated facilities as a cost-effective alternative to new construction in order to address justice system infrastructure needs.

² Six of the consultations were held by DOI and two were in coordination with the Tribal Justice, Safety and Wellness Sessions, which are Intergovernmental Consultations held by DOJ and DOI with Health and Human Services, Housing and Community Development, Small Business Association and the Corporation for National Community Service.

In FY 2018 and FY 2019, BJA has added new resources in response to feedback received during last year's consultations. BJA gave priority to applications from tribes addressing violent crime in its FY 2018 Field Initiated solicitation, with a focus on expanding prosecution of violent criminals. BJA made awards to five tribes under this solicitation and in FY 2019 added a new purpose area, PA10, to CTAS to support efforts to investigate and prosecute violent crimes. These programs are funded out of the Justice Assistance Grant program carve-out to address precipitous increases in crime, not the Tribal Assistance funds. BJA is also expanding training for tribal prosecutors and supporting training on violent crime issues and strategies for tribes.

The Senate Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies, Report 115-275 (FY 2019) stated:

For tribal assistance grants within OJP, funding is to be used to support efforts to help tribes improve the capacity of their criminal and civil justice systems. OJP is expected to consult closely with tribal stakeholders in determining how tribal assistance funds will be awarded for detention facilities, including outdated detention facilities that are unfit for detention purposes and beyond rehabilitation; courts; alcohol and substance abuse programs; civil and criminal legal assistance; and other priorities.

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CONCLUSION

Given the above changes to federal programs' funding policies affecting sovereign tribes, the Department is conducting the aforementioned listening sessions and will offer tribal leaders an opportunity to provide feedback on the recommendations to BJA leadership about the process for consultation and funding priorities. Two virtual listening sessions be followed by in-person tribal listening sessions later in 2019. BJA will also offer two opportunities for written comments after each set of listening sessions.

QUESTIONS TO TRIBAL LEADERS FOR CONSIDERATION

TRIBAL JUSTICE SYSTEM IMPROVEMENTS

1. BJA has sought to maximize flexibility of funding in the CTAS structure and scope of allowable activities. In CTAS, BJA has prioritized issues that reflect tribal leader input, including alternatives to incarceration; tribal court services; tribal probation; tribal jails and reentry; crime related to Indian alcohol and substance abuse, tribal justice infrastructure construction and

renovation; criminal and civil legal assistance; enhanced sentencing authority and jurisdiction over cases; intergovernmental collaboration; violent crime; and strategic planning. Which of these budget priorities should be continued, expanded, or eliminated? What issues, if any, are missing?

2. In order to successfully manage cases and address tribal safety in your tribal court, what resources and assistance does your tribal court need?
3. In order to prevent and respond to crime related to drugs and alcohol abuse, as well as crime associated with mental health issues, what resources and assistance does your tribe need?
4. In order to successfully address your tribe's current crime problems, what justice infrastructure does your tribe need?
5. In order to reduce the recidivism rate for your current offender population, what changes to infrastructure are required? What changes to tribal probation or reentry are needed?
6. In order to adequately rehabilitate your confined population, what infrastructure changes are needed?
7. To what extent are your tribal justice facilities meeting applicable building codes or BIA detention facility standards (if applicable)?
8. In order to address violent crime affecting your tribe, what resources, assistance or support for collaboration with key partners does your tribe need? Are additional resources needed to address issues related to missing and murdered Native Americans?

TRIBAL CIVIL AND CRIMINAL LEGAL ASSISTANCE PROGRAM

The Tribal Civil and Criminal Legal Assistance (TCCLA) Program funds 501(c)(3) nonprofit organizations (categories 1 and 2) that provide services to low-income tribal members and Indian tribes for legal assistance activities and funds national or regional membership organizations (category 3) whose membership consists of judicial system personnel to provide training and technical assistance to TCCLA grantees and Indian tribes. Funding supports: Category 1, civil causes of action and legal infrastructure development, Category 2, indigent defense in tribal criminal proceedings and legal infrastructure development, and Category 3, training and technical assistance.

9. What other priorities should the TCCLA Program address?
10. Since funding streams were consolidated into one tribal assistance account, BJA has followed a practice of funding the TCCLA Program consistent with the proportion provided by Congress in prior years, or 3.66 percent of total appropriations from the tribal assistance funding. Should BJA change this rate in future years?

INTERGOVERNMENTAL COLLABORATION

Strong coordination and collaboration between Indian tribes and federal and state governments improve public safety and combat violent crime throughout Indian Country and in tribal communities.

11. To achieve public safety improvements, and in particular violent crime reduction, what legal infrastructure (e.g., agreements) would support your government with intergovernmental justice collaboration?
12. In addition to making direct awards to tribes, how can BJA support the development, implementation and enhancement of these justice collaborations?

TRAINING AND TECHNICAL ASSISTANCE AND CONSULTATION APPROACH

13. Does existing TTA address your tribe's needs to build capacity and expertise in tribal justice systems? What priorities for TTA should be considered?
14. BJA plans to implement a more consistent method for regular consultation, dialogue and seeking feedback from tribal leaders. What are some ways that BJA can ensure the most meaningful process possible?

15. BJA will be hosting pre-listening session webinars to provide background information. What information can be provided to assist in this process?

Tribal Views Requested

BJA looks forward to receiving tribal views on the grant-making process for federally recognized tribes, tribal consortia, and tribal coalitions. The deadline for submitting comments is 11:59 p.m. on April 12, 2019.

To participate in the BJA listening session, please [click here to register](#).

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