



BUREAU OF JUSTICE ASSISTANCE VIRTUAL TRIBAL CONSULTATION ON TRIBAL FUNDING PRIORITIES

BACKGROUND

The Bureau of Justice Assistance (BJA) supports efforts by tribal governments to address their tribal justice needs and direct legal assistance services for tribal members and Indian tribes. In addition, BJA provides training and technical assistance (TTA) to tribal governments to support capacity building and implementation of effective, research-based practices, and administers the Tribal Assistance Program, designed specifically for federally recognized tribes to address their adult tribal justice system needs and infrastructure. Beginning in 2012, the majority of funding in these programs has been made via grant awards through the Department of Justice's Coordinated Tribal Assistance Solicitation (CTAS) in Purpose Areas Two, Three and Four. BJA oversees a broad range of other programs supporting formula-based and competitive grants to federally recognized tribes, such as the Drug Court and Veteran Treatment Court Program, the Comprehensive Opioid, Stimulants and Substance Abuse Program and the Second Chance Act reentry programs.

CONSULTATION

BJA will host two virtual events to identify tribal priorities, and solicit input from Indian tribes and tribal leaders on BJA's Tribal Assistance funding and programs. Feedback from the virtual sessions will inform BJA's planning for Tribal Assistance funding¹. This will allow BJA to plan over several years and to maximize the ability to consider both immediate and long-term enhancements to the process and use of funds. Specifically, BJA seeks to consult closely with tribal stakeholders in determining how tribal assistance funds can best support Tribal and Native communities. Focus areas will include: comprehensive justice system planning; tribal justice facilities; court system enhancements; alcohol and substance abuse programs; civil and criminal legal assistance; alternatives to incarceration; addressing violent crime in Native communities; and other priorities.

To support dialogue about BJA's operation of the Tribal Assistance Program the Department is conducting the aforementioned pre-consultation sessions and will offer tribal leaders an opportunity to provide feedback and recommendations to BJA leadership about the process for consultation and funding priorities. BJA will also make this information available online and

¹ While the virtual consultation 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.

offer the opportunity for written comments now and continuing until October 18, 2021, thirty days after the last listening session.

QUESTIONS TO TRIBAL LEADERS FOR CONSIDERATION

1. BJA has sought to maximize flexibility of funding for tribes, via the CTAS structure and within the scope of allowable activities. Through these awards BJA has offered funding that supports a range of issues that reflect tribal leader input, as outlined in the funding history. Should BJA maintain its current CTAS Purpose Areas Three (Tribal Justice Systems) and Four (Tribal Justice Infrastructure)? Which of these activities 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 disorders, and mental health disorders, what resources and assistance does your tribe need? What are the top issues that your tribe faces in this area?
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 Bureau of Indian Affairs (BIA) detention facility standards (if applicable)?
8. What gaps in tribal court needs or tribal priorities can criminal and civil legal services in the TCCLA Program address?
9. BJA has allocated funding for TCCLA consistent with the amounts allocated by Congress prior to consolidating funding under Tribal Assistance. BJA has generally applied the same rate of three percent (3%) of total appropriations from the tribal assistance funding for TCCLA purposes. Should BJA change this rate in future years?
10. In order to address violent crime affecting your tribe, what resources, assistance or support for collaboration with key partners does your tribe need? Do you need assistance to support enhancing tribal prosecution/special Assistant U.S. Attorney (SAUSA) work, implementing TLOA enhanced sentencing or addressing issues related to missing and murdered Native Americans?
11. Strong coordination and collaboration between Indian tribes and federal, state and local governments can be critical to improve public safety and combat violent crime throughout Indian Country and in tribal communities. How can BJA support the development, implementation and enhancement of these justice collaborations?
12. BJA has other grant resources to support tribal activities. BJA has been developing tribal oriented program models for Adult Drug Courts, Veterans Treatment Courts, Comprehensive Opiate, Stimulant and Other Substance Abuse Program, Offender Reentry and Justice and Mental Health, including strategies for training and technical assistance and solicitation webinars focused on tribal applicants. BJA has also developed

training to help tribes access grants. Should BJA continue these practices? How can BJA make these resources even more accessible to tribes?

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. BJA is planning in-person sessions for 2021, once we are able to meet in person. What are some ways that BJA can ensure the most meaningful process possible?
15. BJA will host a webinar session to provide background information a few days before the consultation session. What information can be provided in these sessions to make the consultation session productive?

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. ET on October 18, 2021.

To participate in the Overview of BJA Tribal Justice Program Funding Webinar Session to learn more background on tribal justice assistance funding, please [click here to register](#).

To participate in the BJA Tribal Consultation Virtual Session, please [click here to register](#).

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

Appendix A: History of BJA Tribal Assistance Funding

The Bureau of Justice Assistance (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), and the Tribal Courts Assistance Program was separately authorized pursuant to Public Law 106-559 (25 USC 3689(a)).

In FY 2012, Congress began consolidating the BJA tribal specific appropriations into one Tribal Assistance appropriation. During that year, BJA, along with other OJP components, the Office of Community Oriented Policing Services and the Office on Violence Against Women made all tribal-specific funds available through the Coordinated Tribal Assistance Solicitation (CTAS), which streamlined BJA funding for tribes in two main purpose areas: Purpose Area Three for programming and operations for tribal justice systems; and Purpose Area Four for tribal justice infrastructure. These funds also support the DOJ-wide Purpose Area Two which support tribal justice system strategic planning.

BJA created a broad funding category in Purpose Area Three that supports a range of priorities including alternatives to incarceration; tribal court services; tribal probation; tribal jails and reentry; crime related to Indian alcohol and substance abuse; criminal defense; enhanced sentencing authority; intergovernmental collaboration; violent crime and cold case prosecutions. The scope has continued to offer clarifications on what this Purpose Area can support, based on feedback from past consultations. In FY 2020, in response to feedback received from tribes in consultation and listening sessions, the project period for CTAS awards was increased from three to five years in order to allow for greater impact and sustainability. BJA also continues to explore how to streamline the CTAS format.

During the previous decade, OJP, first through the Corrections Program Office and then BJA, supported the Correctional Systems and Correctional Alternatives on Tribal Lands program, now known as the Tribal Justice System Infrastructure Program.² 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. 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, these funds became available under CTAS Purpose Area Four and 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 the Bureau of Indian Affairs (BIA) on prioritizing the repair of existing facilities in need of critical renovations to ensure safety. 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; and in FY2020, clarified that funding can support domestic violence shelters and housing.

² 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.

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. In FY 2010, TCCLA was reauthorized and criminal legal assistance was expanded to cover indigent defense for all individual in tribal criminal proceedings. TCCLA’s purpose is to provide civil and criminal legal assistance to tribal members in civil causes of action low-income and eligible individuals in tribal criminal proceedings and Indian tribes to support the development and enhancement of tribal justice systems and access to those systems. BJA began soliciting applications in 2010 for direct services in both civil and criminal cases, as well as training and technical assistance. Eligible applicants for TCCLA funding for direct services—both civil and criminal legal assistance—are 501(c) (3) non-profit organizations.

BJA tribal appropriations since FY2007:

Fiscal Year	Tribal Assistance	Indian Alcohol and Substance Abuse	Tribal Courts	Tribal Infrastructure	Tribal Civil and Legal Assistance	American Recovery and Reinvestment Act	Annual 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 ³	7% set aside						30,000,000
2018	35,000,000						35,000,000
2019	37,500,000						37,500,000
2020	37,500,000						37,500,000
2021	46,000,000						46,000,000
Totals	352,000,000	38,120,080	71,338,500	45,913,400	5,485,020	225,000,000	737,857,000

³ BJA funding out of the set aside in FY 2017 was \$30,000,000.

BJA Funding Priorities

In the last 10 years, BJA has engaged in several consultations and listening sessions with tribal leaders and stakeholders. Most recently, BJA hosted the Virtual Consultation Session in March 2019 to identify tribal priorities. In October and December 2017, BJA participated in Department listening sessions and consultations and also attended and considered feedback from consultations hosted by the Office on Violence Against Women and Office of Victims for Crime in 2019 and 2020. BJA also participated in external engagements, such as a consultation in February 2018 in conjunction with the National Congress of American Indians (NCAI) Winter Meeting.

Historically, 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 BIA, and conducted listening sessions to inform the Tribal Justice Plan mandated by the Tribal Law and Order Act (TLOA) of 2010. This report, developed with the Department of Interior (DOI) and in consultation with tribal leaders and tribal justice professionals, outlined a long-term plan to address incarceration, and alternatives to it, in Indian Country.

Based on this feedback, OJP has focused on key priorities for its awards and TTA: programs and infrastructure to support 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 added several priorities in response to feedback including reentry of tribal members from federal or state facilities and supporting implementation of TLOA enhanced sentencing authority and special domestic violence jurisdiction. BJA also 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.

In FY 2018, BJA added new resources in response to feedback received during consultations. BJA funded a number of activities to enhance the prosecution of violent crime, and made significant targeted investments in response to the Attorney General's Law Enforcement Emergency in Alaska, including an award to enhance prosecution of violent crime funded out of the Justice Assistance Grant (JAG) program carve-out to address precipitous increases in crime. Since 2018, working with the Office on Violence Against Women, BJA has supported 13 new awards to tribes to support tribal prosecution awards and other efforts to address violent crime. BJA also funded the Department of Law in Alaska to BJA is also expanding training for tribal prosecutors and supporting training on violent crime issues and strategies for tribes, and set up an Alaska-based TTA provider and is developing an online training tool for practitioners in Alaska.