

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	1. Log No: ACYF-CB-PI-15-10	2. Issuance Date: December 11, 2015
	3. Originating Office: Children's Bureau	
	4. Key Words: Tribal certification for tribal population numbers in determining tribal allocations for title IV-B program; Census data	

PROGRAM INSTRUCTION

TO: Indian Tribes, Indian Tribal Organizations, Indian Tribal Consortia and States administering Title IV-B, subparts 1 and/or 2.

SUBJECT: Basis for allotment of grants to tribes under title IV-B, subparts 1 and 2 of the Social Security Act (the Act).

LEGAL AND RELATED REFERENCES: Title IV-B, subparts 1 and 2, sections 421-425, 428, 430-438, and 45 CFR Parts 1355 and 1357.

PURPOSE: This Program Instruction (PI) provides an update to Indian tribes, tribal organizations, and tribal consortia (tribes) of the basis upon which the allotment authorized under title IV-B, subparts 1 and/or 2 will be made beginning with fiscal year (FY) 2016 awards, including instructions allowing tribes to self-certify their own population counts.

INFORMATION: Organization of the Program Instruction

- Section A. Background
- Section B. Information
- Section C. Instructions for tribes to submit a Tribal Population Certification Form
- Attachments

Section A. Background

Determinations of tribal allocations for funding under the programs authorized by title IV-B, subparts 1 and 2 of the Social Security Act (the Act), are based on a count of the population of children and youth under the age of 21 (see sections 428 and 430-433 of the Act). For the title IV-B, subpart 1 program (Stephanie Tubbs Jones Child Welfare Services), tribal allocations are made from the state funds provided under the program. For title IV-B, subpart 2, there is a statutory set aside of funding from which all tribal allotments are made, based on the population of each tribe.

In ACYF-CB-PI-02-07, issued August 19, 2002, ACF informed states and Indian tribes of the basis upon which title IV-B, subparts 1 and 2 funds would be allotted to tribes. Since FY 2003, ACF has allotted funds to tribes based on the number of children under the age of 21, as reflected in the 2000 Census Bureau data, unless a tribe has certified an alternative number that has been approved by an ACF Regional Office. The Census Bureau data tabulated the number of individuals on the reservation and trust lands, by age and sex, who report themselves as American Indian or Alaska Native only, and who are members of a specific tribe. While representing the closest publicly available estimate of a tribe's population of children and youth under age 21 at the time, ACF recognized that the Census data might not be accurate. Therefore, ACF has allowed tribes to submit a form, certified by the tribal leader responsible for ACF programs and the tribal enrollment official, providing an alternative count.

In ACYF-CB-PI-15-04, issued April 7, 2015 which provided instructions for the submission of Annual Progress and Services Reports (APSR's) used to request annual title IV-B funding, the Children's Bureau announced its intent to consult with tribes on updating the default source of data used to determine tribal child population counts and clarifying procedures and parameters for self-certifying tribal population counts. On August 4, 2015, the Children's Bureau issued a "Dear Tribal Leader Letter" (Attachment D) to the leaders of all federally recognized tribes seeking tribal consultation on these issues. The issue was discussed among tribal leaders who attended the ACF Tribal Consultation held in Washington, D.C. on September 14, 2015. Tribes also had the opportunity to submit written testimony or comments and two tribes submitted letters on the topic. A number of tribal leaders expressed concern about the accuracy or completeness of Census data. However, at least one tribe indicated it relies on Census data, as it lacks other reliable data. Tribal consultation did not identify any other source of publicly available data as an alternative to Census data. Overall, tribal leaders supported the use of tribal enrollment numbers as a primary source of data to determine tribal population counts for title IV-B funding allocations, as an alternative to Census data when the Census information is deemed inaccurate. Most commenters urged the Children's Bureau to provide for flexibility in determining the children and youth to be counted in the tribe's population estimate, provided the counted children are eligible for services under the tribe's IV-B plan. At least one tribe recommended relying solely on tribal self-certification, but another expressed concern that requiring tribes to self-certify could be burdensome and constitute an unfunded mandate.

Based on tribal input, ACF is now issuing updated instructions for determining tribal population counts for the title IV-B programs, beginning with the issuance of FY 2016 grants. The information provided in this PI supersedes the information provided in ACYF-CB-PI-02-07.

Section B. Information

Based on tribal consultation and our review of publicly available information, ACF has determined that data from the 2010 Decennial Census is the best publicly available source of information on each tribe's child population. Therefore, we will use a tabulation of the 2010 Census data on the number of individuals on the reservation and trust lands, by age and sex, who report themselves as American Indian or Alaska Native only, and who are members of a specific tribe, as the default source of data on tribal population counts. (See Attachment B for this table.)

Although the 2010 Census data is the best public data source, we acknowledge tribes' concerns about the accuracy and completeness of the data for purposes of allocating funding under title IV-B programs. Therefore, as in the past, we will provide an opportunity for all tribes applying for title IV-B to submit a certification form, signed by the tribal leader responsible for ACF programs and the tribal enrollment official, providing an alternative count and supporting information if the tribe determines that the alternative data is more accurate than the Census data. Consistent with a tribe's sovereign right to determine its own tribal membership and to identify its service area for purposes of the title IV-B program, tribes may exercise discretion in determining the children and youth counted in the population estimate, provided that all children counted are eligible to receive services under the tribe's title IV-B program.

In providing an alternative population count, the tribe may, at its discretion, count:

- Children under age 21 living on or near the tribe's reservation or the title IV-B service area who are enrolled members of the tribe, eligible for enrollment, or recognized as children for which the tribe is responsible, as determined by the tribe;
- Other American Indian or Alaska Native children under age 21 who are residing on or near the reservation or tribal lands, provided that these children will be eligible for services under tribe's title IV-B program; and
- Children under age 21 who are enrolled members of the tribe, eligible for enrollment, or recognized as children for which the tribe is responsible, as determined by the tribe, but who are not residing on or near the reservation or tribal lands, provided the tribe describes how the children would participate in the tribe's title IV-B program.

If a tribe counts children residing in more than one state, the tribe must also provide a break out of the number of children living in each state. ACF needs this information to properly allocate funds under the title IV-B, subpart 1 program, since tribal allocations are made from the state funds provided under the program.

Section C. Instructions for Tribes to submit a Tribal Population Certification form

Tribes that previously submitted an Annual Progress and Services Report by June 30, 2015, applying for FY 2016 title IV-B funding have the option to submit an alternative population count at this time. Tribes that wish to accept the 2010 Census data count found at Attachment B are not required to take any further action. Tribes that elect to self-certify their tribal population count of children under age 21 must submit the Tribal Population Certification form (Attachment C) to the appropriate Children's Bureau Regional Office (see Attachment A).

The form must be signed by the tribal leader responsible for ACF programs and tribal enrollment official and must be submitted electronically in PDF format to the appropriate Regional Office no later than February 8, 2016. Forms received after the due date will not be able to be used in making FY 2016 awards and ACF will instead use the 2010 Census data. All tribes will have the opportunity to submit an updated tribal certification form each year with the

submission of its Child and Family Services Plan or Annual Progress and Services Report, due June 30 of each year.

Paperwork Reduction Act:

Under the Paperwork Reduction Act of 1995 (Public Law 104-13), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The Control Number for this OMB approved information collection is 0970-0426, approved through September 30, 2017.

Inquiries To: Children’s Bureau Regional Program Managers

/s/

Rafael López
Commissioner
Administration on Children, Youth and Families

Attachments:

- Attachment A: Children’s Bureau Regional Program Managers
- Attachment B: 2010 Decennial Census Data on Tribal Child Population under age 21
- Attachment C: Certification of Tribal Population Under Age 21 (self-certification form)
- Attachment D: “Dear Tribal Leader Letter” announcing consultation on tribal child population counts