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[EXTERNAL] 1076-AF24, Sending on Behalf of Gloria O'Neill, CITC RE: JOM Comments

Vera L. Simmonds <VLSimmonds@citci.org>

Mon, Aug 26, 2019 at 8:58 PM

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TO: David Bernhardt
Secretary of Interior
Department of Interior
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On behalf of Gloria O'Neill, President/CEO, Cook Inlet Tribal Council, please find attached comments regarding the education contracts under the Johnson O'Malley Modernization Act.

Thank you for your time and please feel free to contact us with any questions.

Kind Regards,

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August 26, 2019

David Bernhardt
Secretary of Interior
Department of Interior
VIA EMAIL

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Dear Secretary Bernhardt:

As President and CEO of Cook Inlet Tribal Council (CITC), an Alaska Native tribal organization which serves as the primary education and workforce development center for Native people in Anchorage, Alaska, I am privileged to offer the following comments with regard to the Johnson O’Malley Proposed Rulemaking. CITC has been designated its tribal authority through Cook Inlet Region Inc., organized through the Alaska Native Claims Settlement Act (ANCSA) and recognized under Section 4(b) of the Indian Self-Determination and Education Assistance Act (PL 93-638, 25 U.S.C. 450b). CITC builds human capacity by partnering with individual Alaska Native people to establish and achieve both educational and employment goals that result in lasting, positive change for our people, their families, and their communities. CITC has received JOM funding since 1992, utilizing these funds to create innovative opportunities for Native students, close the achievement gap and involve parents in their students’ school experience in new and fundamentally transformative ways.

In general, CITC supports the national effort to better identify the JOM student count and ensure access to JOM funding across the nation. However, CITC disagrees with the proposed changes to eligibility requirements, contract reporting and funding formulas described in the proposed rules, as further explained below. In particular, **CITC urges the Department to expand the factors recognized for student eligibility, to utilize Alaska Native and American Indian All as the student count, rather than Alaska Native and American Indian only, and to acknowledge that JOM funding operated through 477 plans will have different reporting and contractual requirements.**

Demographics and Expanding Service Population

CITC’s programs serve the Cook Inlet Region with an Alaska Native/American Indian population of more than 50,000, or roughly 40% of the total Native American population in Alaska. In Anchorage alone, the Native population is almost 30,000. Directly or indirectly, CITC’s programs have statewide impact. As mentioned above, CITC’s JOM programs are an integral of its response to the educational

challenges of Alaska Native students in the Anchorage area. In addition, CITC has incorporated its JOM funding into its 477 plan, thus maximizing its potential to have a positive impact on our people from a whole family/whole student approach.

Education Issues

One of the greatest challenges facing Alaska Native people is the disparity in educational achievement. Alaska Native students have historically been subject to significant risk factors including under-performance and under-engagement in school, low post-scholastic employment and income, over-representation in the justice system, and increased rates of alcohol and drug use, as well as suicide. Alaska Native educational achievement continues to fall below national norms, as reflected in the fact that performance on standardized tests is low and Alaska Native students are twice as likely to drop out as their non-Native peers—this, in a state with a school dropout rate that is already one of the highest in the nation.

However, certain efforts to reform the existing educational system in Alaska are working, and educational achievement for Alaska Native/American Indian (AN/AI) students can be improved, building on the strength and promise of our students in partnership with the federal government. CITC focuses on improving educational outcomes for our youth in many ways, including:

- Improving kindergarten readiness through early intervention and child care support
- Using the Fabrication Laboratory to develop meaningful STEM-related courses and activities to improve outcomes for students of all ages
- Partnering with the Anchorage School District to ensure culturally relevant education is available for students in public schools
- Launching the *Anchorage Realizing Indigenous Student Excellence* (ARISE) initiative, which allows students to make successful academic transitions through connecting with their cultures
- Creating *The Schoolyard* afterschool program which connects 12 to 19 year old AN/AI youth to skill-building opportunities in STEM fields
- Supporting the Native Youth Olympics, where AN/AI youth are encouraged to live healthy lifestyles, connect with their traditional values, and maintain positive sportsmanship
- Supporting students directly with scholarships for computers, student activities, tutoring, and graduation celebration and assistance

These courses and activities, supported in part by JOM funding, take place both within classrooms and during summer or winter breaks, allowing our children to access educational opportunities at any time. As a result, AN/AI students in CITC's programs graduate at a rate of 93% in contrast to the Anchorage School District rate of 63% for those students (the total average ASD graduation rate for 2017 was 81.4%).

While AN/AI children still disproportionately struggle with educational challenges, they are clearly capable of fulfilling their endless potential when provided with adequately funded programs that work in congruence with parents and Tribes and tribal organizations to combat a history of inequality.

Noting that the partnership of the JOM program has been crucial in encouraging AN/AI youth to thrive, CITC offers the following considerations regarding the JOM Modernization Act's proposed rule changes:

1. With reference to **273.112**, CITC recommends that the Department add to the two delineated options a third option: "**or other documentation accepted by the Tribe or JOM contractor demonstrating that the student is eligible for the special programs and services provided by the United States to Indians because of their status as Indians**" as reflected in definition of Indian Tribe in Section 273.106 (Definitions). That definition, which is the one used in the Indian Self Determination Act (25 U.S.C. 5304 (e)) ("Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians) is the most comprehensive definition of Alaska Natives and American Indians.
 - This change ensures that all Alaska Native and American Indian students will be included for services, along with the blood quantum and membership in a Federally Recognized Tribe as alternative qualifications.
 - Contrary to the statements in the Federal Register, adding "federally recognized tribe" does not solve the concern about making sure that all Alaska Native and American Indian students are included in the count.
 - This addition is particularly necessary for the full inclusion of Alaska Native students whose documentation may include membership in a federally recognized tribe, a descendant of Alaska Native Claims Settlement Act or a Certificate of Indian Birth showing that they are eligible for services from the federal government.
2. With reference to **273.140**, CITC urges the Department to **use the "Alaska Native and American Indian All"** 2019 student count to determine the number of eligible students for JOM funding, rather than the Department's previous year's count. For the Anchorage School District, the current student count estimated under the Department's calculations is at 4,088 but the actual number is 9,073 (as noted by the Anchorage Realizing Indigenous Student Excellence 2019 Report). While CITC understands that the Department altered its policies to reflect OMB's Directive 15 (1997), **the OMB guidance also explicitly states that the categories are not to be used for determining the eligibility of population groups for participation in Federal programs.** To comply with OMB Directive guidance and accurately reflect AN/AI eligible student counts, **the Department should use the Alaska Native All 2019 numbers to calculate eligible students.**
3. Regarding **253.135**, CITC suggests that the **administration of contracts remain in the control of the Bureau of Indian Affairs (BIA), rather than the Bureau of Indian Education (BIE) because there is no BIE presence in Alaska.** This lack of presence could negatively affect Alaska's tribes' and tribal entities' ability to administer its contracts efficiently and effectively. Furthermore, as many tribes and tribal organizations operate their JOM through a 477 plan, retaining administration at the BIA will better align the program administration. Therefore, **CITC recommends that the reporting provisions contain an exception for JOM programs operated under a 477 Plan throughout.**

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Conclusion:

The needs of our Native community grow every day due to the current economy and the persistent disparity in educational achievement. On behalf of Cook Inlet Tribal Council and the community we serve, I urge the Department to alter eligibility and funding requirements as recommended prior. Ultimately, it is essential that the eligibility of Alaska Native peoples is considered as important as that of our American Indian counterparts. Changing eligibility requirements as proposed in this NPRM would unreasonably restrict the number of Alaska Native students who can benefit from the JOM program. Additionally, it is pivotal that if the Department continues with the funding formulas proposed, AI/AN All numbers must be used to determine the counts of AN/AI students rather than the Department's number that includes AI/AN students only. We have seen the detrimental effects of the under-counting of AN/AI students within our State, and recognize that a persistent undercount will lead to a lack of funding for our students. We know what needs to be done, and we have proven strategies that require your support. We ask for the partnership and resolve of the Department of Interior, to work with us to close the persistent achievement gap for Alaska Native students, and allow our young people – our future generation of leaders – to fulfill their endless potential.

Thank you for your consideration of our comments. Please feel free to contact me at goneill@citci.org or 907.793.3278.

Sincerely,



Gloria O'Neill
President and CEO