

**U.S. Department of Education Tribal Consultation  
March 18, 2019**

**Tribally Controlled Postsecondary Career and Technical Institutions Program**

Section 117 of the Carl D. Perkins Career and Technical Education Act of 2006, as Amended  
by the Strengthening Career and Technical Education Act for the  
21st Century Act (Public Law 115-224)

**Background Information**

Signed into law by President Trump on July 31, 2018, the Strengthening Career and Technical Education Act for the 21<sup>st</sup> Century Act (Public Law 115-224) revised and extended the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins V or the Act), authorizing appropriations through Fiscal Year 2024 for five career and technical education (CTE) programs. The subject of this tribal consultation is:

- Tribally Controlled Postsecondary Career and Technical Institutions Program (TCPCTIP), which awards competitive grants for “basic support for the education and training of Indian students” to tribally controlled postsecondary career and technical institutions that do not receive funding under Title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 or the Navajo Community College Act.

The other CTE programs are:

- CTE State Grants which are distributed by formula to assist States and Outlying Areas in expanding and improving CTE programs in local educational agencies and institutions of higher education;
- National Activities, which include research, development, dissemination, evaluation, capacity building, and technical assistance activities related to CTE, as well as an Innovation and Modernization competitive grant program;
- Native American Career and Technical Education Program (NACTEP), which awards competitive grants to carry out CTE programs consistent with the purpose of the Act to Indian Tribes, Tribal organizations, and Alaska Native entities; and
- Native Hawaiian Career and Technical Education Program, which awards competitive grants to carry out CTE programs for the benefit of Native Hawaiians to community-based organizations primarily serving and representing Native Hawaiians.

The Office of Career, Technical, and Adult Education (OCTAE) in the U.S. Department of Education will hold a new competition for TCPCTIP grants in Fiscal Year 2019. Congress has appropriated \$9,564,000 for TCPTIP grants for Fiscal Year 2019.

The Strengthening Career and Technical Education Act for the 21st Century Act made only technical edits to TCPCTIP. The authorizing statute for the program is included as Appendix 1 to this document.

### **Topics for Tribal Consultation**

1. Eligibility for Tribally Controlled Postsecondary Career and Technical Institutions Program (TCPCTIP) Grants. TCPCTIP provides “basic support for the education and training of Indian students” to tribally controlled postsecondary career and technical institutions that do not receive funding under Title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 or the Navajo Community College Act. The Department is aware of two institutions of higher education that meet the law’s eligibility requirements: United Tribes Technical College in Bismarck, ND and Navajo Technical University in Crownpoint, NM.

CONSULTATION QUESTION: Are you aware of any other institutions that may be eligible for assistance under this program?

2. Student Stipends. TCPCTIP has permitted grant recipients to award stipends to students since the enactment of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Public Law 105-332). Beginning in 2001, the Department established policies and requirements governing the payment of student stipends in TCPCTIP. The most recent set of policies were established in 2007. To be eligible for a stipend, a student must be enrolled in a CTE program, meet the school’s attendance requirement, maintain satisfactory progress, and have an acute economic need (defined as an income at or below the poverty level) that prevents his or her participation in a CTE program that cannot be met through a work-study program. Stipend amounts must be the greater of the minimum hourly wage under state or local law or the Fair Labor Standards Act and paid for the time a student attends instruction. Additionally, stipends could be paid only if and to the extent that the stipend combined with other resources the student receives does not exceed the student's financial need.

CONSULTATION QUESTION: Do you have any concerns about the student stipend policies that were established in 2007? Do you have any recommendations for changes to them?

3. Performance Indicators. The Department is interested in updating the performance indicators for TCPCTIP. The Strengthening Career and Technical Education Act for the 21st Century Act significantly changed the core indicators of performance that States and subgrantees report on in the State formula grant program, and the Department is interested in using those performance indicators for TCPCTIP because it is important to assess consistently the effectiveness of CTE programs funded under Perkins V. The new core indicators for postsecondary institutions are:
  - The percentage of CTE concentrators who, during the second quarter after program completion, remain enrolled in postsecondary education, are in advanced training, military service, or a service program that receives assistance under title I of the National and Community Service Act of 1990 (42 U.S.C. 12511 et seq.), are volunteers as

described in section 5(a) of the Peace Corps Act (22 U.S.C. 2504(a)), or are placed or retained in employment.

- The percentage of CTE concentrators who receive a recognized postsecondary credential during participation in or within 1 year of program completion.
- The percentage of CTE concentrators in career and technical education programs and programs of study that lead to non-traditional fields.

In previous years, the Department and TCPCTIP grantees have reported on the following four indicators of performance:

- The percentage of CTE concentrators who received an industry-recognized credential, a certificate, or a degree during the reporting year ;
- The percentage of CTE concentrators who remained enrolled in their original postsecondary institution or transferred to another 2- or 4-year postsecondary institution during the reporting year and who were enrolled in postsecondary education in the fall of the previous reporting year;
- The percentage of CTE concentrators who passed technical skill assessments that are aligned with industry-recognized standards during the reporting year; and
- The percentage of CTE concentrators placed in jobs, military service, or higher-level continuing education programs upon graduation or completion of the postsecondary career and technical education programs.

The new law defines “CTE concentrator” at the postsecondary level as a student who has earned at least 12 credits within a CTE program or program of study or who has completed such a program if the program encompasses fewer than 12 credits or the equivalent in total. The Department and TCPCTIP grantees have used a similar definition of “CTE concentrator” in reporting on student outcomes in previous years.

The Department also has reported on the cost per Indian count.

CONSULTATION QUESTION: We are interested in updating the performance indicators for TCPCTIP grantees to reflect the changes in the new law. Do you have any concerns with updating the performance indicators for TCPCTIP grantees to reflect the changes in the law?

CONSULTATION QUESTION: Would TCPCTIP grantees need any technical assistance from the Department to implement this change? If so, in what areas would technical assistance be helpful?

CONSULTATION QUESTION: Do you have suggestions for any other performance indicators for TCPCTIP grantees?

## Appendix 1

### SEC. 117. [20 U.S.C. 2327] TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.

(a) GRANT PROGRAM.-- Subject to the availability of appropriations, the Secretary shall make grants under this section, to provide basic support for the education and training of Indian students, to tribally controlled postsecondary career and technical institutions that are not receiving Federal assistance as of the date on which the grant is provided under--

(1) title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802 et seq.); or

(2) the Navajo Community College Act (Public Law 92-189; 85 Stat. 646.).

(b) USES OF GRANTS.-- Amounts made available under this section shall be used for career and technical education programs for Indian students and for the institutional support costs of the grant, including the expenses described in subsection (e).

(c) AMOUNT OF GRANTS.--

(1) IN GENERAL.-- If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(2) PER CAPITA DETERMINATION.-- For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary career and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(3) INDIRECT COSTS.-- Notwithstanding any other provision of law or regulation, the Secretary shall not require the use of a restricted indirect cost rate for grants issued under this section.

(d) APPLICATIONS.-- To be eligible to receive a grant under this section, a tribally controlled postsecondary career and technical institution that is not receiving Federal assistance under title I of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1802 et seq.) or the Navajo Community College Act (Public Law 92-189; 85 Stat. 646.) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) EXPENSES.--

(1) IN GENERAL.-- The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary career and technical institution having an application approved by the Secretary, an amount necessary to pay expenses associated with--

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section;

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment; and

(D) institutional support of career and technical education.

(2) ACCOUNTING.-- Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) OTHER PROGRAMS.--

(1) IN GENERAL.-- Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary career and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965, or under any other applicable program for the benefit of institutions of higher education or career and technical education.

(2) PROHIBITION ON ALTERATION OF GRANT AMOUNT.-- The amount of any grant for which tribally controlled postsecondary career and technical institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the "Snyder Act") (25 U.S.C. 13).

(3) PROHIBITION ON CONTRACT DENIAL.-- No tribally controlled postsecondary career and technical institution for which an Indian Tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) COMPLAINT RESOLUTION PROCEDURE.-- The Secretary shall establish (after consultation with tribally controlled postsecondary career and technical institutions) a complaint resolution procedure for grant determinations and calculations under this section for tribally controlled postsecondary career and technical institutions.

(h) DEFINITIONS.-- In this section:

(1) INDIAN; INDIAN TRIBE.-- The terms "Indian" and "Indian Tribe" have the meanings given the terms "Indian" and "Indian tribe," respectively, in section 2 of the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801).

(2) INDIAN STUDENT COUNT.--

(A) IN GENERAL.-- The term "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary career and technical institution, as determined in accordance with subparagraph (B).

(B) DETERMINATION.--

- (I) ENROLLMENT.-- For each academic year, the Indian student count shall be determined on the basis of the enrollments of Indian students as in effect at the conclusion of--
- (I) in the case of the fall term, the third week of the fall term; and
  - (II) in the case of the spring term, the third week of the spring term.
- (ii) CALCULATION.-- For each academic year, the Indian student count for a tribally controlled postsecondary career and technical institution shall be the quotient obtained by dividing--
- (I) the sum of the credit hours of all Indian students enrolled in the tribally controlled postsecondary career and technical institution (as determined under clause (i)); by
  - (II) 12.
- (iii) SUMMER TERM.-- Any credit earned in a class offered during a summer term shall be counted in the determination of the Indian student count for the succeeding fall term.
- (iv) STUDENTS WITHOUT SECONDARY SCHOOL DEGREES.--
- (I) IN GENERAL.-- A credit earned at a tribally controlled postsecondary career and technical institution by any Indian student that has not obtained a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count if the institution at which the student is enrolled has established criteria for the admission of the student on the basis of the ability of the student to benefit from the education or training of the institution.
  - (II) PRESUMPTION.-- The institution shall be presumed to have established the criteria described in subclause (I) if the admission procedures for the institution include counseling or testing that measures the aptitude of a student to successfully complete a course in which the student is enrolled.
  - (III) CREDITS TOWARD SECONDARY SCHOOL DEGREE.-- No credit earned by an Indian student for the purpose of obtaining a secondary school degree (or the recognized equivalent of such a degree) shall be counted toward the determination of the Indian student count under this clause.
  - (v) CONTINUING EDUCATION PROGRAMS.-- Any credit earned by an Indian student in a continuing education program of a tribally controlled postsecondary career and technical institution shall be included in the determination of the sum of all credit hours of the student if the credit is converted to a credit hour basis in accordance with the system of the institution for providing credit for participation in the program.
- (i) AUTHORIZATION OF APPROPRIATIONS.--
- There are authorized to be appropriated to carry out this section--
- (1) \$9,762,539 for fiscal year 2019;
  - (2) \$9,899,215 for fiscal year 2020;
  - (3) \$10,037,804 for fiscal year 2021;
  - (4) \$10,178,333 for fiscal year 2022;
  - (5) \$10,320,829 for fiscal year 2023; and
  - (6) \$10,465,321 for fiscal year 2024.