

RESOLUTION OF THE GOVERNING BODY OF  
THE THREE AFFILIATED TRIBES OF THE  
FORT BERTHOLD RESERVATION

Whereas, This nation having accepted the Indian Reorganization Act of June 18, 1934, and authority under said act: and

Whereas, The Constitution and Bylaws of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities for the welfare and benefit of the tribe and tribal members; and

Whereas, The Three Affiliated Tribes, through their Health and Human Service Department will use and continue to increase, strengthen and refine their administration and management of the Social Service Department on the Fort Berthold Indian Reservation; and

Whereas, The Three Affiliated Tribes Social Services Department has re-evaluated the general assistance program because of the Federal Governments impending shortfall of funds; and

Whereas, The single recipients of General Assistance funds have been given ample notice of the shortfall of funds in the Three Affiliated Tribes Social Services Department.

Whereas, The Three Affiliated Tribes Social Service Program will no longer process singles applications effective June 1, 1996 and all able bodies singles will be removed from the General Assistance rolls.

Now, Therefore, Be it Resolved, That only those singles who have been a head of household for a year or more shall be eligible to receive General Assistance.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, <sup>7</sup>were present at a Regular meeting, thereof duly called, noticed, convened, and held on the 18<sup>th</sup> day of June, 1996; that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 6 members, 0 opposed, 1 members abstained, 0 members not voting, and that the said resolution has not been rescinded or amended in any way.


Resolution No 96-125-DSB  
Page 2 of 2

Chairman: Voting Not Voting

Dated this 18<sup>th</sup> day of June, 1996.

Daylon Spotted Bear  
Secretary, Tribal Business Council

ATTEST:

  
\_\_\_\_\_  
Chairman, Tribal Business Council



United States Department of the Interior

A04  
attachment to  
R#96-125-DSE

BUREAU OF INDIAN AFFAIRS

Aberdeen Area Office  
115 Fourth Avenue S.E.  
Aberdeen, South Dakota 57401

*See Ser  
Ed Fore JTR*

*S. Charley  
V. Co R*

IN REPLY REFER TO:

Social Services  
MC-303

MAR 6 1996

MEMORANDUM

To: All Superintendents, Aberdeen Area  
From: Area Director, Aberdeen Area  
Subject: Fiscal Year 1996 Welfare Assistance Funds

The attached memorandum of February 12, 1996, provides explicit information and instructions regarding the Bureau's Fiscal Year (FY) 1996 Welfare Assistance Funds and the Solicitor's opinion. The instructions should be adhered to when initiating dialogues with the tribe(s) on how the budget reductions will impact the agency and the tribal Social Services Programs.

We strongly recommend each Agency Superintendent and Agency Social Worker meet with their tribe(s) to develop plans "should welfare assistance run out during the summer months." We need to have some type of plans in place to continue operating the Social Services Programs with less funding available.

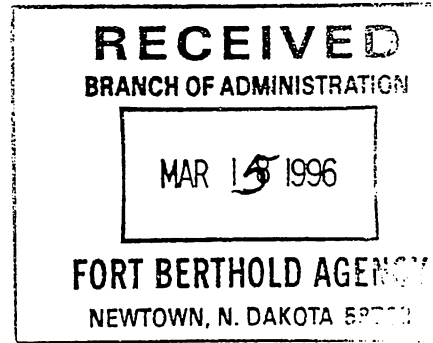
We also recommend the FY 1996 tribal Social Services Program contract budgets be re-evaluated, since it appears that all re-contracting requests will not be funded at the 100 percent level.

The total tentative allocation for Aberdeen Area's Welfare Assistance Funds for FY 1996 is based on the Conference Mark of \$11,667,000.

If you need more information, please contact Peggy Davis, Area Social Worker, at 605/226-7351.

*Brewer*

Attachment



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# United States Department of the Interior

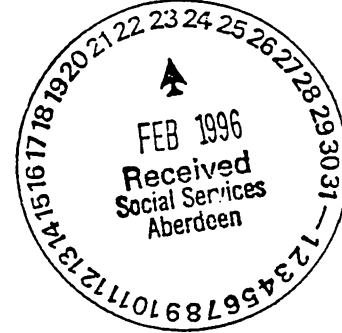


BUREAU OF INDIAN AFFAIRS  
Washington, D.C. 20245

IN REPLY REFER TO:

Social Services  
MS-310-SIB

FEB 12 1996



## Memorandum

To: All Area Directors  
Director, Office of Self-Governance

From: *Acting* Deputy Commissioner of Indian Affairs

Subject: FY 1996 Welfare Assistance Funds

For FY 1996 the conference mark for welfare assistance is \$83,723,000. Since the need for assistance has not declined during the first four months of FY 1996, we are tentatively projecting that welfare assistance may be completely expended by August 1996.

Some areas and agencies are already initiating dialogues with their respective tribes as to what alternatives might be available should welfare assistance run out during the summer months. We encourage all areas to begin this dialogue as soon as possible to alert all tribes, social workers, and clients of the possibility that funding will be insufficient to meet total need and that no additional funds will be forthcoming. In view of this situation we are providing the following instructions:

1. The Central Office will continue to manage and operate the welfare assistance program in the same manner as in past years. A percentage of the total funds will be distributed to all areas based upon need. Later in the fiscal year, the remainder of the funds will be distributed based upon need as documented in the analysis of funds, which will be required on a quarterly basis, and other financial reports.
2. Area Offices are instructed to close out prior year social services contracts with welfare assistance funds and bring all carryover funds forward which are to be expended prior to current year funds.

3. Welfare assistance funds must be spent only for essential needs and cannot be reprogrammed to other Tribal Priority Allocation (TPA) accounts for FY 1996. (See the attached Solicitor's Opinion). However, tribes may choose to utilize other TPA funding accounts to offset shortages in welfare assistance funds.
4. Eligibility standards that are proposed to be used outside of 25 CFR 20 for welfare assistance must be approved at the area level and any savings at the end of the year will require special approval by the Deputy Commissioner before proposed use outside of welfare assistance. Any increase in costs to the Federal Government must be met exclusively from funds available to the tribes from within their total tribal priority allocation.
5. Area Offices will jointly work with tribes and agencies to explore alternatives that would enable staff to operate the program with reduced funding. Waiver requests to modify the programs to meet budget limitations will be considered on their own merits.
6. Area Offices will conduct internal audits of agency/tribal programs and, where appropriate, initiate corrective action to insure that ineligible clients are deleted from active caseloads and referred to appropriate resources.
7. Variables outside the control of the Bureau, such as natural disaster and startup of GA programs in new states, may further impact the level of funding and force redistribution of available welfare assistance funds.

Because of the potential for shortages in numerous locations, we will be required to work closely to prevent the shutdown of the program. This will require diligent monitoring and sharing of resources. We appreciate your cooperation on this critical budgeting issue.

If you have questions regarding the above guidance, please contact Larry R. Blair, Chief, Division of Social Services, on (202) 208-2721.

Attachment



# United States Department of the Interior

OFFICE OF THE SOLICITOR  
Washington, D.C. 20240

AUG 11 1995

To: JoAnn Morris  
Acting Director, Office of Tribal Services

From: Robert T. Anderson  
Associate Solicitor, Division of Indian Affairs

Subject: Welfare Assistance Funds

You have asked whether welfare grant assistance funds may be distributed to Indian tribes through the Tribal Priority Allocations (TPA) budget system in FY 1996. Based upon the language contained in the BIA's appropriations request for FY 1996, we believe that welfare assistance funding may be placed in the TPA system without violating any statutory provisions.

The BIA has undertaken an affirmative obligation, through general assistance funding, to provide welfare assistance to needy Indians who are not covered by state welfare programs. 25 CFR 20.3 states:

When assistance or services are not available or not being provided by state, local, or other agencies, general assistance, child welfare assistance, miscellaneous assistance and family and community services shall be provided for eligible Indians by the Bureau in a manner designed to promote personal and family unity and economic and social stability, working toward attainment of self-sufficiency.

Although BIA has no direct statutory obligation to provide general assistance payments to impoverished Indians, Congress recognized the welfare program in 25 U.S.C. 13d, by placing spending limits on general assistance funding. Moreover, 25 C.F.R. 20.3 has been interpreted to mandate supplemental welfare programs where a state's welfare system does not satisfy the needs of impoverished Indians. See, e.g., Kalispel v. Swimmer, Civ. No. 88-126 (E.D. Wash., August 4, 1988).

Congress regularly provides funds used for general assistance through the BIA portion of the annual DOI budget. Congress has mandated that any funds allocated to the general assistance program be spent directly on general assistance to needy Indians. 25 U.S.C. 13d provides, in part, that: "no part of any appropriation . . . to the Bureau of Indian Affairs may be used directly or by contract for general or other welfare assistance . . . payments for other than essential needs."

The regulations state:

(cc) *Essential needs* include at a minimum shelter, food, clothing and utilities, but do not include needs, except for burial expenses, beyond those basic and special needs included in the Bureau [of Indian Affairs] standard of assistance for the State where the Indian individual or household lives.

25 C.F.R. § 20.1 (1994).

The amount of the BIA's annual request for general assistance funding is based directly on the existing welfare caseload nationwide. In other words, the amount of welfare funding given to the BIA each year is directly tied to the historical need for general assistance. Likewise, the BIA allocates general assistance funding to Indian tribes on the basis of the tribes' existing welfare caseloads. Those tribes with the largest numbers of needy Indians receive proportionally large portions of the general assistance appropriation. The BIA distributes 75% of the total general assistance on behalf of tribes at the beginning of the fiscal year, and holds the remaining 25% at the Central Office. At the beginning of the final quarter of each year, the BIA reexamines each tribe's spending and needs, and adjusts its allocation of the remaining funds to ensure that they are spent to meet the greatest need.

TPA is a mechanism by which individual tribes set their own spending priorities. Although TPA is purely an internal budgeting tool for which there is no specific statutory authorization, Congress recognizes TPA in its annual BIA appropriation process. In the budget reports, TPA appears as a line item into which Congress allocates funds for specific programs. Funds are directed into the TPA account when Congress approves the annual BIA appropriation. Although the total amount of the appropriation is broken down generally by activity and sub-activity, Congress does not specify what portion of the funding must go to each individual tribe.

While each tribe's general assistance funding is based on its historical caseload and need as defined in 25 CFR 20.1, its share of the TPA appropriation is determined according to a uniform allocation formula, which is based on the tribe's historical base funding and adjusted according to annual fluctuations in Congressional appropriations and in the economy. Newly recognized tribes participate in TPA proportionally, through a special "new tribes" line, according to a formula which takes various factors, including tribal population, into account.

Once funding is put into TPA and earmarked for a particular tribe, that tribe is responsible for setting its own programmatic spending priorities, rebudgeting as those priorities dictate. Simply put, a tribe is free to reallocate funds within the TPA budget to meet its changing needs. Once the funds have been authorized and placed in TPA, a tribe may increase or decrease any single line of its budget as it chooses. The tribe may even decide to eliminate a



program altogether and to move the funds budgeted for that program elsewhere.

In the past, the appropriation for general assistance programs has been located in the "other recurring programs" line of Interior Department funding, rather than in TPA. This year, in the budget justification for FY 1996, the BIA moved welfare funding from the "other recurring programs" line of the budget, into TPA. United States Department of the Interior, *Budget Justifications, F.Y. 1996*, p. BIA-28 (1995). That is consistent with past recommendations by the appropriations committee. See, H.R. Rep. No. 103-551, 103d Cong., 2d Sess. 54 (1994).

In recent years, language contained in House appropriations reports supported the ultimate placement of general assistance funds into TPA. The House clearly expected to include general assistance in the TPA program in the near future. "The Joint [BIA] Reorganization Task Force anticipates recommendations later in the year regarding the welfare assistance program . . . and it is hoped a method will be developed this year in cooperation with the Bureau to begin transferring these funds to each tribe's [TPA] base funding." H.R. Rep. No. 103-551, 103d Cong., 2d Sess. 54 (1994).

The appropriations act for FY 1995 gave Indian tribes the authority to change eligibility criteria and payment levels for welfare recipients. Any savings which were realized by these changes would be available to meet other tribal priorities. Before making such changes, however, each tribe was obligated to devise a comprehensive, long-term tribal plan to reduce dependence on welfare payments. Pub. L. 103-332.

Although the budget process is not yet complete for FY 1996, the proposed appropriations language further strengthens the tribes' ability to adjust their current welfare eligibility criteria and payment levels, by eliminating the long-term plan requirement. The current budget justification proposes the following statutory language:

*Provided further, That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: Provided further, That any savings realized by such changes shall be available for use in meeting other priorities . . .*

United States Department of the Interior, *Budget Justifications, F.Y. 1996*, p. BIA-28 (1995).



The new appropriations language is consistent with 25 U.S.C. 13d. The appropriations act allows a tribe to redefine eligibility or payment amounts, but it does not affect the fact that by statute, general assistance funds may only be spent on essential needs. If a tribe elects to run a general assistance program, it will be bound, like the BIA, by the definition of "essential need" contained in 25 C.F.R. § 20.1.

The appropriations provision referred to above only affects tribal savings and does not support the use of grant funds for general assistance for anything but essential needs. However, because of the new language, a tribe may alter eligibility and payment levels so as to realize a very large savings. The savings would, of course, be available to meet other tribal priorities.

The question remains how the general assistance appropriation will be divided among participating tribes. This decision poses no inherent legal issues: rather it is a matter of policy which should be left to the social services and budget offices of the BIA. For that reason, we decline to answer it here.

For the foregoing reasons, and with the limitations referred to above, we are of the opinion that there are no legal obstacles which would prevent general welfare assistance funding from being placed into the TPA budget system. The question of how to allocate general assistance funds through TPA must be resolved by consultation between yourselves and the BIA and DOI budget offices.

You have also requested an opinion as to the relation between the cost limitations provision of section 108 of Pub. L. 103-413, the Indian Self-Determination and Education Act Amendments, and the proposed transfer of welfare funding. As we have discussed, we will address that question in a subsequent opinion.

  
Robert T. Anderson




# MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation

HC3 Box 2 • New Town, North Dakota 58763-9402

## Inter-Office Memorandum

To:	Edward Lone Fight, TAT Programs Manager	From:	 Janet Gunderson, Director Social Services	
Subject:	Welfare Assistance Plan		Date:	April 10, 1996

In response to the Aberdeen Area Memo of March 6, 1996 on Welfare Assistance Grant monies and the impending shortfall of funds the Aberdeen Area Office will encounter.

The Social Service Department staff has discussed and researched several different options and have come up with the following plan.

Effective immediately The General Assistance (GA) program will no longer process new "SINGLES" applications. All able bodied GA participants will be sent a written notice during the week of April 15, 1996, that they will be terminated from the GA -RDO run on May 15, 1996. Singles who have maintained their own household for a year or more will remain eligible until further notice. Also, singles who are unemployable due to age or infirmity and those pending approval of supplementary security income (SSI) will remain eligible. Furthermore, singles remaining eligible must work with their case worker on a plan to further their education as soon as possible. If an educational plan is not immediately possible, then the GA client must be enrolled in a "Community Service Plan" in their respective communities. (this plan will be worked out with the community aids and case managers). In addition, Tribal Work Experience Participants (TWEP) or GA clients, who are presently pursuing a higher educational plan (vocational or college) will remain eligible. However, should the TWEP or GA participant drop out of their respective educational plans, they will not be eligible for GA.

If the singles who are no longer eligible for GA remain in the household unit, the unit may realize some benefits such as, an increase in food stamps, the households rent may be adjusted downward or the household may also be eligible for a fuel assistance increase.

The GA Program presently has a caseload of 107 able bodied single clients who are receiving benefits. By eliminating this component of GA clients, we will create a savings of \$60,000 for the remainder of the fiscal year. If we still have a shortfall after eliminating the singles then it will be necessary to reduce the grant amounts to the eligible GA clients by an across the board percentage cut.

The General Assistance estimated FY 96 allocation is \$622,251. This represents a 17% reduction from our FY 95 allocation. We are operating with a difference of \$127,449. By removing singles from the rolls and with a savings of \$60,000, we will still face a deficit of \$67,449. If we reduce

GA payments by a 3% reduction, we would save an additional \$18,668. A 2% reduction would save \$12,445. The 3% reduction would bring the deficit to \$48,781. We would be able to save further funds by referring clients to the AFDC-Unemployed parents Program. We would also work toward getting more people on SSI benefits.

Other options to fund the deficit would be:

1. The TPA programs could possibly help.
2. Leave the eligible GA clientele as is until funds are depleted.

The singles who have been eliminated from the program will be encouraged to enroll in a vocational or higher education program, this could be through Job Corps, Fort Berthold Community College, or off reservation college's like United Tribes Technical College. There are numerous grants available for educational purposes that can be applied for.

Child Welfare services, Miscellaneous Assistance and Adult Institutional Care will continue on a as needed basis.



# MANDAN, HIDATSA, & ARIKARA NATION

*Three Affiliated Tribes • Fort Berthold Indian Reservation*

HC3 Box 2 • New Town, North Dakota 58763-9402

April 19, 1996

TRIBAL BUSINESS COUNCIL

(701) 627-4781

Fax (701) 627-3805

In Reply Refer To:

RE: SINGLES TERMINATED FROM GENERAL ASSISTANCE

Dear

The Aberdeen Area Office Social Service Department has informed us by way of memorandum dated March 6, 1996, that the Aberdeen Area is impending a shortfall of funds that has a direct impact on the Fort Berthold Reservation. As a result of this memorandum, the Three Affiliated Tribes Social Services Department has re-evaluated the general assistance program, as a result the GA Caseworkers will no longer be processing any new 'Singles' applications. Furthermore, on June 1, 1996, the GA Caseworkers will remove all able-bodied singles from the general assistance RDO run.

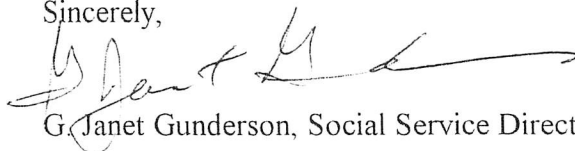
This will serve as a notice that you will no longer be eligible for 'General Assistance Monies', effective June 1, 1996. Singles who have maintained their own household for a year or more, singles who are unemployable due to age or infirmity; singles pending approval of another resource; i.e., Supplementary Security Income (SSI), Veterans Administration (VA) benefits, Aid for Families With Dependent Children (AFDC), etc., will remain eligible depending on funds. However, singles remaining eligible must work on an 'Educational Plan' with their caseworker. If this is not an option at this time, singles remaining eligible will be enrolled in a 'Community Service' plan in their respective communities.

This will allow you time to make plans for the future. Some options you may want to consider are job corp training, seek employment, or perhaps enroll in an educational or vocational program. Educational grants are also available.

We regret having to take this type of action, however, with the funding we have been allocated, it has left us with no other alternative.

Please call your assigned caseworker if you have any questions.

Sincerely,



G. Janet Gunderson, Social Service Director

TAT Social Services

XC: Ed Lone Fight, Programs Manager

MEMORANDUM

JUNE 17TH 1996

TO: THREE AFFILIATED TRIBES BUSINESS COUNCIL

FROM: THOMAS J. GUNDERSON, LEGAL CONSULTANT FOR CHILD WELFARE PROGRAM

A memorandum was received by the Social Services Department on March 6, 1996 recommending that the Three Affiliated Tribes, along with other Tribes develop plans " should welfare assistance run out during the summer months." in response to this request, the Three Affiliated Social Services has proposed that eligibility requirements for general assistance be changed wherein 'singles' would no longer be eligible for general assistance unless they were a head of household for at least one year or more.

Based upon the memo from Associate Solicitor Robert T. Anderson to Joann Morris Acting Director of the Office of Tribal Services and a telephone conversation with a Betty Delrow of the Division of Social Services in Washington, DC, it is my opinion the proposed welfare assistance plan of the Three Affiliated Social Services conforms to federal regulations, provided that it is adopted by a resolution of the Tribal Council and forwarded to the Area office.

A reading of Solicitor Anderson's memo indicates that this Tribe has discretion in setting program spending priorities within the framework of Tribal Priority Allocation (TPA) accounts. More importantly the Tribe, pursuant to the Appropriations Act for the year 1995, can change the eligibility criteria and payment levels for welfare recipient.<sup>1</sup> According to Ms. Delrow several Tribes have in effect already changed their eligibility criteria by declaring that "able bodied single persons are not eligible for general assistance unless they are a head of household.:

Therefore it is my opinion this Tribe can change its eligibility criteria for persons receiving general assistance by adopting criteria allowing only those singles who have been head of a household for a year or more to receive general assistance.

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<sup>1</sup>The Tribe can decrease the amount of payments but cannot increase the amount of payments.