

Tribal Temporary Assistance for Needy Families (TANF) Guidance

PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)

STATEMENT OF PUBLIC BURDEN

Through this information collection, the Administration for Children and Families (ACF) is gathering information to ensure that federal Temporary Assistance for Needy Family (TANF) and state maintenance-of-effort funds (MOE) are used for activities that are reasonably calculated to meet one of the purposes of TANF. Public reporting burden for this collection of information is estimated to average 45.6 hours per grantee, per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. This is a mandatory collection of information (42 U.S.C. § 611).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information subject to the requirements of the

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Introduction

This document is intended to provide guidance to Tribes and consortia interested in starting a Tribal TANF program. It is also a useful reference for Tribes currently running a program when renewing their Tribal Family Assistance Plan. It includes program information, guidance on required elements of a Tribal TANF plan, and a suggested outline for plan submission.

While the guidance is a useful tool, it is not comprehensive. ACF recommends that those wishing to operate a Tribal TANF program make full use of the resources available to them.

- Reach out to your [TANF Regional Program Manager](#) (RPM) for guidance.
- Talk to other tribes operating Tribal TANF programs to better understand what's involved in operating a Tribal TANF program.
 - o Your [RPM](#) can assist you in finding a similarly situated Tribal TANF program for peer technical assistance
- Understand the service area and service population requirements necessary for an acceptable letter of intent (LOI) by reviewing the [Service Area Program Instruction](#).

While many tribes value the flexibility to tailor the program to better serve their communities, such as incorporating traditional work activities, operating a TANF program can be complex. Before applying to run a Tribal TANF program, tribes should understand the responsibilities involved in launching a program, meeting required standards, and potential financial penalties for not meeting them. With thoughtful planning and the capacity to address these challenges, Tribal TANF can be an effective way to direct assistance and resources toward helping recipients move into work.

Part A: Background

Tribes may apply to operate a Tribal Temporary Assistance for Needy Families (TANF) Program under Title I of Public Law (P.L.) 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended. The

Balanced Budget Act of 1997 (P.L. 105-33) also amended Title IV-A. Regulations governing Tribal TANF are in **45 CFR Part 286**, published **February 18, 2000 (65 FR 6477)** and effective **June 19, 2000**.

References to “the Act” or “Section” refer to the **Social Security Act** unless otherwise noted. “The Secretary” refers to the **Secretary of Health and Human Services**. Statutory citations refer to **42 U.S.C. § 612**; regulatory citations refer to **45 CFR § 286**.

If your Tribe administers TANF funding under **P.L. 102-477**, contact the [Bureau of Indian Affairs, Office of Indian Services, Division of Workforce Development](#) for information regarding TANF plan renewal or amendments.

TANF Program Overview

Title I of P.L. 104-193 replaced **Aid to Families with Dependent Children (AFDC)**, **Job Opportunities and Basic Skills Training (JOBS)**, and **Emergency Assistance (EA)** with **Temporary Assistance for Needy Families (TANF)** under **Title IV-A** of the Social Security Act, ending open-ended federal funding and the entitlement to public assistance.

TANF provides states and federally recognized Tribes flexibility to design programs that promote work, responsibility, and family stability. The statutory goals are:

- provide assistance to needy families so that children may be cared for in their own homes or the homes of relatives;
 - end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
 - Prevent and reduce the incidence of out-of-wedlock pregnancies; and
 - encourage the formation and maintenance of two-parent families.
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Tribal TANF Eligibility

Federally recognized Tribes and consortia of Tribes may apply to administer Tribal TANF under **Section 412** of the Social Security Act, as amended by P.L. 104-193.

Special Rule for Alaska: Under **Section 419(4)(B)**, only the **Metlakatla Indian Community of the Annette Islands Reserve** and the **12 Alaska Native regional non-profits** may operate TANF programs. Under **Section 412(i)**, unless the **State of Alaska** waives the requirement, Alaska Native organizations must follow rules comparable to the State's TANF program. These comparability requirements are established by the Secretary in consultation with the State of Alaska and the appropriate Alaska Native organization.

Part B: Program Information and Considerations

Tribes should use the TANF planning process to think through key questions and consult with:

- Tribal members
- Local stakeholders (e.g., businesses, social service organizations)
- Federal and State agency representatives

Considerations should include:

1. statutory and regulatory Tribal TANF plan requirements, and
2. broader issues related to designing and administering a program that promotes economic self-sufficiency. The information below is not exhaustive but may assist in program planning:

Tribal TANF Funding

Each fiscal year, a Tribe with an approved TANF plan receives a grant based on:

- the **Federal share of State expenditures** (including administrative costs, potentially including systems costs), excluding child care, for AFDC, EA (Title IV-A), and JOBS (Title IV-F) programs in **FY 1994** for Indian families living in the Tribe's service area as defined in the letter of intent and/or Tribal TANF plan.

For Tribes that administered a **Tribal JOBS program** in FY 1994, calculations also include:

- State spending for non-member Indians and non-Indians in the service population, and
- State spending for Tribal members served by the State JOBS program.

States provide the data used to calculate the Tribal TANF grant. See **Section 412(a)(1)(B)** of the Social Security Act and **45 CFR § 286.20**.

Note: The formula includes only **Federal payments**, not State matching funds.

Process for Determining Grant Amount

1. After receiving an acceptable letter of intent specifying proposed service area and population, ACF requests the required **FY 1994** data from the State.
 - o This step can be complex and time consuming, particularly where service areas extend beyond reservation boundaries or overlap with other Tribes.
 - o If Tribal service areas overlap, concurrence from affected Tribes or retrocession of members may be required.
 - o For guidance, see [TANF-ACF-PI-2018-02](#) (revising and superseding TANF-ACF-PI-2005-03).
2. The State provides the data to both the Tribe and ACF.
3. If the Tribe agrees with the data, it submits a **letter of concurrence** to ACF.
4. If the Tribe disagrees, it may **negotiate** with the State to resolve discrepancies.
5. If disagreement remains, under **Section 412(a)(1)(B)(ii)(II)** the Tribe may:
 - o submit **additional relevant information**, and
 - o request a **determination by the Secretary**.

Send this request for a determination by the Secretary to the [ACF Regional Office](#) and the **Division of Tribal TANF Management**. See [TANF-ACF-PI-2008-03](#) for guidance.

Program Design, Operation, and Maintenance

When a Tribe administers Tribal TANF, it assumes responsibility for providing temporary assistance to families previously served by the State. Key considerations include:

Program administration:

- staffing to support recipients
- developing and maintaining eligibility (including income eligibility) and operations policies
- establishing systems to track benefits, time limits, work requirements, and required data collection

Program Design & Eligibility

- population size and available funding
- whether to serve single- and two-parent households
- whether to include child-only cases
- structure and amount of cash assistance
- treatment of income (e.g., per capita distributions, child support, student loans)
- treatment of assets/resources and verification methods

Coordination and Compliance

- handling of overpayments/underpayments
- alignment with **BIA General Assistance**
- reporting and cash management compliance

Coordination with the State and Other Tribes

Coordination is strongly encouraged. Examples include:

- determining whether to operate TANF or be served by the State or another Tribe
- coordination with the **Tribal JOBS (Native Employment Works – NEW)** program if your Tribe operates one
- ensuring continued **Medicaid** and **SNAP** services from the State
- sharing information for families moving across service areas and preventing duplication of services
- coordinating child support enforcement
- determining case transfer process with State

Developing memoranda of agreement may be useful to memorialize coordination discussions.

Data Collection and Reporting Requirements

- Under **Section 412(h)**, Tribal TANF programs must comply with **Section 411** reporting requirements. **Section 411(a)(1)(A)** identifies quarterly data to be reported to the Secretary to determine compliance with **work participation** requirements. Detailed rules for data collection, sampling, and **electronic submission** (per **OGM-AT-13-01**) are in **45 CFR Part 286**.
- Information on Data Collection, Reporting and Coding requirements may be found in 45 CFR Part 286 Subpart E.
- For detailed data elements and quarterly reporting content, see the [Tribal TANF Coding Requirements](#).

Penalties

Tribes with approved plans may incur penalties for:

1. **Misuse of TANF funds** (equal to the misused amount; higher for intentional misuse).
2. **Failure to meet work participation rates** (percentage of the Tribal Family Assistance Grant).
3. **Failure to repay a loan** under **45 CFR § 286.195(a)(4)** (as specified in regulation).

Penalties will need to be paid from Tribal funds, not TANF funds (45 CFR § 286.195(c)(1)). It is important to set realistic goals and be well versed in the items mentioned above to avoid penalties.

Civil Rights Requirements

Under **Section 408(d)** of the Social Security Act, any program or activity receiving Federal TANF funds must comply with:

- Age Discrimination Act of 1975
 - Section 504 of the Rehabilitation Act of 1973
 - Americans with Disabilities Act of 1990
 - Title VI of the Civil Rights Act of 1964 and/or the American Indian Civil Rights Act of 1968
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Part C: Letter of Intent and Plan Submission

Conditions to Operate a TANF Program

Per **45 CFR § 286.160**, Tribes may operate a TANF program only after:

1. submitting an acceptable **Letter of Intent**, and
2. receiving approval of a formal **Tribal TANF Plan**.

Timeline and Key Steps

To allow time for data review and negotiation:

Letter of Intent

- [Notifies ACF](#) and the State.
- Must include planned start date (must be the first of the month) and definitions of service area and population.
 1. Please note that establishing the service area and population can be very time consuming if the proposed service area overlaps with other tribe(s)' service area(s).
 2. Concurrence of other tribe(s) and/or retrocessions of service population may be necessary.
- Enables ACF to request appropriate data from the State.

Tribal TANF Plan

- Provides detailed information consistent with the Letter of Intent.
- May be submitted while data issues are being resolved.
- Any changes to service area or population must be reflected in the final plan.

Why Timing Matters

ACF must have sufficient time to:

- calculate the Tribal grant amount
- resolve any service area or data issues; and
- notify the State of the impact on its TANF funding **at least three months** before the State's quarterly grant payment.

Submission Deadlines (Quarterly Cycle)

Regardless of the planned start month, the start day must be the first and submissions must align with quarterly funding cycles. At a minimum, this would

mean a timeline that looks like the table below. In most cases, it takes much longer than the 6-9 months indicated in the table below to resolve any service area or data issues or finalize an approvable plan. And because of the quarterly funding cycle, any delays can mean a wait until the next quarterly funding cycle begins to start your TANF program. For example, a Tribe wishes to start its program January 1, but is unable to provide an approvable plan in time for ACF to notify the state 90 days before the start of the January 1-March 31 quarterly grant period, that is October 1 of the previous year. The Tribe is able to get the plan ready by November 1, however, they will need to wait until April 1 to start because ACF must notify the State 90-days before the beginning of the quarterly funding cycle. An exception is if your state waives notice.

Table of Submission deadlines (45 CFR § 286.160(a)).

Proposed Start Dates	Letter of Intent Due	Formal Plan Due	State Notified By
Jan–Mar	July 1 (previous year)	Sept 1 (previous year)	Before Oct 1 (previous year)
Apr–Jun	Oct 1 (previous year)	Dec 1 (previous year)	Before Jan 1 (same year)
Jul–Sep	Jan 1 (same year)	Mar 1 (same year)	Before Apr 1 (same year)
Oct–Dec	Apr 1 (same year)	Jun 1 (same year)	Before Jul 1 (same year)

Submission Process

- Submit the LOI to your [ACF Regional Office](#) and to [ACF Central Office](#). Send a copy to your State Government (45 CFR § 286.160(a))
- Submit the **original Tribal TANF Plan** to your [ACF Regional Office](#) and submit same through the online submission portal.
 - If you do not have access to the [On-line Data Collection \(OLDC\)](#) system, you can request it [through the GrantSolutions website](#) or work with your [ACF Regional Office](#).

- There may be revisions to your plan before the final plan is submitted into the online submission portal.
 - Your final, approvable plan must be submitted one month before the 90-day notice date for the State to allow time for approval and processing of the grant.
 - Include a **cover letter** identifying a point of contact (name, title, phone).
 - ACF will confirm receipt and begin review.
 - A conference call or meeting may be scheduled to address outstanding issues; ACF aims to complete review promptly.
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Part D: Tribal TANF Plan Content Requirements

A Tribal TANF plan must include all elements required under **Section 412(b) and (c)** of Title IV-A of the Social Security Act and **45 CFR Part 286**. The plan must cover **three years** and may be amended at any time using the process at **45 CFR § 286.165**. There is no required format; however, the plan should include clear headings and numbered pages and must address the following elements:

Program Administration

- **Name the Tribal agency** or department that will run the TANF Program (45 CFR § 286.75(b)).
 - A brief description of the unit's administrative structure and the systems used to deliver and track services is recommended.
- **Indicate the time period** covered by this plan (the 3-year period); for example, October 1, 2026, to September 30, 2029 (45 CFR § 286.75(a)).
- **Describe the Tribe's Approach to Welfare Services (Section 412(b), (45 CFR § 286.75(c))**
 - Explain how the Tribe will provide welfare-related services.
 - State whether services will be provided directly by the Tribe or through agreements, contracts, or inter-Tribal compacts.

- o Identify the Tribal agency/department administering TANF and briefly describe its structure and administrative systems.
- **Describe how Tribal members and other interested parties participated in program design (45 CFR § 286.75(a)(6))**
 - o Explain the process used to solicit and review public comments.
 - o Provide assurance that the Tribe made the plan available for review and comment for **45 days** prior to submission.
- Describe **employment opportunities** and how the Tribe will support them (45 CFR § 286.75(g)).

Goals

- State the Tribe's **goals** for promoting work and self-sufficiency (45 CFR § 286.75(a)(5)).
 - o Provide at least two.
 - o Include **measurable outcomes** to show progress towards those goals.

Population, Service Area, and Eligibility

- **Identify the service population** that is eligible for Tribal TANF services (which is different from General Assistance eligibility).
 - o Indicate if only Tribal members will be served or all Native American families (45 CFR § 286.75(d)(1)).
 - o If the Tribe wishes to serve non-Indian families, they will need an agreement with the State showing
 - where non-Indians are to be served by the Tribe, and
 - that they are subject to Tribal TANF program rules (45 CFR § 286.75(d)(2)).
- **Define the geographic service area**, such as reservation and the Tribe's Bureau of Indian Affairs (BIA)-designated "near reservation" service areas (45 CFR § 286.75(e)).

- o In areas beyond these, Tribal or State concurrence will be needed and the Tribe's administrative capacity must be demonstrated (45 CFR § 286.75(e)(1)).
- Define eligibility criteria (45 CFR § 286.75(a)(1) including:
 - o income thresholds (e.g., % of Federal Poverty Level)
 - o counted and excluded income
 - o resource limits
 - o definitions of "family," "Indian family," or "Tribal member family."
 - o definition of "Needy Families"

Services and Types of Assistance Provided

- Describe forms of assistance and services (cash, in-kind, vouchers, child care, supportive services). 45 CFR § 286.75(a)(2).
- Explain whether transitional services will be provided to families leaving TANF due to increased earnings or mixed income (earned and unearned) and state the type of services, duration and conditions for transitional benefits.
- Indicate any variations across the service area in services, assistance, and activities (45 CFR § 286.75(a)(3)).
- Indicate whether the Tribe will provide different services to specific populations, e.g., teen parents, and state what services they will provide and to whom (45 CFR § 286.75(a)(4)).
- If applicable, describe how the Tribe meets the special rules for certain Tribal TANF programs in **Alaska**, where it must operate a program that is comparable to the State's TANF program (45 CFR § 286.175).

Work Activities and Employment

- Tribes may define their own work activities, including culturally relevant ones (45 CFR §§ 286.100–286.105) so long as the activities are reasonably calculated to accomplish a purpose of TANF (45 CFR § 286.35(a)(1)).

- If offering **job search** and job readiness as work activities, demonstrate they are consistent with 45 CFR § 286.105 limitations.

Work Participation

Work is a core element of TANF. Under **Section 412(c)** and its implementing regulation at **45 CFR § 286.80**, the Tribe's TANF plan must include:

- Tribe's proposed **minimum work participation rates (WPR)** for all families, for all families and two-parent families, or for one-parent families and two-parent families. These rates are negotiated with ACF (**45 CFR § 286.80**). Tribes must meet their WPR or provide a reasonable justification for missing it. Failure to meet WPR can result in a financial penalty.
 - WPR must be listed **by fiscal year, even if the program year is different** (45 CFR 286.80(b)(1)).
 - Tribal TANF programs are **not** subject to the State TANF work requirements under **Section 407**.
- The rationale for the WPR (based on TANF purposes, Tribal economic conditions/resources, and applicable provisions of the Act).

The Tribe's plan must also include:

- Proposed **weekly minimum hours of work participation** for TANF cash assistance recipients (45 CFR § 286.80(b)(2)). Also, state:
 - Whether hours apply to all families or differ by one-parent and two-parent families (and what those differences are) (45 CFR § 286.80(b)(1))
 - Whether two-parent families may share hours (45 CFR § 286.95)
- **Information on "good cause" exemptions** (45 CFR § 286.135(a)(3)) for not meeting individual work requirements.
 - Tribes may define these. Examples: illness and lack of transportation.
 - Tribes should include victims of domestic violence when Tribe elects the family violence option (45 CFR § 286.140(a)(3))

- A statement that **single custodial parents with children under the age of six** who refuse to engage in work activities because of inability to obtain child care may not be penalized if he/she demonstrates the inability is due to **unavailable appropriate child care** within a reasonable distance from the home or work site (45 CFR § 286.135(a)(2)).
 - definitions for appropriate child care, unsuitability of informal care, reasonable distance, and affordable child care arrangement (45 CFR § 286.150)).
- Whether **reasonable transportation time** to/from activities will count as participation (45 CFR § 286.80(b)(2)(i)).
 - Definition of **reasonable**, e.g., half hour to work activity, half hour from work activity.
 - Explanation of how the economic conditions and resources available to the Tribe justify the inclusion of transportation time in work participation hours (45 CFR 286.80(b)(2)(i)(A)).
 - Explanation of how counting reasonable transportation time is consistent with the purposes of TANF (45 CFR § 286.80(b)(2)(i)(B)).
- Any **exemptions, limitations, and special rules** in relation to work activities (45 CFR § 286.80(b)(4)).
- **Rationale for how the work requirements are justified** based on the Tribe's economic conditions and are consistent with the purposes of TANF and the resources of the Tribe (45 CFR § 286.80(b)(5)(i); *and see* 45 CFR § 286.80(b)(5)(ii) for examples).

Time Limits

- Tribes propose **time limits** for receiving assistance and **hardship exemptions** and negotiate them with ACF (**45 CFR §§ 286.115–286.130**).
- The plan should include:
 - the **rational**e for time limits and exemptions (45 CFR § 286.115(a)(1) and (2)).

- o the proposed **hardship exemption percentage** (up to 20% standard; higher with justification)(45 CFR § 286.115(a)(3)and 45 CFR § 286.120(b)).
 - the **definition of hardship** (45 CFR § 286.115(a)(1))
 - o the Tribe's policies related to victims of **domestic violence** (45 CFR § 286.140 & § 286.135(a)(5)).
 - o whether the Tribe exempts families with a **child/ren under age one** from the work requirements (45 CFR §286.85(c)(2)(ii)).
- Limited **transitional services** may be offered after time limits expire.
- Months of assistance received while residing in **Indian Country or Alaska Native villages** where **≥50% of adults were not employed** do **not** count toward the federal lifetime limit (Section 408(a)(7)(D)). This applies to both State and Tribal TANF programs (45 CFR § 286.115(d)).
- Months in which there is no adult head of household also do not count toward the federal lifetime limit (45 CFR § 286.115(d)).

Privacy, Penalties, and Sanctions

The plan must:

- Describe how family privacy and confidentiality will be protected (5 USC Section 552a).
- Describe penalties for individuals who **refuse work without good cause** (similar to **Section 407(e)**)
 - o indicate if the Tribe will reduce benefits or terminate assistance (45 CFR § 286.135(a)(1)).
- Outline **notice** and **appeal** procedures (**45 CFR § 286.135**)
- Ensure penalties are consistent with TANF purposes, Tribal conditions/resources, and relevant statutory provisions (407(e)).
- Provide assurance that the Tribe has a **dispute resolution process** if individuals or families want to challenge the Tribe's decision to deny, reduce, suspend, sanction or terminate assistance. 45 CFR § 286.75(a)(7).

Required Certifications and Assurances

- State what percentage of the Tribal TANF grant will be used for administrative costs
 - The first year is limited to 35%, the second 30%, and the third and all subsequent years 25% (45 CFR § 286.50).
- Certify compliance with the audit requirements under **Section 5(f)(1)** of the Indian Self Determination and Education Assistance Act (25 U.S.C. § 5305(f)(1)).
- Certify compliance with single **audit requirements** under 31 U.S.C. Chapter 75.
- Include assurances/statements that address the Tribe's compliance with:
 - Data collection and reporting requirements
 - Retrocession
 - Family Violence Option (if applicable)
- Provide an assurance that all **expenditures are reasonably calculated** to accomplish the **four TANF purposes** (45 CFR § 286.35(a)(1)).
 - Expenditures may also mirror those allowed under **State plans** for Parts A or F of Title IV of the Social Security Act as of September 30, 1995 (45 CFR § 286.35(a)(2)).
- Ensure families do not receive duplicative assistance (45 CFR 286.75(f))
 - State that families receiving Tribal TANF assistance cannot also receive TANF assistance from a State or another Tribe under title IV-A of the Social Security Act. A person cannot be counted or assisted by more than one TANF program at the same time.
 - Describe the methods the Tribe will use to prevent duplicate assistance—whether given by the Tribe or received by participants.

Required Form

- Include with the final plan submission the SF 424B – Assurances for Non Construction Programs.

- Other required certifications are part of [ACF's terms and conditions \(T&Cs\)](#) the grantee signs upon accepting funding (no separate submission required).

Tribal Resolution Requirements

- Every original Tribal TANF plan must include the **Tribal resolution(s)** that support creating the Tribal TANF program and the plan itself (45 CFR § 286.70(a)).
 - For plan renewals, the Tribe must submit new resolutions **only if**:
 - The original resolution(s) had an expiration date, **and**
 - That expiration date has already passed or will pass before or during the new three-year plan period.
 - Please note, ACF does not require an expiration date and does not recommend including one.
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Tribal Options

In addition to the required elements above, Tribal TANF programs may exercise many options. If a Tribe chooses to offer the options below in their plan, they may do so in accordance with the cited regulation/policy and should include them in their plan and/or annual report as indicated:

- Condition TANF receipt on cooperation with **Child Support** (45 CFR § 286.155). If assignment is required, describe:
 - How the Tribe ensures collections that exceed provided assistance are not retained by the Tribe
 - How any funds retained will support the TANF program
- Allow **temporary absences** from the home. §408(a)(10) of the Social Security Act.
- Require **drug testing**
- Utilize the **domestic violence** waiver. 45 CFR § 286.140

- Require **background checks**
 - Provide **emergency assistance**. 45 CFR § 286.10(b)(1)
 - Offer **diversion assistance**
 - Make available **one-time services** (must define circumstances and limits on funds)
 - Provide **incentive payments** (must state amount and for what purpose)
 - Offer **transitional services** (if offered, must be described in the annual report)
 - [Providing TANF to members who live outside the TANF service area](#) (additional language must be included in the plan that expresses understanding with the requirements of doing so).
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Need Help?

- Contact your [RPM](#) for assistance in preparing an acceptable letter of intent and in crafting an approvable Tribal TANF plan.
 - Your [RPM](#) can also connect you to similarly situated Tribes so you can learn from your peers' experiences operating a Tribal TANF program.
- Become familiar with the law governing the Tribal TANF program that sets out the program requirements:
 - Statutes: [42 U.S.C. § 612](#) and [42 U.S.C. § 619](#).
 - Regulations: [45 CFR Part 286](#).
- For additional resources, see the [ACF website](#). Here you can find information on [service area and service population](#) definition and what happens when you share a service area with another Tribe(s) as well as information on the process for [contesting caseload data](#).
