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U.S. ARMY CORPS OF ENGINEERS
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CECW-P

12 July 2022

MEMORANDUM FOR PLANNING COMMUNITY OF PRACTICE

SUBJECT: Economic Guidance Memorandum, 22-04, Tribal Partnership Program Reduced Cost Share Eligibility Criteria (Ability to Pay)

The enclosed information is provided for immediate use. Questions related to this memorandum should be addressed to Mr. Jason Norris, CECW-PC, at Jason.M.Norris@usace.army.mil or by telephone at (202) 669-1847.

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3 Enclosures:

A: Main: Ability to Pay General Procedures and Tribal Partnership Reduced Cost Share Eligibility Criteria

B: Finding Tribal Estimated, Per Capita, Income

C: Tribal Cost Share Reduction Procedures

ENCLOSURE A – MAIN

Ability to Pay General Procedures and Tribal Partnership Reduced Cost Share Eligibility Criteria

1. Purpose. This Economic Guidance Memorandum (EGM) provides the general guideline for determining Tribal partners' ability to pay, a walkthrough of finding the data for and determining a Tribal partner's ability to pay, and the procedure for figuring the reduced cost share amount.

2. References.

a. Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014)

<https://planning.erc.dren.mil/toolbox/library/WRDA/wrda2014.pdf>

b. Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016).

https://planning.erc.dren.mil/toolbox/library/WRDA/WRDA16_114s612.pdf

c. Sections 202 and 203 of the Water Resources Development Act of 2000 (WRDA 2000)

<https://planning.erc.dren.mil/toolbox/library/PL/WRDA2000.pdf>

d. Sections 2010 and 2011 of the Water Resources Development Act of 2007

<https://planning.erc.dren.mil/toolbox/library/PL/wrda2007.pdf>

e. Sections 101 and 103 of the Water Resources Development Act of 1986.

<https://planning.erc.dren.mil/toolbox/library/PL/WRDA1986.pdf>

f. Engineer Regulation (ER) 1105-2-100.

https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/er_1105-2-100.pdf

g. Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program

<https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll5/id/1300>

h. Implementation Guidance for Section 1119 of WRDA 2016.

http://cdm16021.contentdm.oclc.org/utis/getfile/collection/p16021coll5/id/604/file_name/605.pdf

3. Background. Due to the most recent amendments in Section 1121 of WRDA 2016, the following activities are eligible for cost share reduction according to the Tribal "Ability to Pay" provision:

a. Watershed assessments

b. Non-feasibility planning activities (including letter reports without specific recommendations)

c. Feasibility studies for the Construction of Water Resources Development Projects or Projects for the Preservation of Cultural and Natural Resources

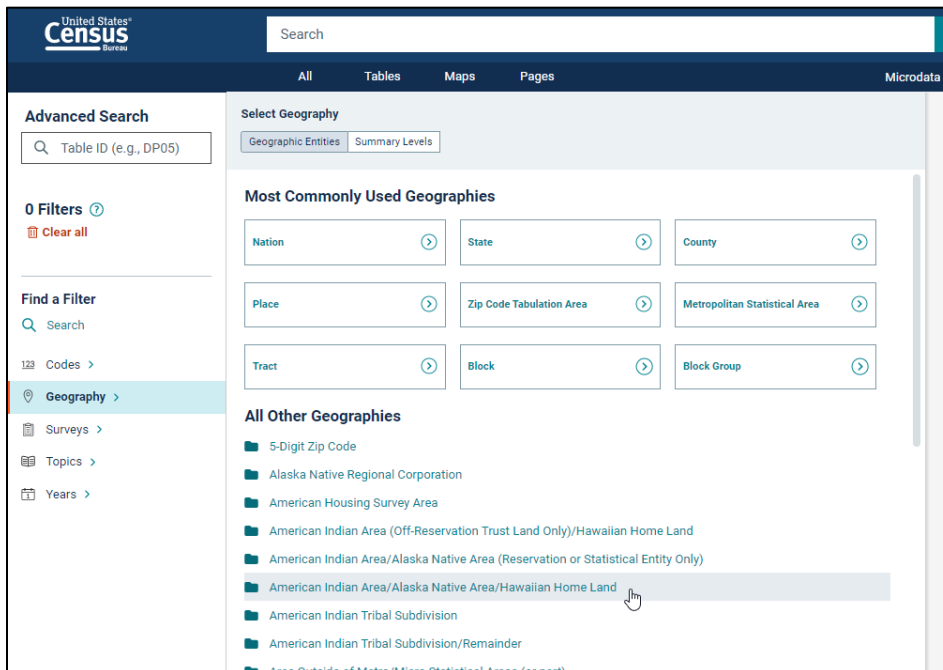
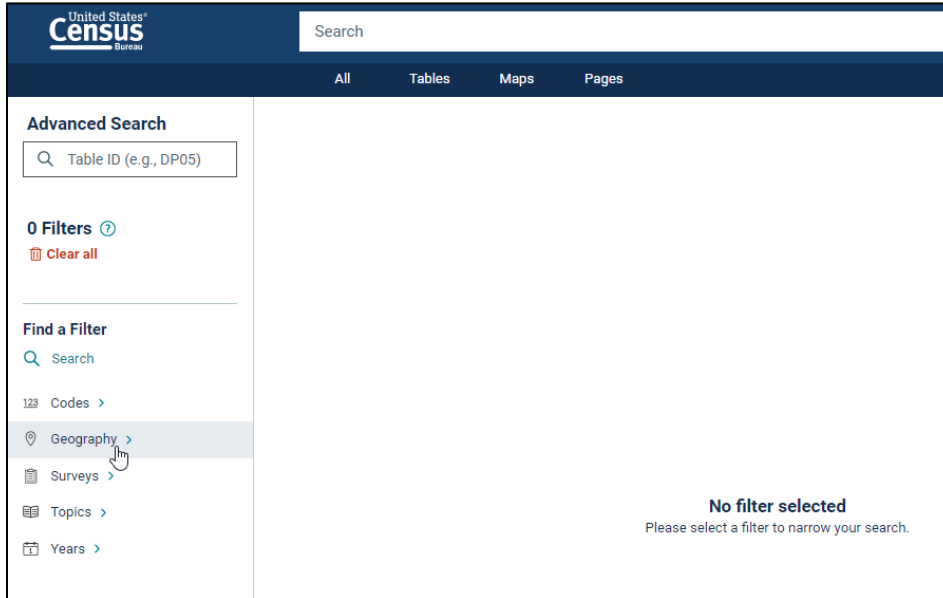
d. Design and construction of Water Resources Development Projects or Projects for the Preservation of Cultural and Natural Resources

4. Ability to Pay Determination. The test for Tribal ability to pay is whether or not the estimated per capita income for the Tribal partner is less than the estimated per capita income of two-thirds of the counties in the United States. The general process for finding the estimated per capita income for the Tribal partner in question is outlined in Enclosure B. Enclosure B should be taken as a guideline for finding an estimate of the per capita income using the same data source (i.e., the U.S. Census Bureau). The current estimate of the 33.3rd percentile of per capita income for all US counties is \$24,872 (using the 5-year estimates from 2015-2019). Tribal partners that have an estimated per capita income below this amount (using the same 2015-2019 dataset) have a reduced ability to pay for the purposes of this EGM, and the cost-share reduction procedure for the report/study/project type (outlined in Enclosure C) should be applied.

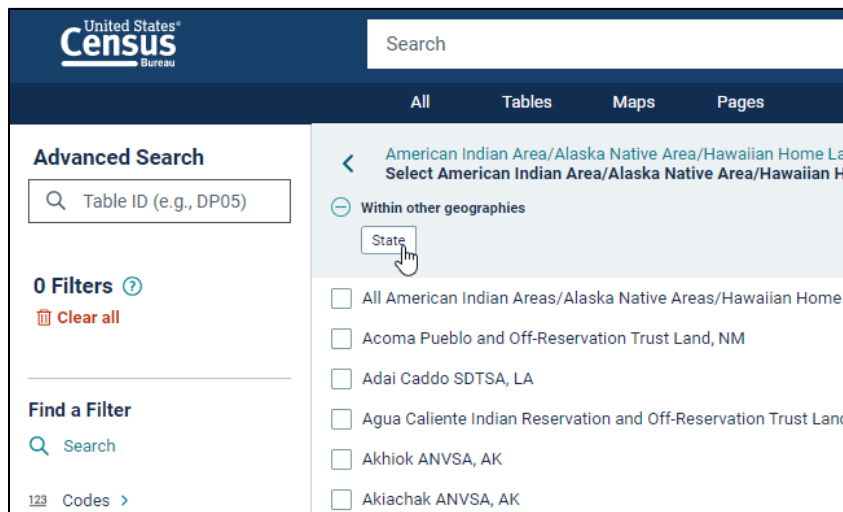
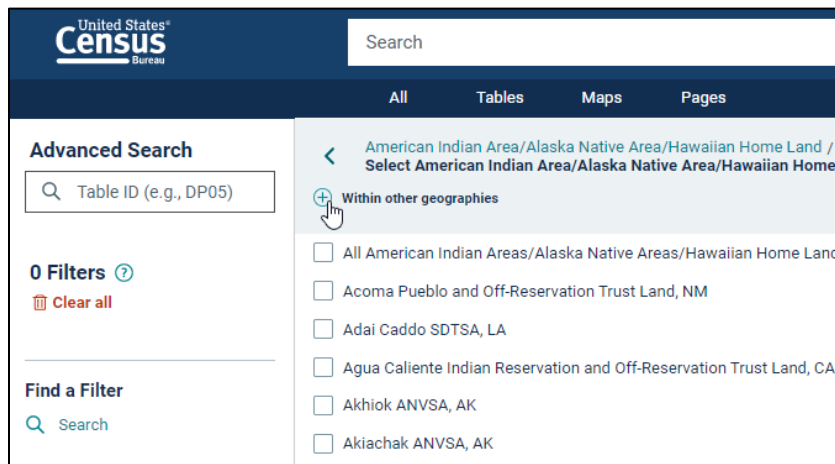
ENCLOSURE B

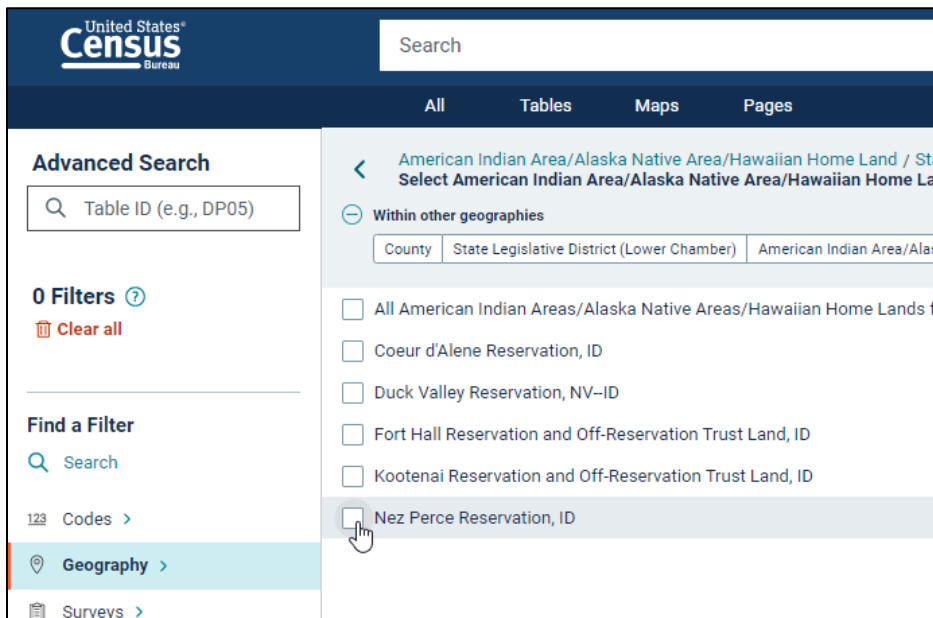
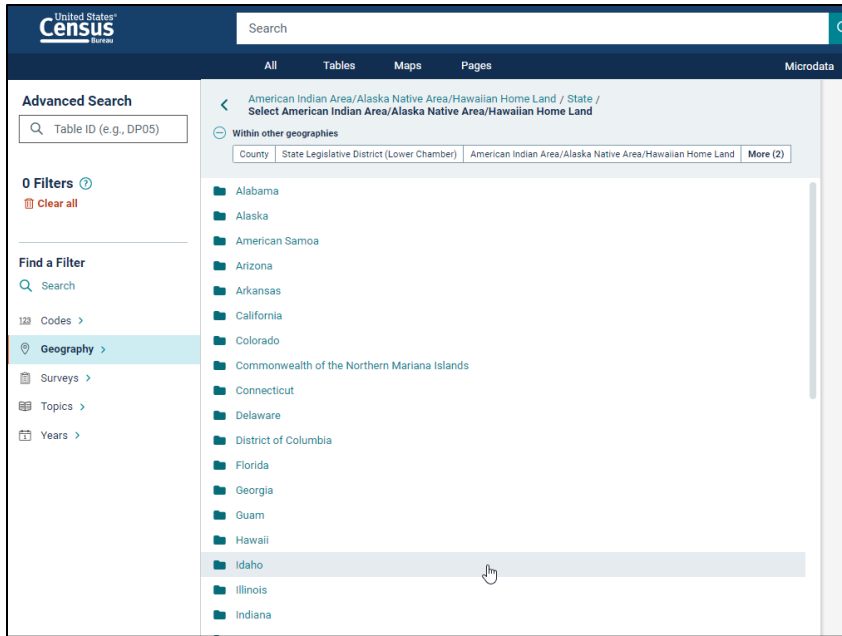
Finding Tribal Estimated, Per Capita Income

1. Navigate to <https://data.census.gov/cedsci/advanced>
2. After waiting for the page to fully load, select “Geography” under “Find a Filter.” Under the “Geography” menu, select the option for “American Indian Area/Alaska Native Area/Hawaiian Home Land.”



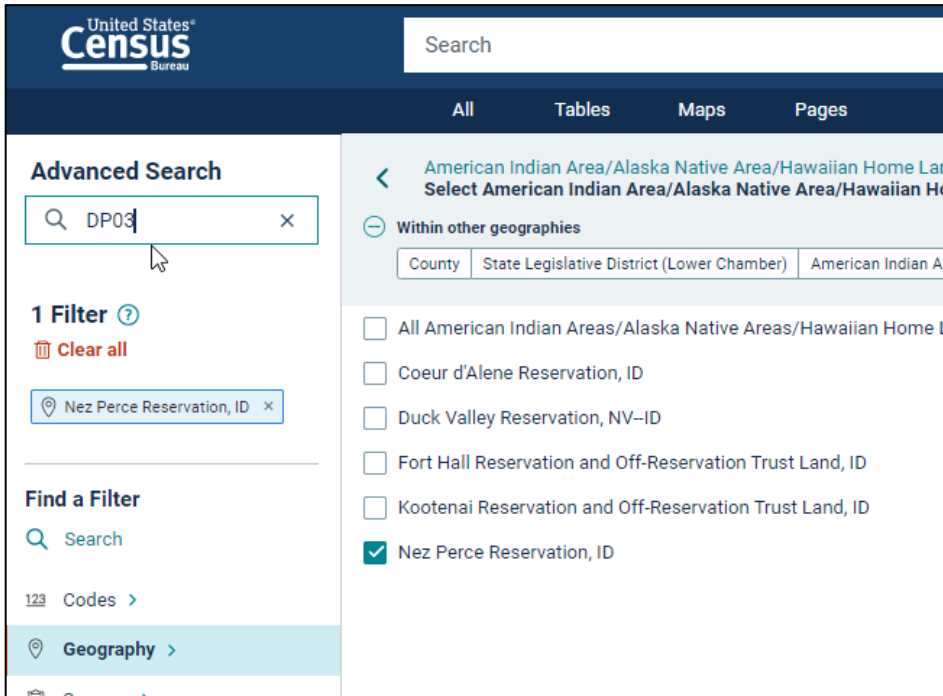
3. You can further filter down the Tribal areas by region/state by selecting the “Within other geographies” option and choosing specific reservations or Trust Lands. The example below shows the steps leading to Nez Perce Reservation being selected.



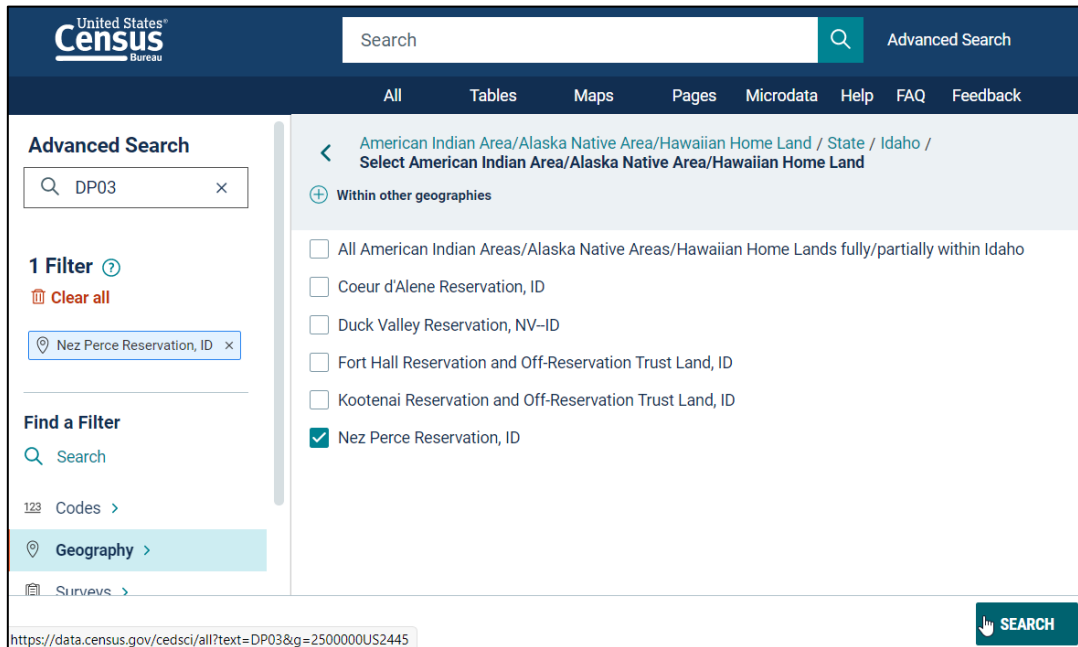


Note: If information on American Indian lands are not available, use the geographic subsection that makes most sense in order to most accurately estimate the per capita income of the Tribal partner. In order to do this, use the “Geography” filter from the “Find a Filter” menu on the left side of the screen.

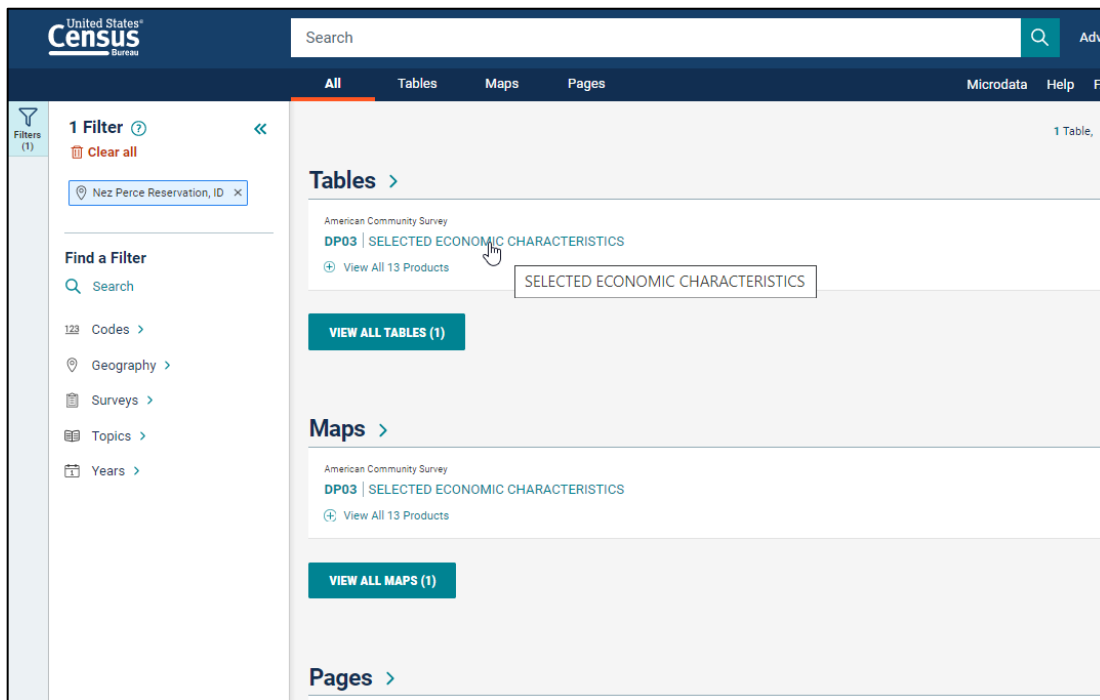
4. Once the geography for the Tribal partner has been selected, it should appear on the left side of the screen. Once it appears, type “DP03” under “Advanced Search.”



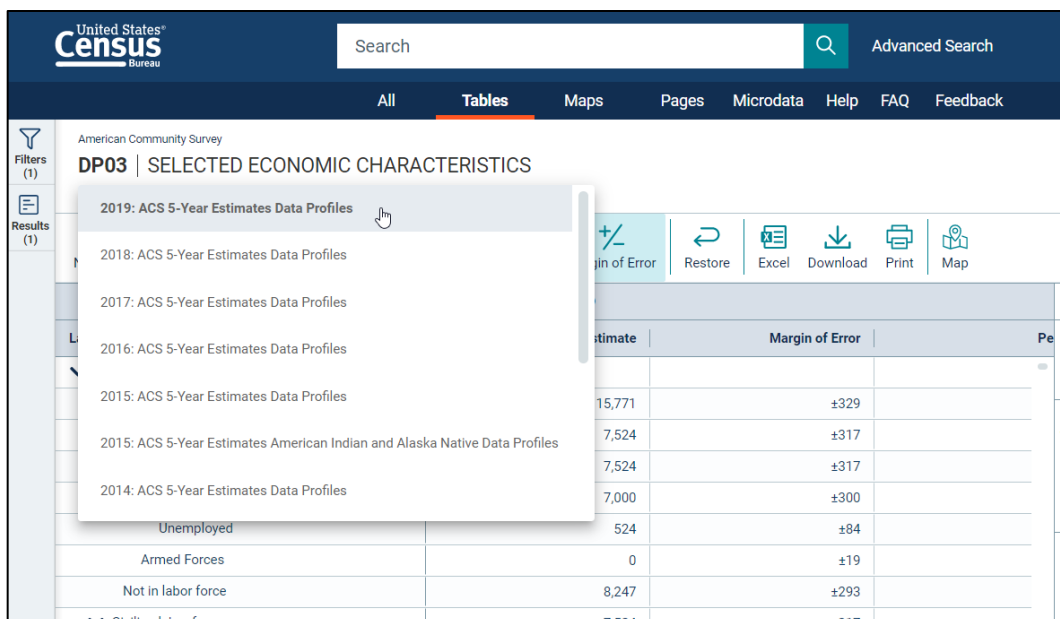
5. After typing “DP03,” click “Search” in the lower right-hand corner.



6. Click on the link titled “DP03 Selected Economic Characteristics” under “Tables.”



7. Once the table populates, go to the drop-down menu just above the table and select “2019: ACS 5-Year Estimate Data Profiles.” Make sure that the year 2019 is selected **even if more recent years are available**.



8. A table should appear that displays estimated economic characteristics of the population of the geographic subdivision in question. Under the Section “INCOME AND BENEFITS”, under the “Families” subsection, there will be an estimate called “Per capita income (dollars).”

The screenshot shows the American Community Survey (ACS) 5-Year Estimates Data Profiles for the Nez Perce Reservation, ID. The table displays economic characteristics, including income levels and family income. The 'Per capita income (dollars)' is highlighted in the table.

Nez Perce Reservation, ID		
Label	Estimate	Margin of Error
Mean Supplemental Security Income (dollars)	11,598	±1,041
▼ With cash public assistance income	314	±62
Mean cash public assistance income (dollars)	2,483	±574
With Food Stamp/SNAP benefits in the past 12 months	794	±93
▼ Families	4,798	±181
Less than \$10,000	171	±53
\$10,000 to \$14,999	154	±40
\$15,000 to \$24,999	357	±62
\$25,000 to \$34,999	529	±73
\$35,000 to \$49,999	871	±90
\$50,000 to \$74,999	1,158	±107
\$75,000 to \$99,999	721	±92
\$100,000 to \$149,999	538	±60
\$150,000 to \$199,999	187	±51
\$200,000 or more	112	±33
Median family income (dollars)	56,057	±2,617
Mean family income (dollars)	68,101	±2,554
Per capita income (dollars)	23,050	±926
▼ Nonfamily households	2,664	±153
Median nonfamily income (dollars)	25,739	±1,453
Mean nonfamily income (dollars)	26,184	±1,471

9. If this per capita income estimate is below the 33.3rd percentile given in the most recently updated EGM or the most recently published figure, the Tribal partner has reduced ability to pay and the procedure for reducing the cost share (specific to different studies or projects) should be applied. At the time of this writing, the 33.3rd percentile of estimated per capita income of U.S. counties was \$24,872. Thus, the Nez Perce Tribe (with per capita income of \$23,050 for the Nez Perce Reservation) is considered to have a reduced ability to pay for the purposes of this EGM. Their cost share would be reduced according to the type of report/study/project being cost-shared according to the procedure in Enclosure C.

ENCLOSURE C

Tribal Cost Share Reduction Procedures

1. The procedures for reducing the cost share of studies and projects are specific to each type of report/study/project authorized for cost share reduction in Section 203 of WRDA 2000 as amended by Section 1121 of WRDA 2016. Once reduced ability to pay following the guideline in Enclosure A is determined, the correct reduction to the cost share is applied.
2. The procedures for reducing the cost shares by report/study/project type are as follows:
 - a. For watershed assessments, non-feasibility planning activities, or letter reports without specific recommendations, the non-federal share shall be reduced to 10 percent of shared agreement costs.
 - b. For a feasibility study, the Section 1156 waiver must first be applied as described in the Implementation Guidance for Section 1119 of WRDA 2016 (dated May 11, 2017). This involves subtracting the adjusted waiver amount¹ from the shared study costs, then multiplying any remainder by 50 percent. For Tribes with reduced ability to pay as defined in this EGM, if applicable, remaining costs will be further reduced by multiplying them by 25 percent. This final remainder, if applicable, constitutes the non-federal cost share for the feasibility study.
 - c. For design and construction costs, first determine the Tribe's un-adjusted share of the design and construction costs, based on the appropriate cost share percentages for the applicable project purpose(s). Then, apply the Section 1156 waiver as described in the Implementation Guidance for Section 1119 of WRDA 2016 (dated May 11, 2017). This involves subtracting the adjusted waiver amount from the Tribe's share of design and construction costs. If applicable, any remaining cost share for Tribes with reduced ability to pay, as defined in this EGM, should be multiplied by 25 percent. This final remainder, if applicable, constitutes the non-federal cost share for design and construction.
3. Credit shall be afforded toward the required non-federal share of the study costs, or the non-federal share of design or construction costs, for the cost of services, studies, supplies, or other in-kind contributions provided by the Tribe.
4. Agreements already entered into pursuant to Section 203 with an Indian Tribe that qualifies under the Implementation Guidance for Section 1031(a) of the Water Resources Reform and Development Act of 2014 (WRRDA 2014), and for Section 1121 of the Water Resources Development Act of 2016 (WRDA 2016), Tribal Partnership Program may be amended to incorporate an ability to pay provision. Any amendments will only affect federal financial obligations not yet incurred as of June 10, 2014.

¹ For FY22, specifically, the adjusted waiver amount is \$530,000. For the updated adjusted waiver amount (after FY22), contact Jason Norris, CECW-PC.