

§ 89.42

25 CFR Ch. I (4-1-05 Edition)

(e) When a tribe determines, and the Assistant Secretary—Indian Affairs, after consultation with the Solicitor concurs, that a substantial possibility of a negotiated settlement or agreement exists.

(f) Payment of fees will not be allowed if such payment was not authorized before services were performed.

(g) This rule applies to expenditure of appropriated Federal funds and not a tribe's own funds on deposit in the U.S. Treasury.

§ 89.42 Factors to be considered.

The following factors are to be considered in determining whether funds should be paid to provide private legal representation for a tribe.

(a) The merits of the legal position which the tribe asserts. Greater weight will be given to those cases where the tribe's legal argument is deemed particularly meritorious than to those cases where the tribe's position, although not entirely without merit, may be relatively weak;

(b) The ability of the tribe to pay all or a part of its legal expenses out of its own funds. A review of the tribe's financial resources under this subsection will include an examination of the tribe's total expenditures to determine whether its expenditures for other purposes comport with the asserted importance of the case for which it seeks funds;

(c) Whether the question the tribe seeks to litigate is being litigated in another case by another tribe;

(d) Whether, as a matter of strategy, the issues the tribe seeks to litigate could be more satisfactorily resolved in another forum, in a different factual context, or a different time; and

(e) Whether the issue should be litigated at all in preference to a legislative or other solution.

§ 89.43 Procedures.

The information collection requirements contained in this section do not require approval by the Office of Management and Budget under 44 U.S.C. 3051 *et seq.*, because it is anticipated there will be fewer than 10 respondents annually.

(a) A tribe or other organization seeking funds under § 89.41 shall submit

a written request through the Agency Superintendent and the Area Director, including

(1) A detailed statement describing the nature and scope of the problems for which legal services are sought;

(2) A statement of the terms, including total anticipated costs, of the requested legal services contract;

(3) A current financial statement and a statement that the tribe does not possess sufficient tribal funds or assets to pay for all or a part of the legal services sought; and

(4) A statement of why the matter must be handled by a private attorney as opposed to Department of Justice or Department of Interior attorneys.

All requests shall be considered by a committee consisting of the Deputy Assistant Secretary—Indian Affairs (Policy), or his delegate, the Director of the Office of Trust Responsibilities in BIA or his delegate, and the Associate Solicitor—Indian Affairs or his delegate.

(b) If two of the three committee members recommend approval of a tribe's request, the request, along with the committee's recommendation, shall be submitted to the Assistant Secretary for final determination after consultation with and the advice of the Solicitor. The committee's recommendation shall indicate the amount of funds recommended to assist the tribe, the hourly rate allowed, the maximum amount permitted to be expended in the recommended action and the tribal contributions, if any. The Assistant Secretary shall approve the request only with the concurrence of the Solicitor.

(c) The requirements imposed by this policy are supplementary to those contained in all existing regulations dealing with attorney contracts with Indian tribes and, in particular, those contained in parts 88 and 89 of this title.

PART 90—ELECTION OF OFFICERS OF THE OSAGE TRIBE

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AUTHORITY: Sec. 9, 34 Stat. 539; sec. 7, 45 Stat. 1478; 71 Stat. 471, unless otherwise noted.

SOURCE: 23 FR 1948, Mar. 25, 1958; 23 FR 2026, Mar. 27, 1958, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

GENERAL

§ 90.1 Definitions.

As used in this part:

(a) The term *supervisor* means the tribal election official chosen and appointed by the Principal Chief or Assistant Principal Chief to act as chairman of the election board and shall in the absence of the supervisor denote the Assistant Supervisor.

§ 90.2 Statutory provisions.

Section 7 of the Act of March 2, 1929 (45 Stat. 1481) provides in part as follows:

That there shall be a quadrennial election of officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage tribal council, to succeed the officers elected in the year 1928, said officers to be elected at a general election to be held in the town of Pawhuska, Oklahoma, on the first Monday in June 1930 and on the first Monday in June each four years thereafter, in the manner to be prescribed by the Commissioner of Indian Affairs, and said officers shall be elected for a period of four years commencing on the 1st day of July following said elections. * * *

ELIGIBILITY

§ 90.21 General.

Only members of the Osage Tribe who will be eighteen years of age or over on election day and whose names appear on the quarterly annuity roll at the Osage Agency as of the last quarterly payment immediately preceding the date of election will be entitled to hold office or vote for any tribal officers. Each such voter shall be entitled to cast one ballot and each ballot shall have exactly the same value as the voter's headright interest shown on the last quarterly annuity roll. Any fraction of a headright, however, shall be valued as to the first two decimals only unless such interest is less than one-hundredth of a share, then it shall have its full value.

(45 Stat. 1481)

[43 FR 8798, Mar. 3, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982]

ELECTIONS

§ 90.30 Nominating conventions and petitions.

Conventions shall be held on or before the first Monday in April of the year in which a quadrennial election is held, and there shall be written reports of such conventions, duly certified by the secretary or presiding officer showing total number of qualified voters in attendance, together with the names of candidates nominated for the various offices: *Provided*, That at least 25 qualified voters shall have been in attendance at any such convention; also, names of any independent candidates nominated by petition of not less than 25 qualified voters, each signature to be witnessed by two persons, shall be filed with the supervisor not later than 5 p.m. on the first Monday in April of the year in which a quadrennial election is held in order that such names may be placed on the official ballot. No person shall be considered a candidate for tribal office unless and until the requirements of this section have been met.

[32 FR 10253, July 12, 1967. Redesignated at 47 FR 13327, Mar. 30, 1982]