

## Bureau of Indian Affairs, Interior

## § 87.1

part is not valid until the Secretary approves it.

### § 84.008 What is the effect of the Secretary's disapproval of a contract or agreement that requires Secretarial approval under this part?

If the Secretary disapproves a contract or agreement that requires Secretarial approval under this part, the contract or agreement is invalid as a matter of law.

## PART 87—USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

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AUTHORITY: 5 U.S.C. 301; 87 Stat. 466, 467, 468.

SOURCE: 39 FR 1835, Jan. 15, 1974, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### § 87.1 Definitions.

As used in this part 87, terms shall have the meanings set forth in this section.

(a) *Act* means the Act of October 19, 1973 (Pub. L. 93-134; 87 Stat. 466, 467, 468).

(b) *Secretary* means the Secretary of the Interior or his authorized representative.

(c) *Commissioner* means the Commissioner of Indian Affairs or his authorized representative.

(d) *Area Director* means the Area Director or his equivalent of any one of the Area Offices of the Bureau of Indian Affairs or his authorized representative.

(e) *Superintendent* means the Superintendent or Officer in Charge of any one of the Agency Offices or other local offices of the Bureau of Indian Affairs or his authorized representative.

(f) *Congressional Committees* means the Committees on Interior and Insular Affairs of the Senate and House of Representatives of the United States.

(g) *Indian tribe or group* means any Indian tribe, nation, band, pueblo, community or identifiable group of Indians, or Alaska Native entity.

(h) *Tribal governing body* means, as recognized by the Secretary, the governing body of a formally organized or recognized tribe or group; the governing body of any informally organized tribe or group, the governing body of a formally organized Alaska Native entity or recognized tribe in Oklahoma, and for the purposes of the Act the recognized spokesmen or representatives of any descendant group.

(i) *Plan* means the document submitted by the Secretary, together with all pertinent records, for the use or distribution of judgment funds, to the Congressional Committees.

(j) *Enrollment* means that aspect of a plan which pertains to making or bringing current a roll of members of an organized, reservation-based tribe with membership criteria approved or accepted by the Secretary, a roll of members of an organized or recognized entity in Oklahoma, or Alaska or elsewhere, or a roll prepared for the purpose of making per capita payments for judgments awarded by the Indian Claims Commission or United States Court of Claims; or which pertains to using an historical roll or records of names, including tribal rolls closed and made final, for research or other purposes.

(k) *Program* means that aspect of a plan which pertains to using part or all of the judgment funds for tribal social and economic development projects.

(l) *Per capita payment* means that aspect of a plan which pertains to the individualization of the judgment funds in the form of shares to tribal members or to individual descendants.

(m) *Use or distribution* means any utilization or disposition of the judgment

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funds, including programming, per capita payments, or a combination thereof.

(n) *Individual beneficiary* means a tribal member or any individual descendant, found by the Secretary to be eligible to participate in a plan, who was born on or prior to, and is living on, the approval date of the plan.

(o) *Approval date* means the date that a plan is approved by the Congress. Except for a plan disapproved by either House, the approval date of a plan shall be the sixtieth (60) day after formal submittal of a plan by the Secretary to the Congressional Committees, excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three (3) calendar days to a day certain. In the event a proposed plan is disapproved by either House, or in the event the Secretary is unable to submit a plan and therefore proposes legislation, the approval date shall be the date of the enabling legislation for the disposition of the judgment funds.

(p) *Minor* is an individual beneficiary who is eligible to participate in a per capita payment and who has not reached the age of eighteen (18) years.

(q) *Legal incompetent* is an individual beneficiary eligible to participate in a per capita payment and who has been declared to be under a legal disability, other than being a minor, by a court of competent jurisdiction, including tribal courts.

(r) *Attorney fees and litigation expenses* means all fees and expenses incurred in litigating and processing tribal claims before the Indian Claims Commission or the United States Court of Claims.

### § 87.2 Purpose.

The regulations in this part govern the preparation of proposed plans for the use or distribution, pursuant to the Act, of all judgment funds awarded from the date of the Act to Indian tribes and groups by the Indian Claims Commission or the United States Court of Claims, excepting any tribe or group whose trust relationship with the Federal Government has been terminated and for which there exists legislation authorizing the disposition of its judgment funds; and of all funds deriving from judgments entered prior to the

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date of the Act for which there has been no enabling legislation.

### § 87.3 Time limits.

(a) The Secretary shall cause to begin as early as possible the necessary research to determine the identity of the ultimate or present day beneficiaries of judgments. Such research shall be done under the direction of the Commissioner of Indian Affairs. The affected tribes or groups shall be encouraged to submit pertinent data. All pertinent data, including cultural, political and historical material, and records, including membership, census and other rolls shall be considered. If more than one entity is determined to be eligible to participate in the use or distribution of the funds, the results of the research shall include a proposed formula for the division or apportionment of the judgment funds among or between the involved entities.

(b) The results of all research shall be provided to the governing bodies of all affected tribes and groups. The Area Director shall assist the affected tribe or group in arranging for preliminary sessions or meetings of the tribal governing body, or public meetings. The Area Director shall make a presentation of the results of the research and shall arrange for expertise of the Bureau of Indian Affairs to be available at these meetings to assist the tribe or group in developing a use or distribution proposal, bearing in mind that under the Act not less than twenty (20) per centum of the judgment funds, including investment income thereon, is to be used for tribal programs unless the Secretary determines that the particular circumstances of the affected Indian tribe clearly warrant otherwise.

### § 87.4 Conduct of hearings of record.

(a) As soon as appropriate after the tribal meetings have been held and the Commissioner has reviewed the tribal proposal(s), the Area Director, or such other official of the Department of the Interior as he shall designate to act for him, shall hold a hearing of record to receive testimony on the tribal proposal(s).

(b) The hearing shall be held after appropriate public notice beginning at least twenty (20) days prior to the date