



INTERIOR BOARD OF INDIAN APPEALS

Caddo Indian Tribe of Oklahoma v. Anadarko Area Director, Bureau of Indian Affairs

18 IBIA 63 (11/16/1989)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

CADDO INDIAN TRIBE OF OKLAHOMA

v.

ACTING ANADARKO AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS

IBIA 89-66-A

Decided November 16, 1989

Appeal from a decision denying a fiscal year 1989 Core Management grant application.

Affirmed.

1. Board of Indian Appeals: Jurisdiction--Indians: Financial Matters:
Financial Assistance

Decisions concerning whether a tribe's application for a Core Management grant should be funded are committed to the discretion of the Bureau of Indian Affairs. In reviewing such decisions, it is not the function of the Board of Indian Appeals to substitute its judgment for that of the Bureau. Rather, it is the Board's responsibility to ensure that proper consideration was given to all legal prerequisites to the exercise of discretion.

APPEARANCES: Elmo Clark, Chairman, Caddo Indian Tribe, for appellant.

OPINION BY ADMINISTRATIVE JUDGE VOGT

Appellant Caddo Indian Tribe of Oklahoma seeks review of a February 9, 1989, decision of the Acting Anadarko Area Director, Bureau of Indian Affairs (Area Director; BIA), denying its application for funding under the Core Management grant program. For the reasons discussed below, the Board affirms that decision.

Background

Appellant's application for a fiscal year 1989 Core Management grant from the Anadarko Area Office was one of 15 applications the Area Office received. These applications requested grants totalling \$795,511. The Area Office received funding in the amount of \$280,000 for fiscal year 1989 core management grants. After reviewing and ranking the applications based

upon the scores given by a panel of reviewers for each of five criteria, 1/ the Area Office awarded grants to six tribes at approximately 80 percent of the funding level requested.

Appellant's application received a score of 15 out of a possible 100 points. By letter of February 9, 1989, the Area Director informed appellant that its application had not been selected for funding. The Area Director's letter stated, "Although all applications submitted were basically sound, adequate funding was not available."

Appellant appealed the Area Director's decision to the Deputy to the Assistant Secretary - Indian Affairs (Operations). The appeal was pending in the Washington, D.C., office of BIA on March 13, 1989, the date new appeals regulations for BIA and the Board took effect. See 54 FR 6478 and 6483 (Feb. 10, 1989). It was transferred to the Board for consideration under the new procedures by memorandum of the Acting Deputy to the Assistant Secretary - Indian Affairs (Tribal Services) dated June 6, 1989. The appeal was docketed on July 13, 1989, following receipt of the administrative record. No briefs were filed.

Discussion and Conclusions

BIA makes Core Management grants to small tribes pursuant to 25 CFR Part 278, Subparts A and C. These grants are intended "[t]o supplement the resources of small tribes in order to permit them to address basic or core tribal management needs such as an administrator, bookkeeper and clerical support." 25 CFR 278.21(a). 2/

The Board noted in Lower Elwha Tribe v. Portland Area Director, 18 IBIA 50, 52 (1989), that the amount of money available for the Core Management program is limited by the amount Congress appropriates for the program. The Board there stated: "Because the funds available for the program are less than the total amount requested by the tribes eligible for the program, some form of competitive allocation of the available funds is necessitated. The system established by BIA, in which each application is reviewed and ranked and funds are awarded based upon positions within that ranking, is a reasonable and objective method of allocating those funds."

1/ The five criteria were: need or problem statement, work statement, budget justification, coordination, and management or self-monitoring system.

2/ In initiating this program in 1983, BIA stated:

"In order for Indian tribes to properly administer tribal affairs, including Federal programs which they have contracted, they must have competent managerial staff and a sound administrative and fiscal control system. Accordingly [Part 278] also includes Core Management Grants to Small Tribes (populations of 1500 Indian persons or less living on or near their reservation) which will enable such tribes to establish and maintain sound management practices. Tribes of this size have demonstrated the greatest needs in this area and this program is confined to them." 48 FR 32006, 32007 (July 13, 1983).

[1] The Board also discussed its role in reviewing BIA decisions concerning whether a particular Core Management grant application should be funded. These decisions, the Board held, are committed to the discretion of BIA. "In reviewing such decisions it is not the Board's function to substitute its judgment for that of BIA. Rather, it is the Board's responsibility to ensure that proper consideration was given to all legal prerequisites to the exercise of discretion." 18 IBIA at 51.

In this appeal, appellant does not allege that BIA committed any specific errors in reviewing its application. Instead, it furnishes considerable supplemental information concerning its proposed use of the requested funds and its qualifications under the five criteria. ^{3/} Had this additional information been included in appellant's initial application, it might well have earned appellant a higher ranking. However, when it ranked appellant's application against those of its competitors, the Area Office had before it only the information in appellant's initial application. The Area Office did not commit error in failing to consider information which appellant did not make available to it. Cf. Nambe Pueblo v. Deputy Assistant Secretary--Indian Affairs (Operations), 13 IBIA 53, 56 (1984), concerning grant applications under the Indian Child Welfare Act, 25 U.S.C. §§ 1901-1952 (1982).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the February 9, 1989, decision of the Acting Anadarko Area Director is affirmed.

//original signed

Anita Vogt
Administrative Judge

I concur:

//original signed

Kathryn A. Lynn
Chief Administrative Judge

^{3/} Appellant states that it sought technical assistance in preparing its appeal and was advised by the Anadarko Agency grants officer that it could not change its application in any way but that it should present its position concerning the ratings given to it by the review panel.