



INTERIOR BOARD OF INDIAN APPEALS

Wyandotte Tribe of Oklahoma v. Muskogee Area Director, Bureau of Indian Affairs

19 IBIA 10 (10/11/1990)



United States Department of the Interior

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

WYANDOTTE TRIBE OF OKLAHOMA,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 90-140-A
MUSKOGEE AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	October 11, 1990

On August 21, 1990, the Board of Indian Appeals received a notice of appeal from the Wyandotte Tribe of Oklahoma, through its Chief, Leaford Bearskin. Appellant sought review of a July 10, 1990, decision of the Muskogee Area Director, Bureau of Indian Affairs, concerning appellant's P.L. 93-638 contract for aid to tribal government, which includes responsibility for preparation of Certificates of Degree of Indian Blood (CDIB's). Appellant contended that it either had or should have authority to sign the CDIB cards as well as prepare them.

After review of background documents forwarded by the Muskogee Area Office at the Board's request, the Board concluded that appellant's existing contract did not include authority to sign CDIB cards 1/ and that therefore appellant was probably seeking to amend its contract although it did not specifically so state. Neither appellant nor BIA followed the procedures set out in 25 CFR Part 271, Subpart E, for submission and consideration of proposals to amend contracts.

By order of August 22, 1990, the Board, noting that it lacks jurisdiction over appeals arising under 25 CFR Part 271, gave appellant until October 1, 1990, to show cause why its appeal should not be remanded to BIA for consideration under 25 CFR Part 271, Subpart E. No response has been received from appellant.

1/ The materials forwarded by the Area Office included a copy of the Area Director's decision, which quoted from section 204.B.4 of appellant's existing contract concerning appellant's CDIB responsibilities:

"Review all applications for CDIB's pursuant to the Area Policy with regard to the issuance of CDIB's. Prepare CDIB cards for review and signature by the Agency Superintendent. When applications do not meet policy standards, notify individual applicants of the required documents."

On October 9, 1990, the Board received a memorandum from the Area Director stating that he had not heard from appellant concerning whether it wished to request an amendment to its contract.

The Board initially considered remanding this matter to the Area Director. However, because it is not clear whether appellant wishes to proceed with a request for amendment, the Board believes the best course is to dismiss this appeal and to advise appellant that, if it does wish to proceed, it should submit a proposed amendment in accordance with 25 CFR 271.61.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Muskogee Area Director's July 10, 1990, decision is docketed under the above case number and dismissed for lack of jurisdiction.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge