



INTERIOR BOARD OF INDIAN APPEALS

Wichita and Affiliated Tribes v. Acting Anadarko Area Director,  
Bureau of Indian Affairs

23 IBIA 157 (01/13/1993)



# United States Department of the Interior

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

WICHITA AND AFFILIATED TRIBES, : Order Affirming Decision  
Appellant :  
 :  
v. :  
 :  
 : Docket No. IBIA 92-213-A  
ACTING ANADARKO AREA DIRECTOR, :  
BUREAU OF INDIAN AFFAIRS, :  
Appellee : January 13, 1993

Appellant Wichita and Affiliated Tribes seeks review of a May 6, 1992, decision issued by the Acting Aberdeen Area Director, Bureau of Indian Affairs (Area Director; BIA), approving appellant's application for FY 1992 funding under the Small Tribes Grant program in a reduced amount. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

The availability of FY 1992 funding for the Small Tribes Grant program was announced at 56 FR 66554 (Dec. 23, 1991). Appellant filed an application under that program in which it sought \$35,964. By letter dated May 6, 1992, the Area Director informed appellant that its application would be funded in the reduced amount of \$23,000. The Area Director's letter stated:

The amount of Small Tribes Grant funds requested by the tribes in the Anadarko Area totaled \$338,597 which far exceeds the amount of \$210,000 allocated to our Area.

Based on the discretionary authority vested in this office in approving the amount for funding the applications, I have approved \$23,000.00 be awarded to [appellant]. This award of course is subject to your acceptance and, if warranted, possible adjustment, but not change, of the scope of work stated in your application and revision of the budget commensurate with the amount of funding I have approved. The adjustment may possibly include the length of period in completing the activities proposed in your application.

(Emphasis in original) .

Appellant appealed this decision to the Board. Based upon agreement of the parties and Board approval, appellant received the \$23,000 awarded

by the Area Director during the course of this appeal. Consequently, the only issue before the Board is whether the Area Director improperly reduced the amount awarded to appellant. Only the Area Director filed a brief on appeal.

Appellant first objects that \$79,000 that had originally been allocated to the Small Tribes program was transferred to the Planning Grant and Training/Technical Assistance Grant programs. It appears that appellant believes that had this amount not been transferred, its application could, and perhaps would, have been funded in the full amount requested.

Allocation of scarce funding resources is within the discretion of the BIA manager. Cf., e.g., Colbert v. Muskogee Area Director, 18 IBIA 92 (1989) (allocation of adult vocational training funds); Lower Elwha Tribe v. Portland Area Director, 18 IBIA 50 (1989) (allocation of Core Management funds). In regard to the Small Tribes, Planning, and Training/Technical Assistance programs, based upon Congressional appropriations, the BIA Central Office in Washington, D.C., determines the total amount of funding available for the programs, and allocates that amount among the Area Offices. Subject to any restrictions upon the further allocation of those funds within the Area Offices that may be imposed by Congress or the BIA Central Office, the Area Directors have discretion to allocate the funds among the appropriate grant programs.

The Board's review of BIA discretionary decisionmaking is limited. The Board does not substitute its judgment for that of the BIA official, but instead examines the action to determine whether all legal prerequisites were considered. See, e.g., Sauk-Suiattle Indian Tribe v. Deputy Commissioner of Indian Affairs, 20 IBIA 238 (1991). Appellant has cited no restrictions upon the Area Director's ability to reallocate funds among the various grant programs, and the Board is not aware of any such restrictions. Although appellant clearly is not happy with the Area Director's reallocation, it has failed to show that the action was not within his authority, or was otherwise unreasonable.

Appellant also contends that two tribes received grants under both the Small Tribes program and the Planning Grant program. Awards to other tribes are not at issue in this appeal. Even assuming that appellant's statement is correct, the fact that the tribes received two grants is not relevant to this appeal. Cf. Strain v. Portland Area Director, 23 IBIA 114, 118 (1992) (alleged error relating to another individual is not relevant to proving error as to the appellant).

Finally, appellant argues that the reduction will necessitate alterations of its program, and that the total amount requested was essential to the successful operation of its program. The Board sympathizes with appellant's problem, as it does with the problems of those tribes which did not receive even a portion of the funds they sought. The fact remains, however, that the Area Director was faced with allocating scarce funding in a reasonable and equitable manner. Appellant's dissatisfaction with not receiving

the full amount it requested does not show that the Area Director committed legal error.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Acting Anadarko Area Director's May 6, 1992, decision is affirmed.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge