



INTERIOR BOARD OF INDIAN APPEALS

Sac and Fox Nation v. Chief, Branch of Judicial Services, Bureau of Indian Affairs

26 IBIA 203 (08/22/1994)

Reconsideration denied:
26 IBIA 255



United States Department of the Interior

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

SAC AND FOX NATION, : Order Affirming Decision
Appellant :
 :
v. :
 :
 : Docket No. IBIA 94-112-A
CHIEF, BRANCH OF JUDICIAL SERVICES, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : August 22, 1994

This is an appeal from a February 8, 1994, decision of the Chief, Branch of Judicial Services, Bureau of Indian Affairs (Chief, BIA), finding that appellant's application for a FY 1994 Special Tribal Court grant was incomplete because it did not contain Standard Form (SF) 424B, Assurances--Non-construction Programs. 1/

Appellant contends that it submitted its application to the Anadarko Area Office, BIA, on December 17, 1993, and that the application included SF 424B.

The record indicates that, in accordance with instructions given in the program announcement, 58 FR 53374 (Oct. 14, 1993), appellant submitted the original and one photocopy of its application to the Area Director, and two photocopies of its application to BIA's Branch of Judicial Services in Washington, D.C.

The record further indicates that, although the original of appellant's application contained the first page of SF 424B, the three photocopies it submitted did not contain copies of this form. Evidently, appellant's original application was retained in the Area Office. 2/ The determination that appellant's application was incomplete was made in the Branch of Judicial Services and was based on the three photocopies submitted by appellant.

1/ The Chief's decision was received by appellant on Feb. 14, 1994. Appellant's notice of appeal is dated Apr. 21, 1994. Although the notice of appeal was not filed within 30 days of appellant's receipt of the Chief's decision, as required by 25 CFR 2.9(a) and 43 CFR 4.332(a), the Board accepted the appeal as timely because the Chief's decision failed to provide appeal instructions. Under 25 CFR 2.7(b), the time for filing a notice of appeal does not begin to run until appeal instructions are given in accordance with 25 CFR 2.7(c).

2/ Part IV, section F(3), of the program announcement required the Area Director to forward one photocopy of the application to the Branch of Judicial Services, together with certain certifications.

Where announcements of BIA grant programs require an applicant to submit an original and photocopies of its application, BIA is not responsible for comparing the photocopies to the original to ensure that copies of all forms included in the original are included in the photocopies. Rather, it is the responsibility of the applicant to ensure that the photocopies of its application are complete and contain copies of all required forms. Appellant has not shown that the photocopies it submitted contained copies of SF 424B.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Chief's February 8, 1994, decision is affirmed.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge