



INTERIOR BOARD OF INDIAN APPEALS

King Island Native Community v. Acting Juneau Area Director,
Bureau of Indian Affairs

26 IBIA 298 (10/26/1994)



United States Department of the Interior

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

KING ISLAND NATIVE COMMUNITY, : Order Affirming Decision
Appellant :
 :
v. :
 :
 : Docket No. IBIA 94-150-A
ACTING JUNEAU AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : October 26, 1994

This is an appeal from a May 6, 1994, decision of the Acting Juneau Area Director, Bureau of Indian Affairs (Area Director), disapproving appellant's application for a FY 1994 Small Tribes grant. For the reasons discussed below, the Board affirms the Area Director's decision.

Pursuant to an announcement published in the Federal Register, 58 FR 68696 (Dec. 28, 1993), appellant filed an application for a grant under the Small Tribes program. On May 6, 1994, the Area Director notified appellant that its application was not approved. The decision letter stated:

As you know from the program announcement, the Small Tribes grant program is quite competitive. All applications found complete and eligible for the program were reviewed by a team of three raters composed of both Bureau and tribal representatives. Each of the three raters independently assigned a score to each application using the point system described in the program announcement. The average of the three scores then formed the final score for the application. Your application received a score of 76.67. The lowest score that funds were available for this year was 89.

Based on the highest scores received and the amounts applied for, we were only able to fund the top twenty. A total of one hundred ten applications were received this year for the program. Unfortunately, the funding allocated for this program for Alaska for FY-1994 was only \$590,000. Many of the applications we were not able to fund received very respectable scores, and we would have liked to have been able to approve them all. Unfortunately, we just did not have sufficient funds.

In about sixty days, after the appeals period is passed, the applications and the raters' comments will be returned to your Agency Superintendent. Please feel free to contact the Superintendent at that time to discuss how your application was rated, and how it might have been improved to receive a higher score.

Hopefully, this will improve your chances to succeed with future competitive grant applications, not only under Bureau programs, but also under those that might be available from other federal agencies or the state.

By letter dated June 16, 1994, appellant filed an appeal with the Area Director, in accordance with the appeal procedures established in the Federal Register announcement, and repeated in the Area Director's decision. The Area Director transmitted the administrative record and the notice of appeal to the Board. The Area Director also sent a complete copy of the appeal file, including the raters' comments, to appellant. Although advised of its right to file a brief, appellant did not do so.

The only argument appellant makes in its notice of appeal is that the Area Director's decision will cause appellant "financial and operating damage." This argument is insufficient to show error in the Area Director's decision. Cf. Louden Village Council v. Acting Juneau Area Director, 26 IBIA 240 (1994) (An appellant's need for funding is not a sufficient basis for overturning BIA's decision not to fund that particular application). As the Board stated in the notice of docketing for this appeal, appellant bore the burden of showing error in the Area Director's decision. Appellant has failed to carry its burden here.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Area Director's May 6, 1994, decision is affirmed.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge