



INTERIOR BOARD OF INDIAN APPEALS

Indian Child and Family Services Program, Temecula, California  
v. Acting Sacramento Area Director, Bureau of Indian Affairs

30 IBIA 36 (09/25/1996)



# United States Department of the Interior

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

INDIAN CHILD AND FAMILY SERVICES : Order Affirming Decision  
PROGRAM, TEMECULA, CALIFORNIA, :  
Appellant :  
v. :  
: Docket No. IBIA 96-120-A  
: :  
ACTING SACRAMENTO AREA DIRECTOR, :  
BUREAU OF INDIAN AFFAIRS, :  
Appellee : September 25, 1996

Appellant Indian Child and Family Services Program, of Temecula, California, seeks review of an August 20, 1996, decision of the Acting Sacramento Area Director, Bureau of Indian Affairs (Area Director), declining to review appellant's FY 1996 application for an off-reservation Title II Indian Child Welfare Act grant. The Area Director declined to review the application because it did not contain a current official resolution from appellant's governing board as required by 25 CFR 23.33(b).

Appellant filed its notice of appeal and a statement of reasons with the Area Director in accordance with the appeal instructions contained in Section G of the Federal Register announcement of the availability of grant funding. 61 FR 35809, 35811 (July 8, 1996). The Area Director transmitted the appeal documents to the Board.

From the documents before the Board, it appears that appellant included with its application a copy of a June 15, 1994, resolution of its Board of Directors, with the notation: "Due to the strict time line involved following the receipt of this grant application, I was unable to obtain a current Board authorization. Our Board will soon reconvene and a current authorization forwarded." The deadline for the submission of applications was August 2, 1996. On August 21, 1996, appellant submitted to the Area Director a copy of a Board of Directors' authorization dated August 17, 1996.

Appellant's statement of reasons explains that its Board of Directors, which is composed of members from 16 Indian tribes and organizations, did not meet between the time it received the announcement of the availability of funding and the August 2, 1996, due date for applications. Appellant states that due to demographic constraints, it is impossible for its Board of Directors to convene other than at the regular monthly meetings. Appellant requests that its application be considered.

The Board finds that appellant's argument falls into an area of settled law, and can therefore be disposed of without further briefing. In reviewing BIA decisions in competitive grant programs, the Board has consistently held that, consideration of information submitted after the deadline for submission of an application would violate BIA's and the Board's

duty to give fair and equitable consideration to all grant applications by giving some applicants two chances to submit an acceptable application. See, e.g., Iowa Tribe of Oklahoma v. Acting Anadarko Area Director, 27 IBIA 87 (1994); Akiak Native Community v. Acting Juneau Area Director, 26 IBIA 232 (1994), and cases cited therein.

Appellant admits that a current resolution from its Board of Directors was not included with its application. The inclusion of such a resolution is a mandatory prerequisite for an application to be considered. See 25 CFR 23.33(b)(1), referenced in Section C of the Federal Register announcement, 61 FR at 35810. Section C specifically informs applicants that "[a]n application missing any of the mandatory requirements will not be reviewed further." Appellant's application did not include a current resolution, and the Area Director properly declined to review it.

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 Sacramento Area Director's August 20, 1996, decision is docketed, and that decision is affirmed.

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Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge