



INTERIOR BOARD OF INDIAN APPEALS

Phoenix Indian Center v. Deputy Assistant Secretary - Indian Affairs (Operations)

12 IBIA 163 (02/02/1984)



# United States Department of the Interior

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

PHOENIX INDIAN CENTER,	:	Order Approving Settlement
Appellant	:	Agreement and Dismissing
	:	Appeal
v.	:	
	:	Docket No. IBIA 83-35-A
DEPUTY ASSISTANT SECRETARY--	:	
INDIAN AFFAIRS (OPERATIONS),	:	
Appellee	:	February 2, 1984

On June 27, 1983, the Board of Indian Appeals (Board) received a notice of appeal from appellant, Phoenix Indian Center, seeking review of an April 29, 1983, decision issued by appellee denying fiscal year 1983 funding under the Indian Child Welfare Act (ICWA), 25 U.S.C. §§ 1901-1952 (1976), for appellant's foster care and adoption programs. Appellee found that because appellant's program was operated in an area that had been designated "near reservation" by the Navajo Tribe, appellant was not an eligible grant recipient. Appellee held that appellant must seeking funding through a subgrant from the tribe.

Initial briefs were filed by both parties. On December 2, 1983, the Board received a motion from appellant asking that the case be referred for an evidentiary hearing. On December 23, 1983, appellee was granted an extension of time in which to respond to this motion, based upon the representation that he was attempting to initiate settlement negotiations with appellant. Although appellee filed a pro forma objection to the motion on January 4, 1984, the Board was advised that settlement negotiations were proceeding.

On February 1, 1984, appellee filed a stipulated settlement signed by counsel for both parties. The settlement recites that, under the competitive scoring procedures for considering ICWA grant applications, appellant's fiscal year 1983 proposal received a priority ranking of 98.75. Furthermore, appellee determined that no other organization was providing the same types of services within appellant's claimed service area. Therefore, appellee concluded that appellant's fiscal year 1983 grant proposal best promoted the purposes of Title II of the ICWA.

Appellee states, however, that all fiscal year 1983 grant funds have been obligated. Therefore, in accordance with the reserved authority of the Secretary set forth in 25 CFR 1.2, appellee proposes that it is in the best interest of the Indians to waive the grant application process established in 25 CFR Part 23 and agrees to approve a proposal for fiscal year 1984 funds that duplicates appellant's proposal for fiscal year 1983 funds. Under this agreement, appellant would receive an ICWA grant in the amount of \$72,063, for a 17-month period commencing on February 1, 1984.

The Board approves this settlement agreement. Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this case is dismissed on the basis of the settlement agreement between Phoenix Indian Center and the Deputy Assistant Secretary--Indian Affairs (Operations), dated January 30, 1984.

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*//original signed*

Franklin D. Arness  
Administrative Judge

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*//original signed*

Jerry Muskrat  
Administrative Judge

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*//original signed*

Bernard V. Parrette  
Chief Administrative Judge