INTERIOR BOARD OF INDIAN APPEALS

Organized Village of Kwethluk v. Juneau Area Director, Bureau of Indian Affairs

21 IBIA 164 (01/28/1992)

United States Department of the Interior

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

ORGANIZED VILLAGE OF KWETHLUK, Appellant	:	Order Affirming Decision
v.	:	Docket No. IBIA 91-123-A
JUNEAU AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	January 28, 1992

This is an appeal from a June 20, 1991, decision of the Juneau Area Director, Bureau of Indian Affairs, disapproving appellant's application for a grant under the Small Tribes Grant program.

The Area Director denied appellant's application upon finding that it was incomplete in certain respects. He stated: "Funding for this program for Alaska was very minimal this year. Consequently, the application process was highly competitive. In order to be fair to all applicants, we could only consider for funding those applications that met the purposes and basic requirements of the program."

Appellant filed a notice of appeal in which it supplied some of the information the Area Director found was missing from its application. This new information cannot be considered at this time. In a competitive grant program, the Area Director can consider only the information that is included with the original grant application. If the Area Director were to consider additional information presented after the time for filing an application, he would violate his duty to give fair and equitable consideration to all grant applications. For the same reason, the Board is precluded from considering the new information. Caddo Tribe of Oklahoma v. Acting Anadarko Area Director, 18 IBIA 63 (1989).

Appellant also filed a brief. The principal argument made in appellant's brief is that the Juneau Area receives an unfairly small percentage of the funds available for the Small Tribes Grant Program. The brief also makes a general allegation that appellant has often had to prepare grant applications without adequate technical assistance. Further, it suggests that one Alaska tribe has been favored in grant funding.

The decision allocating the Small Tribes Grant Program funds among BIA Area Offices is not the decision on appeal here. Clearly, that decision was not, and could not have been, made by the Juneau Area Director, whose authority was limited to awarding the funds which had been allocated to the Juneau Area.

Appellant's allegations concerning lack of technical assistance and possible favoritism toward one tribe do not appear to be specifically aimed at the decision on review here. In any event, appellant does not support its bare allegations, and nothing in the record supports them. There is, for instance, nothing showing that appellant sought technical assistance prior to submitting its grant application.

Appellant bears the burden of proving error in the Area Director's decision not to fund its application. E.g., Sauk-Suiattle Indian Tribe v. Portland Area Director, 20 IBIA 238 (1991) and cases cited therein. Appellant has failed to carry that 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 Juneau Area Director's June 20, 1991, decision is affirmed.

//original signed
Anita Vogt
Administrative Judge

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Kathryn A. Lynn
Chief Administrative Judge