



INTERIOR BOARD OF INDIAN APPEALS

Redding Rancheria v. Acting Sacramento Area Director,
Bureau of Indian Affairs

26 IBIA 11 (05/20/1994)



United States Department of the Interior

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

REDDING RANCHERIA, : Order Docketing and Dismissing
Appellant : Appeal
: :
v. : :
: Docket No. IBIA 94-110-A
ACTING SACRAMENTO AREA DIRECTOR, :
BUREAU OF INDIAN AFFAIRS, :
Appellee : May 20, 1994

On May 18, 1994, the Board of Indian Appeals received a notice of appeal from Redding Rancheria, through counsel, David J. Rapport, Esq., Ukiah, California. 1/ Appellant seeks review of an April 19, 1994, decision issued by the Acting Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning appellant's proposal for a FY 1993 Adult Vocational Training contract under P.L. 93-638.

The Area Director's decision stated that it could be appealed to the Board. 2/ Appellant therefore filed this appeal. However, believing that the matter should actually be before the Commissioner of Indian Affairs pursuant to 25 CFR 271.81, appellant simultaneously filed a request for hearing with the Commissioner. Appellant seeks a speedy decision from the Board concerning its jurisdiction over this appeal.

An earlier decision in this matter was issued by the Area Director on July 9, 1993. In that decision, the Area Director noted that appellant had requested a contract in the amount of \$16,927 and that only \$5,983 was available. He declined appellant's contract proposal "because the proposed project or function to be contracted cannot be properly completed or maintained by the proposed contract." He then stated that appellant could request an informal conference or appeal to the Commissioner of Indian Affairs under 25 CFR 271.81.

On August 9, 1993, appellant signed a contract for \$5,983, reserving "the right to appeal the allocation amount to the higher allocation and services proposed by the Tribe in the amount of \$16,927.00."

1/ A second copy of the notice of appeal was received on May 19, 1994.

2/ The language of the Area Director's appeal statement suggests that it was based in part upon proposed P.L. 93-638 regulations, which are not yet in effect. See proposed 25 CFR 900.803, 59 FR 3166, 3204 (Jan. 20, 1994).

Appellant evidently requested an informal conference. The April 19, 1994, decision states that such a conference took place on October 13, 1993. The decision continues:

On January 12, 1994, the Bureau received a report from the official who conducted the informal conference which summarized the results of the meeting.

The recommendation was made to examine the Northern California Agency distribution formula in consultation with all tribes in the jurisdiction.

As a followup to that recommendation, the Bureau met with tribal representatives on January 25, 1994 to discuss that recommendation. The results of the meeting were subsequently addressed in a letter dated February 8, 1994 as follows:

(1) Allow the Redding Rancheria to contract their proportionate share of the category of funds referred to as "Other Indians" in a seven county area; and

(2) Upon written request from the tribe to the Superintendent, a commitment was made to look at the formula for possible change or redistribution of formulas for all tribes concerned.

Several weeks later, the Bureau was informed that the recommended decision was unacceptable to the Redding Rancheria.

(Area Director's Apr. 19, 1994, Decision at 1).

The Area Director's July 7, 1993, decision declined appellant's contract proposal based upon an unresolved funding issue. 25 CFR 271.23(d)(2)(ii) provides that declinations based on unresolved funding issues are appealable under the procedures in Part 271. 4/

Appeal proceedings in this matter were initiated under the Part 271 procedures when appellant requested an informal conference. 25 CFR 271.81(b) provides: "If the applicant is not satisfied with the informal conference * * * the applicant is entitled to a formal hearing in

3/ Appellant submits a copy of a Feb. 18, 1994, letter from its Chief Executive Officer to the Area Director, responding to the Feb. 8 letter.

The Board reaches no conclusions concerning the timeliness of any submissions in this matter.

4/ See also BIA's interim guidelines for implementation of the Indian Self-Determination Act Amendments of 1988, P.L. 100-472, 102 Stat. 2285. These guidelines confirm that declinations based on unresolved funding issues continue to be appealable under the procedures in 25 CFR Part 271. 20 BIAM Supp. 1, subsection 2.2D(3).

accordance with § 271.81(c)." Accordingly, it seems apparent that the next step in the appeal process here is the request for formal hearing which appellant has now filed with the Commissioner of Indian Affairs. The Board finds that it lacks jurisdiction over this appeal. 5/

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed and dismissed for lack of jurisdiction.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge

5/ This case must be distinguished from Kaw Nation v. Anadarko Area Director, 24 IBIA 21 (1993). Although both cases involve funding allocation issues, no contract declination was involved in Kaw Nation. Instead, the decision on appeal was one which allocated funds among several tribes for purposes of contracting under P.L. 93-638. Although an argument was made in Kaw Nation that the appeal should have been pursued under 25 CFR 271.81, the Board ultimately concluded that the matter was properly before it.