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INDIAN POLICY STATEMENT

Introduction

This Administration believes that responsibilities and resources should be restored to the governments which are closest to the people served. This philosophy applies not only to state and local governments, but also to Federally recognized American Indian tribes.


When European colonial powers began to explore and colonize this land, they entered into treaties with ~~sovereign~~ Indian nations. Our new nation continued to make treaties and to deal with Indian tribes on a government-to-government basis. Throughout our history, despite periods of conflict and shifting national policies in Indian affairs, the government-to-government relationship between the United States and Indian tribes has endured. The Constitution, treaties, laws and court decisions have consistently recognized a unique political relationship between Indian tribes and the United States, ~~which this Administration pledges to uphold.~~

In 1970, the President announced a national policy of self-determination for Indian tribes. At the heart of the new policy was a commitment by the Federal government to foster and encourage tribal self-government. That commitment was signed into law in 1975 as the Indian Self-Determination and Education Assistance Act.

Although lip service has been paid to concept of self-government, all too often

The United States will honor the commitment this nation made in the 1970's to strengthen tribal governments and lessen Federal control over tribal

governmental affairs. This Administration intends to build upon what has been accomplished in recent years. We will implement the Federal trust responsibility in accordance with the highest fiduciary standards. We will deal with Indian tribes on a government-to-government basis, and we will pursue the policy of self-government for Indian tribes without threatening termination.



This Administration is determined to turn these goals into reality. Previous Federal policies have inhibited the political and economic development of the tribes. Excessive regulation and a self-perpetuating bureaucracy have stifled local decisionmaking, thwarted Indian control of Indian resources, and promoted dependency rather than self-sufficiency. Indian tribal leaders have voiced these concerns to this Administration. We intend to reverse this trend by removing the obstacles to self-government and by creating a more favorable environment for the development of healthy reservation economies. Tribal governments, the Federal Government, and the private sector will all have a role. This Administration will take a flexible approach which recognizes the diversity among tribes and the right of each tribe to set its own priorities and goals. Change will not happen overnight. Development will be charted by the tribes, not the Federal government.

DRAFT

Tribal Self-Government

Tribal governments, like State and local governments, are more aware of the needs and desires of their citizens than is the Federal Government and should, therefore, have the primary responsibility for meeting those needs. The only effective way for Indian reservations to develop is through tribal governments which are responsive and accountable to their members.

Early in this nation's dealings with Indian tribes, Federal employees began to perform Indian tribal government functions. Despite the Indian Self-Determination Act, major tribal government functions--enforcing tribal laws, developing and managing tribal resources, providing health and social services, educating children--are still all too often carried on by Federal employees. The Federal Government must move away from this surrogate role which undermines the concept of self-government.

It is important to the concept of self-government that tribes free themselves from federal dependence by providing a greater percentage of the cost of self-government. Some tribes are already moving in this direction. This Administration pledges to assist tribes in strengthening their governments by removing the Federal impediments to tribal self-government and tribal resource development. Necessary Federal funds will continue to be available, but Federal funds should be regarded as supplemental. This Administration affirms the right of tribes to determine the needs of their members and to establish and run programs which best meet those needs.

For those small tribes which have the greatest need to develop core governmental capacities, this Administration has asked for funds to allow the Assistant Secretary of the Interior for Indian Affairs to implement the Small Tribes Initiative. This program will provide financial support necessary to allow these tribes to develop basic tribal administrative and management capabilities.

In keeping with the government-to-government relationship, Indian tribes are defined by law as eligible entities and receive direct funding, if they wish, in five block grant programs administered by the Department of Health and Human Services. These

and other blocks to the states consolidated dozens of categorical Federal domestic assistance programs to reduce fragmentation and overlap, eliminate excessive Federal regulation, and provide for more local control. This Administration now proposes that Indian tribes be eligible for direct funding in the Title XX social services block, the block with the largest appropriation and the greatest flexibility in service delivery.

In addition, we will move the White House liaison for Federally recognized tribes from the Office of Public Liaison to the Office of Intergovernmental Relations. Further, we recommend that the Congress expand the authorized membership of the Advisory Commission on Intergovernmental Relations (42USC4273) to include representatives of Indian tribes. We also support the concept embodied in the Indian Tribal Governmental Tax Status Act which provides tribal governments with the same revenue raising and saving mechanisms available to other governments.

In addition, this Administration will call upon Congress to repudiate House Concurrent Resolution 108 of the 83rd Congress, the resolution which established the now discredited policy of terminating the Federal-tribal relationship. A lingering threat of termination has no place in this Administration's policy of self-government for Indian tribes.

These actions are but the first steps in restoring control to tribal governments. Much more needs to be done. Without sound reservation economies, the concept of self-government has little meaning. In the past, despite good intentions, the Federal government has been one of the major obstacles to economic progress. This Administration intends to remove the impediments to economic development and to encourage cooperative efforts among the tribes, the Federal government and the private sector in developing reservation economies.

Development of Reservation Economies

The economies of American Indian reservations are extremely depressed with unemployment rates among the highest in the country. Indian tribal leaders view the development of reservation economies as their number one priority. Growing economies provide jobs, promote self-sufficiency, and provide revenue for essential services. Past attempts to stimulate growth have been fragmented and largely ineffective. As a result, involvement of private industry has been limited, with only infrequent success. Developing reservation economies offers a special challenge: devising investment procedures consistent with the trust status; removing legal barriers which restrict the type of contracts tribes can enter into; and reducing the numerous and complex regulations which hinder economic growth.

Tribes have had limited opportunities to invest in their own economies because often there has been no established resource base for community investment and development. Many reservations lack a developed physical infrastructure including utilities, transportation and other public services. They also often lack the regulatory, adjudicatory and enforcement mechanisms necessary to interact with the private sector for reservation economic development. [Stable, effective tribal government is a prerequisite to economic development by the tribes and individual entrepreneurs.] Development on the reservation offers potential for factories, agribusiness, warehouses and modern technology, as well, fishing, tending sheep, and arts and crafts, and other traditional livelihoods.

Indian natural resources such as timber, fish and energy provide an avenue of development for many tribes. Tribal governments must have the right to determine the extent and the methods of developing the tribe's natural

resources. Although the Federal government has a trust responsibility for Indian natural resources, that responsibility should be directed to the protection of the resources from alienation and exploitation from the outside. It should not be used to hinder tribes from taking advantage of economic development opportunities.

With regard to energy resources, both the Indian tribes and the Nation stand to gain from the prudent development and management of the vast coal, oil, gas, uranium and other resources found on Indian lands. As already demonstrated a number of tribes, these resources can become the foundation for economic development on many reservations while lessening our Nation's dependence on imported oil. The Federal role is to encourage the production of energy resources in ways consistent with Indian values and priorities. To that end, we have strongly supported the use of creative agreements such as joint ventures and other non-lease agreements for the development of Indian mineral resources.

It is the free market which will supply the bulk of the capital investments required to develop tribal energy and other resources. However, Federal support will be made available to tribes to assist them in developing the necessary management capability and in attracting private capital. As more tribes develop their capital resource base and increase their managerial expertise, they will have an opportunity to realize the maximum return on their investments and will be able to share an increasing portion of the business risk.

It is the policy of this Administration to encourage private involvement, both Indian and non-Indian, in tribal economic development. In some cases, tribes and the private sector have already taken innovative approaches which have overcome the legislative and regulatory impediments to economic progress.

Since tribal governments have the primary responsibility for meeting the basic needs of Indian communities, they must be allowed the chance to succeed. This Administration will establish, therefore, a Presidential Advisory Commission on the Development of American Indian Reservation Economies. The Commission, composed of tribal and private sector leaders, will identify obstacles to economic growth in the public and private sectors at all levels; examine and recommend changes in law, regulations and procedures; examine and identify appropriate tribal and Federal roles; and recommend ways for the private sector, both Indian and non-Indian, to participate in the development of reservation economies. It will also be charged with the responsibility for advising the President on the Federal actions required to create a positive environment for the development and growth of reservation economies, with the intent of less restrictive involvement by the Federal Government.

Numerous Federal agencies can offer specialized assistance and expertise to the tribes not only in economic development, but also in housing, health, education, and other areas which are an integral part of reservation economies. It is to the advantage of the tribes, and in the interest of taxpayers, that the Federal role be fully reviewed and coordinated. Therefore, this Administration will direct the Cabinet Council on Human Resources to act as a mechanism to ensure that Federal activities are non-duplicative, cost effective, and consistent with the goal of encouraging self-government with a minimum of Federal interference.

Summary

This Administration intends to restore tribal governments to their rightful place among the governments of this nation and to enable tribal governments, along with state and local governments, to resume control over their own affairs.

This Administration has sought suggestions from Indian leaders in forming the policies which we have announced. We intend to continue this dialogue with the tribes as these policies are implemented.

The governmental and economic reforms proposed for the benefit of Indian tribes and their members cannot be achieved in a vacuum. This nation's economic health--and that of the tribes--depends on adopting this Administration's full Economic Recovery Program. This program calls for eliminating excessive Federal spending and taxes, removing burdensome regulations, and establishing a sound monetary policy. A full economic recovery will unleash the potential strength of the private sector and ensure a vigorous economic climate for development which will benefit not only Indian people, but all other Americans as well.

(A summary of Administration initiatives is attached.

REAGAN ADMINISTRATION INDIAN POLICY INITIATIVES

- Requested funds for FY 1983 to implement the Small Tribes Initiative to provide financial support needed to allow small tribes to develop basic tribal administrative and management capabilities.
- Support direct funding to Indian tribes under the Title XX social services block grant ~~to states.~~
- Ask Congress to repudiate Concurrent Resolution 108 of the 83rd Congress-- the resolution which established the now discredited policy of terminating the Federal-Tribal relationship--by passing a new resolution in support of tribal self-government and the government-to-government relationship.
- Move the White House liaison for Federally recognized tribes from the Office of Public Liaison to the Office of Intergovernmental Relations.
- Ask Congress to expand the authorized membership of the Advisory Commission on Intergovernmental Relations to include representataives of Indian tribes.
- Support the concept embodied in the Tribal Governmental Tax Status Act which would provide tribal governments with the same revenue raising and saving mechanisms available to other governments.
- Support the use of creative agreements such as joint ventures and other non-lease agreements for the development of Indian mineral resources.

- Establish a Presidential Advisory Commission on the Development of Indian Reservation Economies to identify obstacles to economic growth, recommend changes at all levels, recommend ways to encourage private sector involvement and advise the President what actions are needed to create a positive environment for the development and growth of reservation economies.
- Direct the Cabinet Council on Human Resources to act as a review and coordination mechanism to ensure that Federal activities are non-duplicative, cost effective and consistent with the goal of encouraging self-government with a minimum of Federal interference.

MEMORANDUM 10-3-82

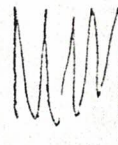
TO: Brandon Scholz, Manager, Jones for Congress
FROM: Robert W. McLaughlin
SUBJECT: Tribal Council members list ND tribes

I have enclosed the current lists for tribal council membership as of 9-30-82 for the four tribes in North Dakota. Since the Fort Berthold election has been postponed for three weeks we should mail to current members as listed. The Standing Rock list includes newly elected members. I suggested we mail to South Dakota members as they have significant influence throughout the reservation.

Please note that the Chairman of the Turtle Mountain Tribal Council, Richard LaFromboise, indicated that he was Dorgan's representative at Turtle Mountain. Also the Secretary at Fort Berthold, Tillie Walker, was a North Dakota Democratic Delegate before the Democratic National Convention in 1980.

I have enclosed a copy of the Standing Rock newspaper, The Dakota Sun. The "Sun" is Sioux County's official newspaper of record. Note the 35th District candidates advertisement on page 7. This paper gets a large circulation among Indian families. Turtle Mountain has a paper which I believe will be important which is called the TURTLE MOUNTAIN STAR, Rolla, ND 58367. Also, focused TV among adults in Indian country (the legal name for reservations) takes place during a Saturday public affairs program broadcast by KFJR, Channel 5 at 12:30 p.m. Harriet Skye, a Republican, is the host. You may want to consider a spot here which will receive a focused Indian coverage and hardly anybody else. Other papers which get pretty good circulation in Indian country are: 1) the Bismarck Tribune 2) the Devils Lake Daily Journal (Fort Totten) 3) the Newtown News (Fort Berthold). The United Tribes of North Dakota puts out a paper which is circulated among Indian families which might also be not too expensive to run a few adds in. Gets good circulation among Indian Bismarck residents. Call David Gipp at the United Tribes Training and Technical Assistance Center, 255 3285.

I am still trying to reach Jim Henry at Turtle Mountain and I expect to talk with him shortly. He will certainly be helpful. Chaske promised he would travel to Fort Berthold for contacts. However, he is still out in Bowman, ND. I will contact you as things progress. Good luck.



NOTE: I have also enclosed a couple of pages from the RNC's Computer Services Division population breakdown in ND by ethnic groupings.

cc: Ted Bryant, President, American Indian Nat. Republican Federation

MEMBERS OF STANDING ROCK TRIBAL COUNCIL

CHAIRMAN: Pat McLaughlin
Mahto, SD 57643

VICE CHAIRMAN: Charles Murphy
Porcupine, ND 58569

ALL OTHER MEMBERS:

Aljoe Agard
Fort Yates, ND 58538

Perry Manywounds
Fort Yates, ND 58538

Terry McLaughlin
Mahto, SD 57643

Elaine Bravebull
Cannonball, ND 58528

Isaac Dogeagle, Jr
Little Eagle, SD 57639

Clayton Brownotter, Sr.
Bullhead, SD 57621

Donald Defender
Kenel, SD 57642

Patrick Kelly
Cannonball, ND 58528

Whitney Standing Crow
Fort Yates, ND 58538

Melvin White Eagle
Cannonball, ND 58528

Joe White Mountain
McLaughlin, SD 57642

Frank A. Lawrence
Rural Route
McLaughlin, SD 57642

Tom Iron
McLaughlin, SD 57642

TRIBAL OFFICE: TRIBAL OFFICE BUILDING, FORT YATES, ND 58538

TELEPHONE: 701 854 7231

AMERICAN INDIAN
NATIONAL REPUBLICAN FEDERATION

The Honorable Bob Stump
3626 North Central
Phoenix, Arizona 85010

October 6, 1982

Dear Congressman Stump:

The American Indian National Republican Federation (AINRF) was recently requested by Mr. Ron Kaufman, Political Director for RNC, to provide assistance in 14 targeted Congressional Districts. Your district was one of those selected because of the concentration of Reservations.

I am aware that there is a generally-accepted concept that Indian people do not vote or if they do, they vote democrat. One of the responsibilities of AINRF is to encourage Indian people to vote and to vote for Republican candidates.

We want to help you and believe that we can be of assistance. Following are the ways in which I suggest we can help:

1. American Indian Policy

The President is expected to release the Administration American Indian Policy statement within the next few weeks. In the meantime, I am enclosing a copy of the AINRF statement which was supplied to the White House as our input.

2. Reservation and Issue Briefing

We are familiar with all of the major Reservations and generally know the leaders. We will be pleased to provide a briefing for you and/or your campaign staff.

You may (a) Call me at 303-534-8153 or Chuck Trimble at 202-528-1200, (b) If in Denver, I will arrange for a personal briefing, or (c) If in Washington, D.C., Chuck will arrange for a personal briefing with himself, Louis Bruce (former BIA Commissioner), and others.

3. Letters to Tribal leaders

I will write letters for you to selected Tribal leaders on each Reservation.

I will provide you the names and addresses of appropriate Tribal leaders, in a following letter, so that you may contact them directly.

4. Reservation Campaign Coordinator

We will attempt to secure a campaign coordinator for you on each Reservation.

This person, under your direction, should be available to arrange for a visit to the Reservation, distribute materials for you, and other general campaign activities.

I realize the time is short between now and election, therefore, we will try to accommodate any request on a timely basis.

Thank you for being willing to serve. We want to help.

Sincerely,



Ted Bryant
President

633 17th Street
Suite 2600
Denver, Colorado 80202
303-534-8153

Enclosures

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

October 20, 1982

FOR: EDWIN L. HARPER
FROM: BILL BARR for BOB CARLESON *WPB*
SUBJECT: Need for Quick Action on Indian Policy Statement

It is imperative that the President deliver the Indian Policy Statement before the elections. It is all ready to go, but it has apparently become bogged down in Presidential Scheduling.

Rep. Clint Roberts (R-S.D.) recently made campaign comments to the effect that reservations should be terminated. This is anathema to the Indians and these remarks are being widely reported in the Indian press. Liberal and Democratic Indians are saying that Roberts' remarks represent the view of the Administration. Our Republican Indian friends say they need the Indian Policy Statement to counteract this propaganda.

It is no exaggeration to say that if we issue the statement soon we may garner 100,000 to 150,000 Indian votes we might not otherwise get. These votes could affect races in Arizona, New Mexico, North Dakota, Montana and Oklahoma.

It would be foolish for us to fritter away this opportunity.

THE WHITE HOUSE

WASHINGTON

October 21, 1982

MEMORANDUM FOR JAMES BAKER
MICHAEL DEEVER

FROM: EDWIN L. HARPER
ELIZABETH DOLE

SUBJECT: Indian Policy Statement

Indians are increasingly exercising their right to vote. Indian tribal leaders have been working closely with the Administration in the evolution and development of the President's Indian Policy Statement since January 20, 1981. Therefore, we know the statement will be well received.

It is the joint assessment of Bob Carleson and Ed Rollins that, if we issue the statement prior to the election, we may well garner 100,000 to 150,000 Indian votes we may not otherwise get. These votes could affect races in Arizona, New Mexico, North and South Dakota, Montana, and Oklahoma.

There may be some opportunities during the President's western trip for him to issue this statement. One opportunity would be his visit to New Mexico on the 29th of October, where he could issue the statement in conjunction with either a public or private meeting with Indian tribal leaders.

Prior to 1980, Indians generally exercised their political rights on an individual basis; the tribes themselves were not politically active or organized. In 1980, for the first time in history, several of the Indian tribes formally endorsed a candidate for President -- Ronald Reagan. The Pueblo Indians, a large New Mexico tribe, were the first to do so. They were followed by the Navajo, the largest tribe in the United States, with over 160,000 members, located mainly in Arizona and New Mexico. The tribal chairman of the Navajo is a strong Republican. A number of smaller tribes followed suit.

Out of the experience of the 1980 election, the American Indian National Republican Federation was formed under the auspices of the Republican National Committee. During the past two years, this group has been vigorously organizing among Indian tribes and groups, registering voters, and conducting other political activities.

The RNC has assigned the AINRF 14 priority Congressional districts to target for this election. These are all districts in which the Indian vote constitutes a substantial block. They are located in such states as New Mexico, Arizona, Montana (where the tribal leader of the Blackfeet is a strong Republican), North and South Dakota.

Recently, the President approved an Indian Policy Statement that stresses self-determination and economic self-sufficiency for Indian reservations. This statement should be very well received in the Indian community, and it was hoped that the statement could be announced by the President prior to the elections.

Unfortunately, Rep. Clint Roberts (R-S.D.) recently made campaign comments to the effect that reservations should be terminated. This is anathema to the Indians and these remarks are being widely reported in the Indian press. Liberal and Democratic Indians are saying that Roberts' remarks represent the view of the Administration. Our Republican Indian friends say they need the Indian Policy Statement to counteract this propaganda.

Attachments

Indian Policy Statement
Schedule Proposal

THE WHITE HOUSE

WASHINGTON

SCHEDULE PROPOSAL

October 21, 1982

TO: WILLIAM K. SADLEIR, DIRECTOR
PRESIDENTIAL APPOINTMENTS AND SCHEDULING

FROM: ELIZABETH H. DOLE

REQUEST: To make an address on the occasion of the release of the President's major statement on Indian policy.

PURPOSE: To outline and encourage support for this Administration's Indian policy of tribal sovereignty and self-determination for federally-recognized tribes.

BACKGROUND: The Indian population numbers 1.4 million primarily in 500 federally-recognized tribes and organizations. Decisions on the content of the President's Indian Policy Statement were made in Cabinet Council meeting September 20. This statement is in keeping with the President's 1980 campaign government-to-government relationship; self-government; repudiation of "termination", and the need for developing Indian economic self-sufficiency. This policy is in total accord with this Administration's New Federalism policy; the Administration's Economic Recovery Plan; deregulation, and involvement of the private sector in addressing national needs.

PREVIOUS PARTICIPATION: To date the President has had no event with Indian tribal leaders, a fact which has been noted in Indian country.

DATE: October 29, 1982

LOCATION: New Mexico DURATION: 1/2 hour

PARTICIPANTS: 200 American Indian tribal leaders
Sec. Watt, Sec. Schweiker, Asst. Interior Sec.
Ken Smith

OUTLINE OF EVENT: - President introduces Sec. Watt, who leads the group
- President then gives his address
- President shakes hands with the front row Indian tribal leaders
- President departs

REMARKS REQUIRED: Major policy address

MEDIA COVERAGE: Full Press coverage

RECOMMENDED BY: Ed Harper, Elizabeth Dole, Ed Rollins, and
Sec. Watt

OPPOSED BY:

PROJECT OFFICER: Morton C. Blackwell


OFFICE OF
THE SECRETARY OF THE INTERIOR

October 29, 1982

NOTE TO BILL BARR:

Bill, attached is a list of proposed attendees for the Indian Policy ceremony. Since the East Room can accommodate 300 persons (standing), our list totals about 250. This count does not include the Administration officials and Indian press which, although we've included suggestions, are really your call.

We've also included some draft language for a telegraphed invitation. Would the White House handle this or would we?


Emily S. DeRocco

Attachment

DRAFT TELEGRAM INVITATION TO TRIBAL LEADERS:

YOU ARE INVITED TO JOIN AMERICAN INDIAN LEADERS, CONGRESSIONAL AND ADMINISTRATION OFFICIALS AT THE WHITE HOUSE ON MONDAY, NOVEMBER 8 WHEN PRESIDENT REAGAN ISSUES AN INDIAN POLICY STATEMENT FOR HIS ADMINISTRATION. THE CEREMONY WILL BE IN THE EAST ROOM OF THE WHITE HOUSE AT _____ (A.M., P.M.). YOU SHOULD ENTER THE _____ GATE OF THE WHITE HOUSE AND BE SEATED BY _____ (A.M., P.M.). IN ORDER TO BE ADMITTED AT THE WHITE HOUSE GATE, PLEASE ADVISE _____ BY FRIDAY, NOVEMBER 5, IF YOU CAN ATTEND.

DRAFT

11/29/82

PART 278 - SPECIAL GRANTS FOR ECONOMIC DEVELOPMENT AND
CORE MANAGEMENT GRANTS TO SMALL TRIBES UNDER THE INDIAN
SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Subpart A - General Provisions

Sec.

- 278.1 Purpose.
- 278.2 Definitions.
- 278.3 Information collection. (Reserved)
- 278.4 Effect on Indian rights.
- 278.5 Request from tribal governing body.
- 278.6 Participation.
- 278.7 Uniform administrative requirements.
- 278.8 Appeals from administrative actions.
- 278.9 Penalties.

Subpart B - Special Grants for Economic Development

- 278.11 Purposes of grants.
- 278.12 Eligible applicants.
- 278.13 Application form and content.
- 278.14 Grant requirements and limitations.
- 278.15 Application selection criteria.
- 278.16 Application review process.
- 278.17 Grant administration.
- 278.18 Subgrants and subcontracts.

Subpart C - Core Management Grants to Small Tribes

- 278.21 Purposes of grants.
- 278.22 Eligibility criteria.
- 278.23 Pre-application technical assistance.
- 278.24 Content of application.
- 278.25 Application review process.
- 278.26 Grant administration.
- 278.27 Grant renewal.

Authority: Public Law 93-638, 88 Stat. 2203

Subpart A - General Provisions

§278.1 Purpose.

The purpose of the regulations in this Part is to provide the application and approval procedures for the award of economic development grants and for the award of core management grants to small tribes for the strengthening and improvement of tribal governments under section 104(a) of Title I of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, 88 Stat. 2203).

§278.2 Definitions

As used in this Part:

"Act" means Title I of the Indian Self-Determination Act (Pub.L. 93-638, 88 Stat. 2203).

"Applicant" means a tribal governing body or tribal organization applying for a grant under this Part.

"Area Director" means the official in charge of a Bureau of Indian Affairs Area office.

"Assistant Secretary - Indian Affairs" means the Assistant Secretary - Indian Affairs who discharges the authority and responsibility of the Secretary for the activities pertaining to Indians and Indian Affairs.

"Bureau" means the Bureau of Indian Affairs.

"Commissioner" means the operational head of the Bureau of Indian Affairs, under the direction and supervision of the Assistant Secretary - Indian Affairs, who is responsible for the direction of day-to-day operations of the Bureau of Indian Affairs.

"Core management grant" means a grant, the purpose of which is to enable small tribes to supplement other resources in order to employ staff to administer tribal affairs and programs as well as Federal programs in a competent and responsible manner.

"Economic enterprise" means any commercial, industrial, agricultural, or business activity that is established or organized for the purpose of profit.

"Economic development grant" means a grant for the development, construction, improvement, or operation of tribal facilities or reservation resources for the purpose of profit.

"Grant" means a written agreement between the Bureau and a tribal governing body or a tribal organization where the Bureau provides funds to carry out specified programs, services, or activities and where the administrative and programmatic provisions are specified.

"Grantee" means a tribal governing body or a tribal organization which is responsible for administration of the grant.

"Indian" means a person who is a member of an Indian tribe.

"In kind" means assets such as buildings, machinery, equipment or other physical resources which are utilized in the economic enterprise and which are appraised at fair market value by a qualified appraiser.

"Multi-tribal organization" means a group of two or more tribes banding together to apply for a grant under this Part; the organization must have a governing body with representation from each member tribe and have selected a chairman or other designated head of the organization from among its members.

"Non-Federal source" means tribal funds, investments from the private sector, or loans from private lending institutions.

"Secretary" means the Secretary of the Interior.

"Small tribe" means an Indian tribe with a population of 1500 or less Indian people residing on or near the tribe's reservation.

"Superintendent" means the official in charge of a Bureau of Indian Affairs Agency office.

"Tribal government," "tribal governing body," and "tribal council" mean the recognized governing body of an Indian tribe.

"Tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, That in any case where a grant is made to an organization to perform services benefitting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the awarding of such grant.

"Tribe" means any Indian tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is federally recognized as eligible by the United States Government through the Secretary for the special programs and services provided by the Secretary to Indians because of their status as Indians.

"Tribal resolution" mean the formal manner in which the tribal government expresses its legislative will pursuant to its organic documents. In the absence of such organic documents, a written expression adopted pursuant to current tribal practices will be acceptable.

§278.3. Information Collection. (Reserved)

§278.4 Effect on Indian rights.

The regulations in this Part are not meant to and do not:

(a) Affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by an Indian tribe; or

(b) Authorize, require, or permit the termination of any existing trust responsibility of the United States with respect to the Indian people.

§278.5 Request from tribal governing body.

The Bureau shall not make a grant under this Part unless specifically and officially requested to do so by a tribal governing body. This request may be in the form of a tribal resolution, an endorsement included in the grant application or such other forms as the tribal constitution or current practice requires. For a multi-tribal organization, a tribal resolution from each participating tribe shall be required.

§278.6 Participation.

Participation of eligible tribes or tribal organizations under this Part will be on a voluntary basis and grants will be awarded subject to availability of funds.

§278.7 Uniform administrative requirements.

Administrative requirements for all grants provided under this Part shall be those prescribed in 25 CFR Part 276.

§278.8 Appeals from administrative actions.

(a) A grantee may appeal any decision made or action taken. Such appeal shall be made to the Assistant Secretary - Indian Affairs as provided in Subpart F of Part 271 of this Chapter.

(b) The appellant shall provide its own attorney or other advocates to represent it during the appeal process.

~~§278.9 Penalties.~~

~~Any officer, director, agent, or employee of, or connected with, any grantee or subcontractor under this Part who embezzles, willfully misapplies, steals, or obtains by fraud any of the funds or property connected with the grant or subcontract, shall be subject to the following penalties:~~

~~(a) If the amount involved does not exceed \$100, the fine shall be not more than \$1,000 or imprisonment not more than one year, or both.~~

~~(b) If the amount involved exceeds \$100, the fine shall be not more than \$10,000 or imprisonment for not more than two years, or both.~~

Subpart B - Special Grants For Economic Development

§278.11 Purposes of grants.

INCREASE PRODUCTIVITY ON RESERVATIONS
 In order to ~~strengthen and improve tribal governments,~~ grants shall:

(a) Provide funds for the establishment or expansion of locally determined profit making economic enterprises which generate income and employment opportunities for participating tribes.

(b) Serve as an inducement when combined with a tribe's financial and other resources to attract private sector investment or loans from private lending institutions for the development of the tribe's resources.

(c) Reduce tribal dependence on the Federal Government over the long term through economic development projects which contribute to a ~~stable~~ reservation economy. *PRODUCTIVE*

§278.12 Eligible applicants.

Applications for economic development grants will be accepted only from the governing body of a tribe or a tribal organization, ~~which is unable to meet its total financing needs for economic development projects or enterprises from its own resources and/or by loans or equity investment from private, non-Federal sources.~~

§278.13 Application form and content.

Applicants for economic development grants will follow the application requirements procedures set forth in 25 CFR Part 276. In addition, each proposal shall include the following:

(a) A concise description of the tribal government organizational structure, ~~with emphasis on the political stability and financial responsibility of its operations in recent years.~~ Also describe the relationship between the tribal governing body and planned management of the enterprise, with emphasis on independence of the enterprise from the tribe's political processes.

(b) A plan showing conformity of the proposed project to long range tribal goals.

(c) A schedule for the start and projected completion dates for actions or efforts to implement and maintain operation of the proposed project; include timetable for major purchase of equipment, building construction, production start up and projections as to when the project will reach break even point and become profit making.

(d) Projected work force requirements for a period of three years that will identify management, labor and the technical expertise for the project. Where relevant to the business plan, provide reservation labor force data as to availability and skill level of the local labor force, training needs and any other information pertaining to the fulfillment of labor force requirements of the project.

(e) Each application shall contain a business plan which includes an analysis of all factors affecting the feasibility of the proposed enterprise. A model business plan outline is included in the program guidelines.

§278.14 Grant requirements and limitations.

(a) Applicants must be able to obtain at least 75 percent of the total project financing required from non-Federal sources (loans guaranteed or subsidized by the United States shall not be considered as a non-Federal source): Except, tribes may provide up to 25 percent of the project cost as an in kind contribution, as defined in §278.2, when the in kind contribution is used as an essential part of the project. Appraised land value may be used as in kind contributions for up to 10 percent of the project cost, but in no instance shall the total in kind contribution exceed 25 percent.

(b) ^{GENERALLY CONSIDERED} No grant, ^{will} be awarded in excess of \$500,000 nor will a project with a total cost of less than \$100,000, ~~be considered for a grant.~~

~~(c) Applicants shall provide evidence of a stable tribal government structure which will ensure the continuity of the enterprise. The applicant must have a record of fiscal responsibility and demonstrate the integrity and capability of the organization which will manage the proposed enterprise.~~

(d) Grant funds may not be used for refinancing or debt consolidation for past financial obligations.

(e) A grantee will not be considered for a subsequent grant if in violation of conditions of a previous grant under this Subpart.

(f) Grant approvals shall be subject to availability of funds which are directly appropriated for implementation of Special Grants for Economic Development.

(g) Grant funds may not be used for any purpose other than that for which the grant was awarded.

(h) Grantees will be required to return unused grant funds to the Commissioner if the economic enterprise for which the grant was approved is not initiated, i.e., lease obtained, if needed, construction started, equipment purchased or other activity essential to commencing project operations, within the time stated in the grant agreement. The Commissioner may, if warranted by circumstances beyond the control of the

grantee, extend the time to allow for initiation of the enterprise, provided there is assurance the enterprise will be initiated forthwith within the extended time period. The Commissioner will notify the grantee and any lender or investor, if appropriate, in writing, of a proposed action to require the return of unused grant funds or of a proposal to extend the time.

§278.15 Application selection criteria.

Grants made under this Subpart must demonstrate a high potential for success based on the following rating criteria:

(a) The potential for profitability, ~~and long range benefits to the tribe.~~

RATE ↓

(b) Anticipated return on investment.

(c) Managerial capability including fiscal accountability of proposed tribal enterprise.

(d) Degree of independence of economic enterprise management from the political structure of the applicant.

~~(e) Relative proportion of tribal and private sector investment to requested grant funds.~~

§278.16 Application review process.

An application for a grant under this Subpart shall be processed in the following manner:

(a) Superintendent's responsibility. Upon receipt of an application for a grant under this Subpart, the Superintendent shall:

(1) Acknowledge in writing receipt of the application within five days of its arrival at the Agency office.

(2) Review the application for completeness and conformity to the purpose of the program. If the application meets all the requirements of this Subpart, it shall be forwarded with comments and recommendations within 15 calendar days to the ~~Area Director~~ and Commissioner for further action.

(3) Based on the review, inform the applicant, in writing, of any special problems or impediments which are likely to result in disapproval; offer whatever technical assistance available to help in overcoming such problems or impediments.

~~(b) Area Director's responsibility. Upon receipt of an application for a grant the Area Director shall:~~

~~(1) Review the application for completeness of information required by administrative directives including §278.13 of this Part.~~

(2) Assess the feasibility of the proposal taking into consideration the comments and recommendations of the Superintendent and its conformity to objectives of this Subpart.

(3) If additional data is necessary to establish the feasibility of the proposed project, notify the applicant and Superintendent, and offer technical assistance to provide the necessary data.

(4) Within 15 calendar days of receipt of the application, forward the feasibility assessment and any other comments pertinent to the application to the Commissioner.

(c) Central office review and decision. Upon initial receipt of an application for a grant, the Commissioner shall within 5 days notify the applicant of its receipt and within 60 calendar days:

(1) Review the application for conformity to the objectives and purposes of the program as defined in §278.11, §278.13 and §278.14.

IN (2) Evaluate the application applying the criteria as prescribed
↓ §278.15. ~~BY THE~~ PRIVATE SECURITY RATHER COMMITTEE.

(3) Approve or disapprove the application and determine the amount of the grant funds to be awarded.

(4) The Commissioner may hold a pre-award conference with the applicant, to negotiate changes in the proposed project if such modifications will enhance the potential of the proposed project.

(5) In the event of an application disapproval, provide the applicant detailed reasons for such action.

(6) A ~~grantee~~ ^{APPLICANT} may appeal any adverse decision. The appeal procedures are identified in §278.8 of this Subpart and Subpart F of Part 271 of this Chapter.

§278.17 Grant administration.

TO CENTRAL OFFICE

Day-to-day oversight responsibility for approved individual tribal grants shall rest with Agency offices with guidance, support and assistance provided by ~~Area offices~~. Bureau Central office staff shall have overall responsibility for the administration, monitoring and evaluation of grants awarded under this Subpart.

§278.18 Subgrants and subcontracts.

The grantee may make subgrants or subcontracts under this Subpart with the approval of the Commissioner, provided that such subgrants or subcontracts are for the purpose for which the grant was made and the grantee retains administrative and financial responsibility over the activity.

633 Seventeenth Street
Denver, Colorado 80202
(303) 534-8153
Cable DEHANDS
December 3, 1982

Mr. Kenneth Smith
Assistant Secretary -
Indian Affairs
Department of Interior
18th & C Streets, N.W.
Washington, D.C. 20240

Dear Ken:

Following are the combined comments by Bob McLaughlin, Chuck Trimble and myself on the proposed EDI regulations. We appreciate the opportunity to make our recommendations and look forward to a very successful EDI operation.

Comments

Page 4, 278.9 Penalties

We feel this total section should be removed.

This subject is adequately covered in criminal code section 1163, title 18. To include it here is redundant and appears to be an unnecessary threat to prospective applicants.

Page 5, 278.11 Purposes of Grants

We suggest the opening statement be changed to read:

"In order to increase productivity on Reservations and within Indian peoples of Tribes and Native Associations in Alaska."

You may wish to alter the language somewhat, but basically our point is, "to strengthen and improve Tribal governments" is a responsibility of the BIA, not the purpose of these grants. The grants, hopefully, will encourage and assist economic development, individual entrepreneurship, economic self-sufficiency, etc.

Page 5, 278.11(c)

Change the word stable to productive.

We feel the word stable is too nebulous and would leave open the question as to who would determine what constituted "stable". Also, an economy could be effective and productive but unstable in that business ventures fail and succeed, come and go.

Page 5, 278.12 Eligible Applicants

Place a period after the word "organization" and strike the rest of the sentence.

We feel that a requirement that a Tribe be able to meet its own financing needs is not appropriate. You should not penalize potentially successful ventures according to ability or the lack thereof of the Tribe.

Page 5, 278.13(a)

In paragraph (a), place a period after "structure" and strike the rest of that sentence.

The political stability of the Tribal organization should have nothing to do with the potential success of an economic venture.

This would be similar to saying the success of Ideal Basic Industries somehow relates to the stability of the government of the State of Colorado.

Page 5, 278.13(b)

Remove item (b).

The same theory as in the previous item, i.e. the success or failure of a private venture should not relate to goals of the local governmental entity.

Page 6, 278.14(b)

Change (b) to read: Generally considered, grants will not be awarded . . etc. . . Place a period after \$100,000 and strike the rest of the sentence.

It is not necessary to restrict the program by setting absolute minimums and maximums. It may be found that a grant with great potential needs \$510,000 or only needs \$95,000.

Page 6, 278.14(c)

Strike all of (c).

Again there is an inappropriate effort to relate stability of Tribal government to the potential for success of a private venture.

Page 7, 278.15(a)

Place a period after profitability, and strike the rest of the sentence.

The long range benefits to the Tribe will probably accrue but should not be a part of the selection criteria.

Page 7, 278.15(b)

Strike the word "anticipated" and substitute "Rate of".

Anticipated return is unclear language.

Page 7, 278.15(e)

Strike item (e).

It really doesn't make sense and the 75/25 ratio is specified in another section.

Page 7, 278.16 Application Review Process

Delete the sections relating to the area director (b) (1), (2), (3) and (4).

There is no necessity for involving the area director. It is merely one more level of review and would offer too many opportunities for political chicanery.

Perhaps more importantly, the area directors do not possess the skills in their office to perform the necessary financial evaluations.

Page 8, 278.15(c)(2)

Change by to "in" and add the following after 278.15: "by the private sector review committee."

We suggest that an adequate review of the proposals with financial success as the goal can best be performed by an ad hoc committee recruited from the private sector.

We suggest such a committee be made up of volunteer members from banks, savings and loans and other financial institutions.

Mr. Kenneth Smith

December 3, 1982

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These are our suggestions and I will be pleased to discuss any or all of them with you.

Sincerely,



Ted Bryant
Director of Native
American Programs