

income lost as a direct result of the seizure and detention, based on the value of the average catch-per-day's fishing during the three most recent calendar years immediately preceding the seizure as determined by the Secretary, based on catch rates on comparable vessels in comparable fisheries. The compensable period for cases of seizure and detention not resulting in vessels confiscation is limited to the elapsed time from seizure to the time after release when the vessel could reasonably be expected to return to the point of seizure. The compensable period in cases where the vessel is confiscated is limited to the elapsed time from seizure through the date of confiscation, plus an additional period to purchase a replacement vessel and return to the point of seizure. In no case can the additional period exceed 120 days.

(1) Compensation for confiscation of vessels, where no buy-back has occurred, will be based on market value which will be determined by averaging estimates of market value obtained from as many vessel surveyors or brokers as the Secretary deems practicable;

(2) Compensation for capital equipment other than vessel, will be based on depreciated replacement cost;

(3) Compensation for expendable items and crew's belongings will be 50 percent of their replacement costs; and

(4) Compensation for confiscated catch will be for full value, based on the price-per-pound.

(b) *Fuel expense.* Compensation for fuel expenses will be based on the purchase price, the time required to run to and from the fishing grounds, the detention time in port, and the documented fuel consumption of the vessel.

(c) *Stolen or confiscated property.* If the claimant was required to buy back confiscated property from the foreign country, the claimant may apply for reimbursement of such charges under section 3 of the Act. Any other property confiscated is reimbursable from this Guaranty Fund. Confiscated property is divided into the following categories:

(1) Compensation for confiscation of vessels, where no buy-back has occurred, will be based on market value which will be determined by averaging estimates of market value obtained from as many vessel surveyors or brokers as the Secretary deems practicable;

(2) Compensation for capital equipment other than a vessel, will be based on depreciated replacement cost;

(3) Compensation for expendable items and crew's belongings will be 50 percent of their replacement cost; and

(4) Compensation for confiscated catch will be for full value, based on the price-per-pound.

(d) *Insurance proceeds.* No payments will be made from the Fund for losses covered by any policy of insurance or other provisions of law.

(f) *Appeals.* All determinations under this section are final and are not subject to arbitration or appeal.

§ 33.10 Payments.

The Office Director, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, will pay the claimant the amount calculated under § 33.9. Payment will be made as promptly as practicable, but may be delayed pending the appropriation of sufficient funds, should fee collections not be adequate to sustain the operation of the Fund. The Director shall notify the claimant of the amount approved for payment as promptly as practicable and the same shall thereafter constitute a valid, but non-interest bearing obligation of the Government. Delays in payments are not a direct consequence of seizure and detention and cannot therefore be construed as increasing the compensable period for lost fishing time. If there is a question about distribution of the proceeds of the claim, the Director may request proof of interest from all parties, and will settle this issue.

§ 33.11 Records.

The Office Director, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs will have the right to inspect claimants' books and records as a precondition to approving claims. All claims must contain written authorization of the guaranteed party for any international, federal, state, or local governmental Agencies to provide the Office Director, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs any data or information pertinent to a claim.

§ 33.12 Penalties.

Persons who willfully make any false or misleading statement or representation to obtain compensation from the Fund are subject to criminal prosecution under 22 U.S.C. 1980(g). This provides penalties up to \$25,000 or imprisonment for up to one year, or both. Any evidence of criminal conduct will be promptly forwarded to the United States Department of Justice for action. Additionally, misrepresentation, concealment, or fraud, or acts intentionally designed to result in

seizure, may void the guaranty agreement.

Dated: August 13, 1996.

Eileen Claussen,

Assistant Secretary for Oceans and International Environmental and Scientific Affairs.

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DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 91

[OJP No. 1099]

RIN 1121-AA41

Grants Program for Indian Tribes

AGENCY: Office of Justice Programs, Justice.

ACTION: Interim rule.

SUMMARY: This document announces an interim rule and requests comments on provisions that implement the Violent Offender Incarceration and Truth-In-Sentencing Grants Program for Indian Tribes as required by Section 114 of the Fiscal Year 1996 Omnibus Consolidated Rescissions and Appropriations Act.

DATES: This rule becomes effective September 24, 1996. All comments must be received by October 24, 1996.

ADDRESSES: All comments should be addressed to Larry Meachum, Director, the Corrections Program Office, Office of Justice Programs, 633 Indiana Ave., NW., 4th Floor, Washington, DC, 20531.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen P. Amos, the Corrections Program Office at (202) 848-6325.

SUPPLEMENTARY INFORMATION:

Overview of the Violent Offender Incarceration and Truth-In-Sentencing Grants Program for Indian Tribes

Section 114 of the Fiscal Year 1996 Omnibus Consolidated Rescissions and Appropriations Act, Public Law 104-134 (April 26, 1996) ("Appropriations Act") amends the Violent Crime Control and Law Enforcement Act of 1994, Subtitle A of Title II, Public Law 103-322, 108 Stat. 1796 (September 13, 1994), as amended, codified at 42 U.S.C. 13701 et seq., to authorize a reservation of funds for the specific purpose of allowing the Attorney General to make discretionary grants to Indian tribes. Specifically, from amounts appropriated to implement Subtitle A of Title II, the Appropriations Act allocates 0.3 percent in each of fiscal years 1996 and 1997 and 0.2 percent in each of fiscal years

1998, 1999 and 2000, for discretionary grants to Indian tribes. Appropriated funds for this grant program in fiscal year 1996 total \$1.2 million. Awarded grants must be used for purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

Administrative Requirements

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. This rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly, this rule has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Assistant Attorney General, Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. § 605(b)), has reviewed this Interim Rule and, by approving it, certifies that the Interim Rule will not have a significant economic impact on a substantial number of small entities. The Assistant Attorney General, Office of Justice Programs determined: (1) Interim Rule provides the outline of a program governing the award of grants to Indian Tribes; and (2) the award of such grants impose no requirements on small businesses or on other small entities, and as such, the Interim Rule would be in accordance with the Regulatory Flexibility Act.

National Environmental Policy Act of 1969

This regulation has been reviewed in accordance with the Office of Justice Program's Procedures for Implementing the National Environmental Policy Act, 28 CFR Part 61. The Assistant Attorney General for the Office of Justice Programs has determined that this regulation does not constitute a major federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Small Business Regulatory Enforcement Fairness Act of 1996

This regulation will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based

companies to compete with foreign-based companies in domestic and export markets and therefore is not a major rule, as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the public sector, of \$100,000,000 or more in any one year and will not significantly or uniquely affect small governments.

List of Subjects in 28 CFR Part 91

Grant Programs—Law, Indians—tribal government.

For the reasons set out in the preamble, Title 28, Part 91, of the Code of Federal Regulations is proposed to be amended as follows:

PART 91—GRANTS FOR CORRECTIONAL FACILITIES

1. The authority citation for part 91 is revised to read as follows:

Authority: Sec. 20105 of Subtitle A, Title II of the Violent Crime Control and Law Enforcement Act of 1994, unless otherwise noted.

2. A new Subpart C is added to read as follows:

Subpart C—Violent Offender Incarceration and Truth-in-Sentencing Grant Programs for Indian Tribes

Sec.

- 91.21 Purpose.
- 91.22 Definitions.
- 91.23 Grant authority.
- 91.24 Grant distribution.

Authority: 42 U.S.C. 13701 et seq. as amended by Pub.L. 104-134.

§ 91.21 Purpose.

This part sets forth requirements and procedures to award grants to Indian Tribes for purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

§ 91.22 Definitions.

(a) *The Act* means the Violent Crime Control and Law Enforcement Act of 1994, Subtitle A of Title II, Public Law 103-322, 108 Stat. 1796 (September 13, 1994) as amended by the Fiscal Year 1996 Omnibus Consolidated Rescissions and Appropriations Act, Public Law 104-134 (April 26, 1996), codified at 42 U.S.C. 13701 et seq.

(b) *Assistant Attorney General* means the Assistant Attorney General for the Office of Justice Programs.

(c) *Tribal lands* means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States

Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of way running through the same.

(d) *Indian Tribe* means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law 103-454, 108 Stat. 4791, and which performs law enforcement functions as determined by the Secretary of the Interior.

(e) *Construct jails* means constructing, developing, expanding, modifying, or renovating jails and other correctional facilities.

§ 91.23 Grant authority.

(a) The Assistant Attorney General may make grants to Indian tribes for programs that involve constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

(b) Applications for grants under this program shall be made at such times and in such form as may be specified by the Assistant Attorney General.

Applications will be evaluated according to the statutory requirements of the Act and programmatic goals.

(c) Grantees must comply with all statutory and program requirements applicable to grants under this program.

§ 91.24 Grant distribution.

(a) From the amounts appropriated under section 20108 of the Act to carry out sections 20103 and 20104 of the Act, the Assistant Attorney General shall reserve, to carry out this program—

(1) 0.3 percent in each fiscal years 1996 and 1997; and

(2) 0.2 percent in each of fiscal years 1998, 1999 and 2000.

(b) From the amounts reserved under paragraph (a) of this section, the Assistant Attorney General may exercise discretion to award or supplement grants to such Indian Tribes and in such amounts as would best accomplish the purposes of the Act.

Dated: September 17, 1996.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 96-24324 Filed 9-23-96; 8:45 am]

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