

all programing funds. The Commissioner shall report the deficient performance of any aspect of a plan to the Secretary, together with the corrective measures he has taken or intends to take.

## PART 88—RECOGNITION OF ATTORNEYS AND AGENTS TO REPRESENT CLAIMANTS

Sec.

88.1 Employment of attorneys.

88.2 Employment by tribes or individual claimants.

AUTHORITY: 5 U.S.C. 301.

CROSS REFERENCES: For law and order regulations on Indian reservations, see part 11 of this chapter. For probate procedure, see part 15 of this chapter. For regulations governing the admission of attorneys to practice before the Department of the Interior and the offices and bureaus thereof, see 43 CFR part 1. For regulations governing the execution of attorney contracts with Indians, see part 89 of this subchapter.

### §88.1 Employment of attorneys.

(a) Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461-479), as amended, may employ legal counsel. The choice of counsel and the fixing of fees are subject under 25 U.S.C. 476 to the approval of the Secretary of the Interior or his authorized representative.

(b) Attorneys may be employed by Indian tribes not organized under the Act of June 18, 1934, under contracts subject to approval under 25 U.S.C. 81 and the Reorganization Plan No. 3 of 1950, 5 U.S.C. 481, note, by the Secretary of the Interior or his authorized representative.

(c) Any action of the authorized representative of the Secretary of the Interior which approves, disapproves or conditionally approves a contract pursuant to paragraph (a) or (b) of this section shall be final.

(d) Practice of such attorneys before the Bureau of Indian Affairs and the Department of the Interior is subject to the requirements of 43 CFR 1.1 through 1.7.

[27 FR 11548, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

### §88.2 Employment by tribes or individual claimants.

All such attorneys or agents seeking approval of their employment by Indian tribes or desiring to represent individual claimants before the Indian Bureau shall be required to comply fully with the regulations of the Department promulgated September 27, 1917, governing admission to practice, and to take the oath of allegiance and to support the Constitution of the United States, as required by section 3478 of the United States Revised Statutes (31 U.S.C. 204).

[22 FR 10538, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

## PART 89—ATTORNEY CONTRACTS WITH INDIAN TRIBES

### TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

Sec.

- 89.1 Contracts with organized tribes.
- 89.2 Admission to practice.
- 89.3 Tentative form of contract.
- 89.4 Report of Superintendent.
- 89.5 Fees and expenses.
- 89.6 Funds in Federal Treasury.

### TRIBES NOT ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

- 89.7 Statutes governing.
- 89.8 Selection of counsel.
- 89.9 Record of council proceedings.
- 89.10 Resolution required.
- 89.11 Authentication of resolution.
- 89.12 Negotiation by tribal business committee.
- 89.13 Limitation of authority.
- 89.14 Employment by tribal business committees.
- 89.15 Vote by secret ballot.
- 89.16 Notice from the tribe.
- 89.17 Notice from attorneys.
- 89.18 Tentative form of contract.
- 89.19 Execution in quintuplicate.
- 89.20 Report of superintendent.
- 89.21 Copies of approved contracts.
- 89.22 Qualifications of attorneys.
- 89.24 Fees and expenses.
- 89.25 Invalid contracts.
- 89.26 Governing bodies without express authority to contract.

### FIVE CIVILIZED TRIBES

- 89.30 Contents and approval of contracts.
- 89.31 Negotiation of contract.
- 89.32 Notice from the principal officer.
- 89.33 Notice from attorney.
- 89.34 Tentative form of contract.

## § 89.1

89.35 Execution in quintuplet.

### PAYMENT OF TRIBAL ATTORNEY FEES WITH APPROPRIATED FUNDS

89.40 General policy.

89.41 Exceptions to policy.

89.42 Factors to be considered.

89.43 Procedures.

AUTHORITY: 5 U.S.C. 301; secs. 89.1 to 89.6 also issued under 25 U.S.C. 476; secs. 89.7 to 89.29 also issued under 25 U.S.C. 81; secs. 89.30 to 89.35 also issued under 25 U.S.C. 2, 9 and 82(a); secs. 89.40 to 89.43 also issued under 25 U.S.C. 13, 450 et. seq.

CROSS REFERENCE: For recognition of attorneys and agents to represent claimants, see part 88 of this subchapter.

### TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

#### § 89.1 Contracts with organized tribes.

(a) Negotiation and execution of tribal attorney contracts with Indian tribes organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461-479), as amended, shall be in accordance with the provisions of the approved constitution or charter of the respective tribes.

(b) The Secretary of the Interior or his authorized representative is authorized to approve pursuant to 25 U.S.C. 476 the selection of counsel and the amount of fees and expenses to be paid under any such contract.

[27 FR 11548, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

#### § 89.2 Admission to practice.

Attorneys employed by tribes organized under the Indian Reorganization Act, shall be required to be admitted to practice before the Interior Department and the bureaus thereof, under the provisions of the act of July 4, 1884 (23 Stat. 101; 5 U.S.C. 493).

[22 FR 10538, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

CROSS REFERENCE: For rules and regulations governing admission to practice before the Interior Department and the bureaus thereof, see 43 CFR part 1.

#### § 89.3 Tentative form of contract.

A tribal council or representative body having authority to employ legal counsel in behalf of an organized tribe, may, if it desires, obtain a tentative

## 25 CFR Ch. I (4-1-98 Edition)

form of contract by written request directed to the office of any area director or agency superintendent, or to the Commissioner of Indian Affairs. Requests for forms should include a statement of the scope of the intended employment; that is, whether an attorney is desired for investigation and prosecution of tribal claims against the United States, or as a general legal counsel in connection with the ordinary business of the tribe, or specific problems on which legal advice is desired, or specific matters requiring representation in court or before committees of Congress and the departments of the Government. The period for which an attorney is desired should be stated.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

#### § 89.4 Report of Superintendent.

Contracts executed by organized tribes should be transmitted to the Area Director by the Superintendent, with a report based upon references and independent inquiry concerning the qualifications of the attorney and his ability to perform the services required by the contract, and including the superintendent's recommendation with reference to approval of the contract.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

#### § 89.5 Fees and expenses.

Funds held in the treasury of an organized tribe may be used by the tribe for payment of fees and expenses of an attorney. A contract providing for payment of fees and/or expenses should be accompanied by an appropriation act passed by the governing body of the tribe in accordance with the requirements of the tribal constitution or charter, appropriating sufficient tribal funds for payment of fees and/or expenses as provided by the contract. The amount of tribal funds held in the tribal treasury, not otherwise appropriated and available for payment of fees and expenses, should be stated.

[22 FR 10538, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.6 Funds in Federal Treasury.**

Under rulings of the Comptroller General and section 27 of the act of May 18, 1916 (39 Stat. 158; 25 U.S.C. 123), tribal funds held in the United States Treasury may not be used for payment of attorney fees and expenses in the absence of express authorization by Congress.

[22 FR 10538, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

TRIBES NOT ORGANIZED UNDER THE  
INDIAN REORGANIZATION ACT

**§ 89.7 Statutes governing.**

The negotiation and execution of tribal attorney contracts with tribes not organized under the Indian Reorganization Act must be in strict accordance with the requirements of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81).

[22 FR 10538, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.8 Selection of counsel.**

Except as stated in §§ 89.12 through 89.15 and 89.26, a tribal attorney or technical specialist and tribal delegates to execute a contract shall be selected by a general council or meeting of the tribe, to be called by the superintendent of the particular reservation.

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.9 Record of council proceedings.**

A report should be made of the proceedings of the council, certified to by the Superintendent or his representative as correct, and a copy thereof should be sent to the Area Director with the contract.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.10 Resolution required.**

The selection of counsel and of tribal delegates to execute a contract in behalf of the tribe shall be set forth in a resolution or resolutions which shall be attached to and made a part of the contract.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.11 Authentication of resolution.**

The resolution shall be signed by the presiding officer of the general council, attested by the secretary of the general council, and certified by the superintendent.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.12 Negotiation by tribal business committee.**

A tribal business committee, advisory board, or other similar representative body having standing authority to act for and in behalf of the tribe in matters of importance, may, when it finds that there is a substantial need and demand for retention of tribal counsel, negotiate with an attorney or attorneys.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.13 Limitation of authority.**

The tribal business committee or other representative body, when proceeding under § 89.12 should carefully investigate, with the assistance of the superintendent if desired, the qualifications of available attorneys, bearing in mind the purpose for which counsel is desired and except as provided in § 89.14 shall carry on its negotiations with attorneys subject to the distinct understanding that final action on the selection and employment of counsel shall be had in a general council or meeting of the tribe or as otherwise provided under § 89.15, subject to approval by the Secretary of the Interior or his authorized representative as required by law.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.14 Employment by tribal business committees.**

In case the tribal business committee or board has specific authority from the tribe to employ tribal attorneys and to execute a contract for that purpose, the tribal business committee or board may negotiate with attorneys and enter into a contract subject to approval of the Secretary of the Interior

**§ 89.15**

or his authorized representative as provided by law.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.15 Vote by secret ballot.**

Those tribes accustomed to act on important tribal matters by secret ballot or by vote in district meetings, or in some other manner, may apply through their proper officers to the Area Director for permission to consider and act upon employment of tribal counsel in the manner preferred by the tribe rather than by a general council or meeting.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.16 Notice from the tribe.**

Notice of intention to negotiate with attorneys should be sent to the superintendent by the proper tribal officers, accompanied by a full statement concerning the need for retaining counsel, showing in detail the purposes for which an attorney is needed, the scope of his intended employment, and a reference to the tribal funds, if any, which the tribe believes should be made available for payment of counsel fees and expenses. The notice and statement should be transmitted to the Area Director by the Superintendent with the latter's report and recommendations.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.17 Notice from attorneys.**

Attorneys desiring to execute contracts with Indian tribes shall be required to give written notice directed through the superintendent to the Area Director in advance of all negotiations.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.18 Tentative form of contract.**

A tentative form of contract may be obtained from any agency office, area office, or the Commissioner of Indian Affairs. When the attorney or tribe proposing to execute a contract desires to make substantial changes in the tentative form, the proposed changes should be submitted through the superintendent to the Area Director for ap-

**25 CFR Ch. I (4-1-98 Edition)**

proval as to form prior to execution of a contract.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.19 Execution in quintuplicate.**

The contract should be executed in quintuplicate, and all copies should be transmitted by the superintendent to the Area Director.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.20 Report of superintendent.**

The superintendent should submit a report when transmitting the contract, setting forth the qualifications and general reputation of the attorney selected, based upon references and independent inquiry by the superintendent, and the superintendent's recommendation concerning approval of the contract.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.21 Copies of approved contracts.**

The original of all approved contracts will be retained by the Area Director with a copy to the tribal governing body, attorney, Superintendent and Commissioner. The Commissioner's copy should be completely supported by copies of the recommendation of the Superintendent or Officer in Charge, Regional Solicitor's or Field Solicitor's opinions, and any other pertinent data which will permit the records of the Commissioner's office to reflect the full current status of approved attorney contracts in each instance.

[27 FR 11549, Nov. 24, 1962. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.22 Qualifications of attorneys.**

The person selected as attorney should be a reputable member of the bar, and fully competent to carry the case through the Court of Claims, and to the Supreme Court of the United States, if necessary.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.24 Fees and expenses.**

Under rulings of the Comptroller General and section 27 of the act of

## Bureau of Indian Affairs, Interior

## § 89.32

May 18, 1916 (39 Stat. 158; 25 U.S.C. 123), tribal funds held in the United States Treasury may not be used for payment of attorney fees and expenses, in the absence of express authorization by Congress. Unless congressional authority has been obtained for the use of tribal funds, the payment of attorney fees and expenses shall be contingent upon a recovery by the Indians in the matters or claims covered in the contract. In case congressional authority has been obtained for the use of tribal funds for attorney fees and expenses, the provisions of the contract concerning the payment of such fees and expenses should strictly conform to the provisions of the act authorizing the use of the funds.

[22 FR 10539, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

### § 89.25 Invalid contracts.

The following is especially pointed out. 25 U.S.C. 81 provides further that all contracts made in violation of that section shall be null and void. Under 25 U.S.C. 84 and Reorganization plan No. 3 of 1950, 5 U.S.C. 481 note, no assignment of any such contract shall be valid without the consent of the Secretary of the Interior or his authorized representative. 25 U.S.C. 85 declares that no contract with any individual Indian relating to tribal property shall have any validity unless the consent of the United States has previously been given thereto.

[25 FR 1689, Feb. 26, 1960. Redesignated at 47 FR 13327, Mar. 30, 1982]

### § 89.26 Governing bodies without express authority to contract.

In the following cases, the entity or spokesman officially recognized as having authority to act for a tribe may both negotiate and conclude contracts for the services of legal counsel pursuant to applicable provisions of this part:

- (a) In the absence of tribal governing documents, or
- (b) When such documents do not expressly authorize the governing body of a tribe to conclude such contracts and do not provide for calling a tribal meeting to authorize concluding such contracts pursuant to § 89.8, and con-

vening a tribal general council is not deemed feasible.

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

## FIVE CIVILIZED TRIBES

### § 89.30 Contents and approval of contracts.

All contracts for the services of legal counsel or technical specialists negotiated and executed with the Choctaw, Chickasaw, Cherokee, Creek, or Seminole Tribes or Nations, also known as the Five Civilized Tribes, shall be in strict compliance with the requirements of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81).

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

### § 89.31 Negotiation of contract.

That person or governing entity recognized as having authority to act for and in behalf of any one of the Five Civilized Tribes in matters of importance may, when it is found there is a substantial need and demand therefor, negotiate and contract for services of a tribal counsel or counsels and technical specialist or specialists, subject to the approval of the Secretary of the Interior or his authorized representative.

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

### § 89.32 Notice from the principal officer.

Notice of intention to negotiate with attorneys or with technical specialists shall be sent by the principal tribal officer to the Superintendent. Such notice shall be accompanied by a full statement concerning the need for retaining counsel or specialists, as the case may be, the purpose for which such assistance is needed and the scope of the intended employment. The notice and statement shall be transmitted to the Area Director by the Superintendent together with the latter's report and recommendations with respect to the approval of such contract.

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.33 Notice from attorney.**

Attorneys desiring to execute contracts with any one of the Five Civilized Tribes shall be required to give written notice to the Area Director through the Superintendent having jurisdiction over said tribe.

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.34 Tentative form of contract.**

The principal officer of any one of the Choctaw, Cherokee, Creek, Seminole, and Chickasaw Tribes may, if he desires, obtain a tentative form of contract by written application to the office of the appropriate Agency Superintendent. Requests for forms for an attorney contract should include a statement reciting whether the attorney is desired as a general legal counsel in connection with the business of the tribe or as counsel in respect to specific problems on which legal counsel is desired, or specific matters requiring representation in court or before committees of Congress and the Departments of Government. Requests for forms for technical service contracts should include a statement of the particular type of service required and the purpose for which it is needed. The anticipated term of each proposed contract should be stated.

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

**§ 89.35 Execution in quintuplet.**

The contract should be executed in quintuplet, and all copies of it shall be transmitted by the Superintendent to the Area Director.

[37 FR 10440, May 23, 1972. Redesignated at 47 FR 13327, Mar. 30, 1982]

PAYMENT OF TRIBAL ATTORNEY FEES  
WITH APPROPRIATED FUNDS

SOURCE: 48 FR 3969, Jan. 28, 1983, unless otherwise noted.

**§ 89.40 General policy.**

In ordinary circumstances, legal services with respect to trust resources are provided for Indian tribe(s):

(a) By private counsel employed by tribes when such tribe is financially able and elects to do so, or

(b) By the United States as trustee through the Office of the Solicitor and/or the Department of Justice.

It is the policy of the Department of the Interior not to use federally appropriated funds to pay for private counsel to represent Indian tribes. Exceptions to that policy are listed in § 89.41 of this part.

**§ 89.41 Exceptions to policy.**

The Assistant Secretary—Indian Affairs upon concurrence of the Solicitor and receipt of a recommendation as provided by § 89.43 may, in his/her discretion, authorize the direct or indirect expenditure of appropriated funds to pay reasonable attorney's fees in order to permit an Indian tribe to secure private legal representation in the following circumstances:

(a) When a tribe determines it necessary to bring a court action or to defend itself to protect its trust resources, rights claimed under a treaty, agreement, executive order, or statute, or its governmental powers and the Attorney General refuses assistance or advises that assistance is not otherwise available (Comptroller General's Opinion B-114868, December 6, 1976).

(b) When a tribe determines it necessary to institute or to defend itself in an administrative proceeding to protect its trust resources, rights claimed under a treaty, agreement, executive order, or statute, or to protect its governmental powers and the Solicitor is unable to provide representation due to a conflict of interest or other reasons.

(c) When a tribe determines legal assistance necessary, other than for litigation, pursuant to a contract executed under Pub. L. 93-638 and the Solicitor has determined that the services of his office are not available.

(d) When a tribe determines it critical, and the Assistant Secretary—Indian Affairs finds the concerns of the tribe to have merit after consultation with and the advice of the Solicitor, to intervene, in a lawsuit being handled by the Justice Department or in an administrative proceeding being handled by the Solicitor because the responsible Government Attorney refuses either to exclude or to include some facet of the suit or proceedings which

the tribe claims renders such legal representation completely inadequate to protect or in contravention of the rights and interests of the tribe. Prior to consulting with and advising the Assistant Secretary—Indian Affairs, in a lawsuit being handled by the Justice Department, the Solicitor shall seek the comments and advice of the Attorney General.

(e) When a tribe determines, and the Assistant Secretary—Indian Affairs, after consultation with the Solicitor concurs, that a substantial possibility of a negotiated settlement or agreement exists.

(f) Payment of fees will not be allowed if such payment was not authorized before services were performed.

(g) This rule applies to expenditure of appropriated Federal funds and not a tribe's own funds on deposit in the U.S. Treasury.

#### § 89.42 Factors to be considered.

The following factors are to be considered in determining whether funds should be paid to provide private legal representation for a tribe.

(a) The merits of the legal position which the tribe asserts. Greater weight will be given to those cases where the tribe's legal argument is deemed particularly meritorious than to those cases where the tribe's position, although not entirely without merit, may be relatively weak;

(b) The ability of the tribe to pay all or a part of its legal expenses out of its own funds. A review of the tribe's financial resources under this subsection will include an examination of the tribe's total expenditures to determine whether its expenditures for other purposes comport with the asserted importance of the case for which it seeks funds;

(c) Whether the question the tribe seeks to litigate is being litigated in another case by another tribe;

(d) Whether, as a matter of strategy, the issues the tribe seeks to litigate could be more satisfactorily resolved in another forum, in a different factual context, or a different time; and

(e) Whether the issue should be litigated at all in preference to a legislative or other solution.

#### § 89.43 Procedures.

The information collection requirements contained in this section do not require approval by the Office of Management and Budget under 44 U.S.C. 3051 *et seq.*, because it is anticipated there will be fewer than 10 respondents annually.

(a) A tribe or other organization seeking funds under § 89.41 shall submit a written request through the Agency Superintendent and the Area Director, including

(1) A detailed statement describing the nature and scope of the problems for which legal services are sought;

(2) A statement of the terms, including total anticipated costs, of the requested legal services contract;

(3) A current financial statement and a statement that the tribe does not possess sufficient tribal funds or assets to pay for all or a part of the legal services sought; and

(4) A statement of why the matter must be handled by a private attorney as opposed to Department of Justice or Department of Interior attorneys.

All requests shall be considered by a committee consisting of the Deputy Assistant Secretary—Indian Affairs (Policy), or his delegate, the Director of the Office of Trust Responsibilities in BIA or his delegate, and the Associate Solicitor—Indian Affairs or his delegate.

(b) If two of the three committee members recommend approval of a tribe's request, the request, along with the committee's recommendation, shall be submitted to the Assistant Secretary for final determination after consultation with and the advice of the Solicitor. The committee's recommendation shall indicate the amount of funds recommended to assist the tribe, the hourly rate allowed, the maximum amount permitted to be expended in the recommended action and the tribal contributions, if any. The Assistant Secretary shall approve the request only with the concurrence of the Solicitor.

(c) The requirements imposed by this policy are supplementary to those contained in all existing regulations dealing with attorney contracts with Indian tribes and, in particular, those

contained in parts 88 and 89 of this title.

## PART 90—ELECTION OF OFFICERS OF THE OSAGE TRIBE

### GENERAL

Sec.

- 90.1 Definitions.  
90.2 Statutory provisions.

### ELIGIBILITY

- 90.21 General.

### ELECTIONS

- 90.30 Nominating conventions and petitions.  
90.31 Applicability.  
90.32 Election Board.  
90.33 Watchers and challengers.  
90.35 List of voters.  
90.36 Disputes on eligibility of voters.  
90.37 Election notices.  
90.38 Opening and closing of poll.  
90.39 Voters to announce name and residence.  
90.40 Ballots.  
90.41 Absentee voting.  
90.42 Absentee ballots.  
90.43 Canvass of election returns.  
90.44 Statement of supervisor.  
90.45 Electioneering.  
90.46 Notification of election of tribal officers.  
90.47 Contesting elections.  
90.48 Notice of contest.  
90.49 Expenses of elections.

AUTHORITY: Sec. 9, 34 Stat. 539; sec. 7, 45 Stat. 1478; 71 Stat. 471, unless otherwise noted.

SOURCE: 23 FR 1948, Mar. 25, 1958; 23 FR 2026, Mar. 27, 1958, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### GENERAL

#### §90.1 Definitions.

As used in this part:

(a) The term *supervisor* means the tribal election official chosen and appointed by the Principal Chief or Assistant Principal Chief to act as chairman of the election board and shall in the absence of the supervisor denote the Assistant Supervisor.

#### §90.2 Statutory provisions.

Section 7 of the Act of March 2, 1929 (45 Stat. 1481) provides in part as follows:

That there shall be a quadrennial election of officers of the Osage Tribe as follows: A

principal chief, an assistant principal chief, and eight members of the Osage tribal council, to succeed the officers elected in the year 1928, said officers to be elected at a general election to be held in the town of Pawhuska, Oklahoma, on the first Monday in June 1930 and on the first Monday in June each four years thereafter, in the manner to be prescribed by the Commissioner of Indian Affairs, and said officers shall be elected for a period of four years commencing on the 1st day of July following said elections. \* \* \*

### ELIGIBILITY

#### §90.21 General.

Only members of the Osage Tribe who will be eighteen years of age or over on election day and whose names appear on the quarterly annuity roll at the Osage Agency as of the last quarterly payment immediately preceding the date of election will be entitled to hold office or vote for any tribal officers. Each such voter shall be entitled to cast one ballot and each ballot shall have exactly the same value as the voter's headright interest shown on the last quarterly annuity roll. Any fraction of a headright, however, shall be valued as to the first two decimals only unless such interest is less than one-hundredth of a share, then it shall have its full value.

(45 Stat. 1481)

[43 FR 8798, Mar. 3, 1978. Redesignated at 47 FR 13327, Mar. 30, 1982]

### ELECTIONS

#### §90.30 Nominating conventions and petitions.

Conventions shall be held on or before the first Monday in April of the year in which a quadrennial election is held, and there shall be written reports of such conventions, duly certified by the secretary or presiding officer showing total number of qualified voters in attendance, together with the names of candidates nominated for the various offices: *Provided*, That at least 25 qualified voters shall have been in attendance at any such convention; also, names of any independent candidates nominated by petition of not less than 25 qualified voters, each signature to be witnessed by two persons, shall be filed with the supervisor not later than 5 p.m. on the first Monday in April of the