

## Bureau of Indian Affairs, Interior

## § 88.1

shall be transferred to the U.S. Treasury as "Monies Belonging to Individuals Whose Whereabouts are Unknown."

[41 FR 48735, Nov. 5, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

### § 87.11 Investment of judgment funds.

As soon as possible after the appropriation of judgment funds and pending approval of a plan or the enactment of legislation authorizing the use or distribution of the funds, the Commissioner shall invest such funds pursuant to 25 U.S.C. 162a. Investments of judgment funds and of investment income therefrom will continue to be made by the Commissioner after the approval of a plan or enactment of use or distribution legislation to the extent funds remain available for investment under such plan or legislation, and provided that thereafter investments of judgment funds made available for tribal use are not undertaken by the tribe pursuant to authorizing law. Invested judgment funds, including investment income therefrom, shall be withdrawn from investment only as currently needed under approved plans or legislation authorizing the use or distribution of such funds.

### § 87.12 Insuring the proper performance of approved plans.

A timetable prepared in cooperation with the tribal governing body shall be included in the plan submitted by the Secretary for the implementation of all programming and enrollment aspects of a plan. At any time within one calendar year after the approval date of a plan, the Area Director shall report to the Commissioner on the status of the implementation of the plan, including all enrollment and programming aspects, and thenceforth shall report to the Commissioner on an annual basis regarding any remaining or unfulfilled aspects of a plan. The Area Director shall include in his first and all subsequent annual reports a statement regarding the maintenance of the timetable, a full accounting of any per capita distribution, and the expenditure of all programming 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**

**25 CFR Ch. I (4-1-05 Edition)**

**§ 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]

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]

**PART 89—ATTORNEY CONTRACTS WITH INDIAN TRIBES**

TRIBES ORGANIZED UNDER THE INDIAN REORGANIZATION ACT

Sec.

89.1-89.26 [Reserved]

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.
- 89.35 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. 89.30 to 89.35 also issued under 25 U.S.C. 2, 9, and 82a; 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

**§ 89.1-89.26 [Reserved]**

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,

**§ 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]