

(b) *Factor No. 2—Countermeasure selection* (Up to 40 points available). In awarding points under this factor, BIA will take into account the following:

(1) Whether the countermeasures selected are the most effective for the identified highway safety problem.

(2) Whether the countermeasures selected are cost effective.

(3) Whether the applicant's objectives are realistic and attainable.

(4) Whether the applicant's objectives are time framed and, if so, whether the time frames are realistic and attainable.

(c) *Factor No. 3—Tribal Leadership and Community Support* (Up to 10 points available). In awarding points under this factor, BIA will take into account the following:

(1) Whether the applicant proposes using tribal resources in the project.

(2) Whether the appropriate tribal governing body supports the proposal plan, as evidenced by a tribal resolution or otherwise.

(3) Whether the community supports the proposal plan, as evidenced by letters or otherwise.

(d) *Factor No. 4—Past Performance* (+ or - 10 points available). In awarding points under this factor, BIA will take into account the following:

(1) Financial and programmatic reporting requirements.

(2) Project accomplishments.

#### **§ 181.6 How are applicants informed of the results?**

BIA will send a letter to all applicants notifying them of their selection or non-selection for participation in the Indian Highway Safety Program for the upcoming fiscal year. BIA will explain to each applicant not selected for participation the reason(s) for non-selection.

#### **§ 181.7 Appeals.**

You may appeal actions taken by BIA officials under this part by following the procedures in 25 CFR part 2.

## **PART 183—USE AND DISTRIBUTION OF THE SAN CARLOS APACHE TRIBE DEVELOPMENT TRUST FUND AND SAN CARLOS APACHE TRIBE LEASE FUND**

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AUTHORITY: Pub. L. 102–575, 106 Stat. 4740 *et seq.*

SOURCE: 66 FR 21088, Apr. 27, 2001, unless otherwise noted.

**Subpart A—Introduction**

**§ 183.1 What is the purpose of this part?**

This part implements section 3707(e) of the San Carlos Apache Tribe Water Settlement Act (the Act), Public Law 102–575, 106 Stat. 4748, that requires regulations to administer the Trust Fund, and the Lease Fund established by the Act.

**§ 183.2 What terms do I need to know?**

In this part:

*Administrative costs* means any cost, including indirect costs, incurred by the Tribe reasonably related to an allowed use of funds under the Settlement Act, including indirect costs.

*Beneficial use* means any use to which the Tribe’s water entitlement is put that is authorized by the Settlement Act, the Settlement Agreement, or by the Tribal Council under the Settlement Act, the Settlement Agreement or otherwise permitted by law.

*CAP* means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 *et seq.*).

*Community development project or purpose* means any business, recreational, social, health, education, environment, or general welfare project approved by the Tribal Council for the benefit of any community within the reservation.

*Economic development project or purpose* means any commercial, industrial, agricultural, or business project approved by the Tribal Council for the purpose of profit to the Tribe.

*Income* means interest or income earned or accrued on the principal of the Trust Fund or the Lease Fund and is available for distribution to the Tribe in accordance with the Settlement Act and this part. Beginning with

calendar year 2001, any income that has been earned or has accrued on the principal of the Trust Fund or the Lease Fund and that has not been requested for distribution by the Tribe by December 31, shall become part of the principal of the Trust Fund or the Lease Fund on January 1 of the next calendar year.

*Lease Fund* means the San Carlos Apache Tribe Lease Fund established in the Treasury of the United States under section 3711(d)(3)(E)(iv) of the Settlement Act.

*Principal* means:

(1) The amount of funds in the Trust Fund or the Lease Fund as of January 1, 2002; and

(2) Any income thereon that is not distributed, and has been added to the principal, in accordance with the Settlement Act and this part.

*Pro forma budget* means a budget, and operating statement, showing the estimated results for operating the economic development project for two years after injection of the principal or income into the operation.

*Secretary* means the Secretary of the Interior or an authorized representative acting under delegated authority. The term “Secretary”:

(1) Includes the Regional Director for the Western Regional Office of the Bureau of Indian Affairs; and

(2) Does not include the Superintendent of the San Carlos Agency of the Bureau of Indian Affairs.

*Settlement Act* means the San Carlos Apache Tribe Water Settlement Act of 1992, Title XXXVII of Public Law 102–575, 106 Stat. 4740, and any amendments thereto.

*Settlement Agreement* means the agreement and any amendments executed and approved in accordance with the Settlement Act.

*Tribe* means the San Carlos Apache Tribe, a Tribe of Apache Indians, under the Apache Treaty, July 1, 1852, 10 Stat. 970, organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary of the Interior.

*Trust Fund* means the San Carlos Apache Tribe Development Trust Fund established in the Treasury of the

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United States under section 3707(b) of the Settlement Act.

We and us mean the Secretary of the Interior as defined in this section.

**§ 183.3 Does the American Indian Trust Fund Management Reform Act of 1994 apply to this part?**

Yes. We will manage and make distributions from the Trust Fund in accordance with the American Indian Trust Funds Management Act of 1994 (Management Act), except where the Management Act conflicts with the Settlement Act or this part. If there is a conflict, we will follow the provisions of the Settlement Act or this part.

**Subpart B—Trust Fund Disposition**

**USE OF PRINCIPAL AND INCOME**

**§ 183.4 How can the Tribe use the principal and income from the Trust Fund?**

The Tribe may use the principal and income from the Trust Fund in the following ways:

- (a) To put to beneficial use the water entitlement provided to the Tribe in the Settlement Act;
- (b) To defray the cost to the Tribe of CAP operation, maintenance, and replacement charges;
- (c) For economic development purposes; provided, however, that principal may only be used for long-term economic development projects and income may be used for other economic and community development purposes; and
- (d) For Administrative Costs reasonably related to the above uses.

**CLEARANCE REQUIREMENTS**

**§ 183.5 What documents must the Tribe submit to request money from the Trust Fund?**

To request a distribution of principal or income from the Trust Fund, the Tribe must submit to us all of the following documents.

- (a) A certified copy of a duly enacted resolution of the Tribal Council requesting a distribution from the Trust Fund;

- (b) A written budget and supporting documentation, approved by the Tribal Council, showing precisely how the tribe will spend the money, including what amounts should come from principal and what amounts should come from income;

- (c) A pro forma budget for each identified economic development project, and a program budget for each identified community development project; and

- (d) A certification stating that the Tribe will use the funds in accordance with budgets submitted under this section.

**§ 183.6 How long will it take to get a decision?**

Within 30 days of receiving the information required by §183.5 we will approve your request if it complies with the Settlement Act and this part. If we disapprove your request we will do so in writing and will provide you with the reasons for disapproval.

**§ 183.7 What would cause the Secretary to disapprove a request?**

We will only disapprove a request for the distribution of principal or income from the Trust Fund if the request does any of the following:

- (a) Fails to provide the documents identified in §183.5;
- (b) Fails to provide reports required under §§ 183.15 and 183.16; or
- (c) Includes a use requested or written budget that does not comply with a specific provision of the Settlement Act, or this part.

**LIMITATIONS**

**§ 183.8 How can the Tribe spend funds?**

- (a) The Tribe must spend principal or income distributed from the Trust Fund only in accordance with a written budget submitted under §183.5.
- (b) The Tribe must not spend the principal or income from the Trust Fund to make per capita payments to members of the Tribe.

**Subpart C—Lease Fund Disposition**

USE OF PRINCIPAL AND INCOME

**§ 183.9 Can the Tribe request the principal of the Lease Fund?**

No. We cannot distribute the principal from the Lease Fund to the Tribe.

**§ 183.10 How can the Tribe use income from the Lease Fund?**

The Tribe may use income from the Lease Fund for the following purposes:

- (a) For economic development purposes;
- (b) For community development purposes; and
- (c) For administrative costs reasonably related to the above.

CLEARANCE REQUIREMENTS

**§ 183.11 What documents must the Tribe submit to request money from the Lease Fund?**

To request a distribution of income from the Lease Fund, the Tribe must submit to us all of the following documents:

- (a) A certified copy of a duly enacted resolution of the Tribal Council requesting a distribution from the Lease Fund;
- (b) A pro forma budget for each identified economic development project and a program budget for each identified community development project, approved by the Tribal Council, showing precisely how the Tribe will spend the money;
- (c) Supporting documentation for the budgets required by paragraph (b) of this section, and
- (d) A certification stating that the Tribe will use the funds in accordance with budgets submitted under this section.

**§ 183.12 How long will it take to receive a decision?**

Within 30 days of receiving the information required by §183.11 we will approve your request if it complies with the Settlement Act and this part. If we disapprove your request we will do so in writing and will provide you with the reasons for disapproval.

**§ 183.13 What would cause the Secretary to disapprove a request?**

We will only disapprove a request for distribution of income from the Lease Fund if the request does any of the following:

- (a) Fails to provide the documents identified in §183.5;
- (b) Fails to provide reports required under §§183.15 and 183.16; or
- (c) Includes a use requested or written budget that does not comply with a specific provision of the Settlement Act or this part.

LIMITATIONS

**§ 183.14 What limits are there on how the Tribe can spend funds?**

- (a) The Tribe must spend income distributed from the Lease Fund only in accordance with a written budget submitted under §183.5.
- (b) The Tribe must not spend the income from the Lease Fund to make per capita payments to members of the Tribe.

**Subpart D—Reports**

**§ 183.15 Must the Tribe submit any reports?**

Yes. The Tribe must submit the following reports after receiving funds under this part:

- (a) An Annual Report, that must be submitted no later than December 31 of each year; and
- (b) A Financial Audit, that must be submitted no later than March 1 of each year.

**§ 183.16 What information must be included in the Tribe’s annual report?**

The Tribe’s annual report must contain the following information:

- (a) An accounting of the expenditures of funds distributed to the Tribe from the Trust Fund or the Lease Fund for the preceding 12 months;
- (b) A description, in detail, of how the Tribe has used the funds distributed from the Trust Fund or the Lease Fund consistently with the requirements in the Settlement Act, this part, and the budget approved by the Tribal Council and the Secretary; and

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(c) Sufficient documentation for us to determine that the Tribe has satisfied the requirements of paragraph (b) of this section.

**Subpart E—Liability**

**§ 183.17 If expenditures under this part lead to a claim or cause of action, who is liable?**

The Tribe may be liable. The United States must not be liable for any claim or cause of action arising from the Tribe's use or expenditure of monies distributed from the Trust Fund or the Lease Fund.

**§ 183.18 Information collection requirements**

The information collection requirements contained in this part do not meet the requirements of "ten or more persons" annually; therefore, the Office of Management and Budget does not need to clear the collection. You may direct comments concerning this information collection to the Bureau of Indian Affairs, Information Collection Control Officer, 1849 C Street, NW, Washington, DC 20240.