

Bureau of Indian Affairs, Interior

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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 479a-1; Pub. L. 103-454 Sec. 103 (Nov. 2, 1994); and 43 U.S.C. 1457.

SOURCE: 80 FR 37887, July 1, 2015, unless otherwise noted.

Subpart A—General Provisions

§ 83.1 What terms are used in this part?

As used in this part:

ALJ means an administrative law judge in the Departmental Cases Hearings Division, Office of Hearings and Appeals (OHA), Department of the Interior, appointed under 5 U.S.C. 3105.

Assistant Secretary or *AS-IA* means the Assistant Secretary—Indian Affairs within the Department of the Interior, or that officer's authorized representative, but does not include representatives of the Office of Federal Acknowledgment.

Autonomous means independent of the control of any other Indian governing entity.

Bureau means the Bureau of Indian Affairs within the Department of the Interior.

Continental United States means the contiguous 48 states and Alaska.

Department means the Department of the Interior, including the Assistant Secretary and OFA.

Documented petition means the detailed arguments and supporting documentary evidence submitted by a peti-

tioner claiming that it meets the Indian Entity Identification (§83.11(a)), Governing Document (§83.11(d)), Descent (§83.11(e)), Unique Membership (§83.11(f)), and Congressional Termination (§83.11(g)) Criteria and claiming that it:

(1) Demonstrates previous Federal acknowledgment under §83.12(a) and meets the criteria in §83.12(b); or

(2) Meets the Community (§83.11(b)) and Political Authority (§83.11(c)) Criteria.

Federally recognized Indian tribe means an entity listed on the Department of the Interior's list under the Federally Recognized Indian Tribe List Act of 1994, which the Secretary currently acknowledges as an Indian tribe and with which the United States maintains a government-to-government relationship.

Historical means before 1900.

Indigenous means native to the continental United States in that at least part of the petitioner's territory at the time of first sustained contact extended into what is now the continental United States.

Member of a petitioner means an individual who is recognized by the petitioner as meeting its membership criteria and who consents to being listed as a member of the petitioner.

Office of Federal Acknowledgment or *OFA* means the Office of Federal Acknowledgment within the Office of the Assistant Secretary—Indian Affairs, Department of the Interior.

Petitioner means any entity that has submitted a documented petition to OFA requesting Federal acknowledgment as a federally recognized Indian tribe.

Previous Federal acknowledgment means action by the Federal government clearly premised on identification of a tribal political entity and indicating clearly the recognition of a relationship between that entity and the United States.

Roll means a list exclusively of those individuals who have been determined by the tribe to meet the tribe's membership requirements as set forth in its governing document. In the absence of such a document, a roll means a list of those recognized as members by the tribe's governing body. In either case,

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those individuals on a roll must have affirmatively demonstrated consent to being listed as members.

Secretary means the Secretary of the Interior within the Department of the Interior or that officer's authorized representative.

Tribe means any Indian tribe, band, nation, pueblo, village or community.

§ 83.2 What is the purpose of the regulations in this part?

The regulations in this part implement Federal statutes for the benefit of Indian tribes by establishing procedures and criteria for the Department to use to determine whether a petitioner is an Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians. A positive determination will result in Federal recognition status and the petitioner's addition to the Department's list of federally recognized Indian tribes. Federal recognition:

(a) Is a prerequisite to the protection, services, and benefits of the Federal Government available to those that qualify as Indian tribes and possess a government-to-government relationship with the United States;

(b) Means the tribe is entitled to the immunities and privileges available to other federally recognized Indian tribes;

(c) Means the tribe has the responsibilities, powers, limitations, and obligations of other federally recognized Indian tribes; and

(d) Subjects the Indian tribe to the same authority of Congress and the United States as other federally recognized Indian tribes.

§ 83.3 Who does this part apply to?

This part applies only to indigenous entities that are not federally recognized Indian tribes.

§ 83.4 Who cannot be acknowledged under this part?

The Department will not acknowledge:

(a) An association, organization, corporation, or entity of any character formed in recent times unless the entity has only changed form by recently incorporating or otherwise formalizing

its existing politically autonomous community;

(b) A splinter group, political faction, community, or entity of any character that separates from the main body of a currently federally recognized Indian tribe, petitioner, or previous petitioner unless the entity can clearly demonstrate it has functioned from 1900 until the present as a politically autonomous community and meets § 83.11(f), even though some have regarded them as part of or associated in some manner with a federally recognized Indian tribe;

(c) An entity that is, or an entity whose members are, subject to congressional legislation terminating or forbidding the government-to-government relationship; or

(d) An entity that previously petitioned and was denied Federal acknowledgment under these regulations or under previous regulations in part 83 of this title (including reconstituted, splinter, spin-off, or component groups who were once part of previously denied petitioners).

§ 83.5 How does a petitioner obtain Federal acknowledgment under this part?

To be acknowledged as a federally recognized Indian tribe under this part, a petitioner must meet the Indian Entity Identification (§ 83.11(a)), Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Unique Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria and must:

(a) Demonstrate previous Federal acknowledgment under § 83.12(a) and meet the criteria in § 83.12(b); or

(b) Meet the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

§ 83.6 What are the Department's duties?

(a) The Department will publish in the FEDERAL REGISTER, by January 30 each year, a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians, in accordance with the Federally Recognized Indian Tribe List Act of 1994. The list may be published more