



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 01 2016

CERTIFIED MAIL

Mr. Edward R. Roybal II
4048 Calle de Estrellas
Las Cruces, New Mexico 88012

Dear Mr. Roybal:

The Office of Federal Acknowledgment (OFA) within the Office of the Assistant Secretary – Indian Affairs (AS-IA) has completed a Phase I Technical Assistance (TA) review of the documented petition of a group known as the “Piro-Manso-Tiwa Indian Tribe of the Pueblo of San Juan de Guadalupe” (Petitioner #5 or PMT). OFA issues this TA review letter under section 83.26(a)(1)(i) of Part 83 of Title 25 of the Code of Federal Regulations (25 CFR Part 83), “*Procedures for Federal Acknowledgment of Indian Tribes*,” which became effective on July 31, 2015 (2015 regulations).

This TA review letter describes deficiencies in materials OFA received from PMT in 1971, 1979, 1992, 1997, 2010, and 2011. The materials PMT submitted in 1997 were in response to OFA’s initial TA review issued under the 1994 regulations, which noted deficiencies in the petitioner’s documentation for criteria under 83.7 (in 1994), which are now designated as 83.11(b), 83.11(c), 83.11(e), and 83.11(f). The PMT chose not to submit additional materials when it elected on September 10, 2015, to proceed in the acknowledgment process under the 2015 revised regulations. PMT’s September letter confirmed its prior request dated July 31, 2015, that it hand-delivered on August 3, 2015, along with the governing body’s resolution dated August 12, 2015, requesting OFA begin the Phase I review.

The Federal acknowledgment regulations provide for this TA review letter to bring to a petitioner’s attention to deficiencies in the group’s documented petition that would prevent it from meeting the Governing Document (83.11(d)), Descent (83.11(e)), Unique Membership (83.11(f)), or Termination (83.11(g)) criteria. With this TA review letter, OFA is providing enclosures that include six reports, appendices, and a bibliography. The reports are: #1: Technical Advice to the Reader; #2: Maps; #3: Overview of Historical Indian Tribe or Tribes in the 18th or 19th Centuries; #4 Criterion 83.11(e) Descent; #5: PMT Membership Lists; and #6: Criterion 83.11(d) Governing Document.

This TA review letter indicates there are deficiencies in the documented petition that will prevent the PMT from meeting criterion 83.11(e), Descent. The OFA recommends the PMT review the information provided under 83.11(e) below, and in the separate enclosures, in formulating its response.

For your convenience, OFA has tagged [with a □ symbol] its guidance for PMT's response; whether it be options in how to proceed, suggestions for additional research, or questions to be answered. These symbols appear in both this letter and in the enclosed reports. The petitioner should not limit its response to only those items tagged with the □ symbol.

Historical Indian Tribe

The regulations define historical as before 1900 (§ 83.1). Thus, under Criterion 83.11(e), the petitioner must document descent from a historical Indian tribe, or tribes that combined, existing before 1900, or one that evolved or combined out of historical Indian tribes in existence before 1900.

Petitioner's Claims of the Historical Indian Tribe

The PMT has made varying but similar claims that the descendants of three Indian tribes formed a distinct community in the Las Cruces area in the 1800s. In 1992, it claimed to "trace descent from at least three cultural groups first encountered by the Spanish" in the late 16th and early 17th centuries (PMT Narrative 1992, 8). These groups existed, according to the petitioner, in what is today the El Paso region of Texas and New Mexico along the Rio Grande River. In a petition narrative from 1992, the petitioner stated these groups were

the Manso, who were living in the area of the Mesilla Valley and present day El Paso, Texas; the Piro and Tompiro, whose pueblos were located in the middle Rio Grande Valley near present Socorro, New Mexico, and eastward in the Salinas Valley east of the Manzano Mountains; and the Tiwa, whose pueblos were north of the Piros on the Rio Grande and also to the east in the foothills of the Manzano Mountains. (PMT Narrative 1992, 8)

The petitioner advanced similar arguments in later narratives. In 2010, it claimed "genealogical and cultural" connections to "three Indian peoples that inhabited the region around Las Cruces and El Paso in historical times: the Piros, the Mansos, and the Tiwas" (PMT Narrative 2010, 4).

The petitioner claims these three groups merged into one in the town of El Paso del Norte by the 18th century, and that its ancestors who were members of this "Piro-Manso-Tiwa community" in El Paso del Norte, migrated as a group in the middle of the 19th century to the Las Cruces, New Mexico area. The petitioner also claimed that this group soon after gained additional "Piros from the Senecú Pueblo, Mansos from Guadalupe, and Tiwas from Ysleta, Texas . . . where they intermarried with and assimilated into the existing Piro-Manso-Tiwa Indian tribal community" (PMT Narrative 2010, 9-10; see also PMT Narrative 1992, 34).

The current record does not support the petitioner's claim that its historical Indian tribe is a combined Piro, Manso, and Tiwa group that existed in El Paso, Texas, before migrating to Las Cruces, New Mexico. Lacking evidence of such a combined entity, OFA reviewed the evidence and identified three possible Indian entities in the historical period (pre-1900) from which the petitioner may possibly demonstrate descent. However, the current record does not demonstrate

that the PMT membership descends from either the claimed combined Piro, Manso, and Tiwa entity or, as yet, from the entities OFA has tentatively identified.

If the evidence demonstrates that such a merger or amalgamation occurred, it may provide the evidence necessary to identify the historical tribe that existed before 1900 as required by the 2015 regulations. The enclosed review describes the history of the Piro, Manso, and Tiwa tribes from the 1600s to about 1900. This review is provided for the petitioner as background and guidance in identifying the origins of an Indian entity that might have existence in Las Cruces area and might have included the petitioner's ancestors.

The petitioner's response should focus on the historical Indian tribe that existed prior to 1900—if not in the late-1800s, then earlier—and evidence that its ancestors were a part of that Indian entity.

Overview of the Historical Indian Tribe

For the purposes of criterion 83.11(e), the regulations require that the petitioner's members descend from a historical Indian tribe or from historical tribes that combined and functioned as a single autonomous political entity. The historical Indian tribe or tribes must be indigenous to the continental United States in that at least part of the petitioner's territory at the time of sustained contact extended into what is now the continental United States.

OFA looked at the record for evidence that a historical Indian tribe or tribes existed prior to 1900 from which the petitioner might demonstrate descent for the purposes of criterion 83.11(e). Because the record did not identify "the most recent evidence prior to 1900," OFA also looked to evidence earlier in 19th century and even the 18th century for the historical Indian tribe. The possibilities are described below.

Historical Indian Tribes in the 18th or 19th Centuries in the El Paso area of the Spanish Colony of New Mexico

The petitioner claims its membership descends from a combined "Piro-Manso-Tiwa tribe," which it also claims existed during the 18th century in the El Paso del Norte area of the Spanish colony of *Nuevo Mexico*, a vast area that included what is now New Mexico and Texas. The petitioner then contends that in the mid-19th century, members of this "Piro-Manso-Tiwa tribe" migrated as a group from the El Paso area to the Las Cruces area and reconstituted themselves as a new Indian entity.

The available evidence does not demonstrate the existence of such a combined "Piro-Manso-Tiwa tribe" in the El Paso area during the 18th century or of a later migration to the Las Cruces area. For the purposes of criterion 83.11(e), the available evidence, however, shows the existence of two separate historical Indian settlements in the El Paso area in the late 18th and early 19th centuries from which the petitioner might trace descent from a historical tribe through Spanish Colonial or Mexican records. Those settlements were Ysleta del Sur, composed of Tigua Indians, located in present-day Ysleta, Texas, and Senecú del Sur, composed of Piro Indians, located near present-day Juarez, Mexico. These two Indian settlements had their origins

in pueblos located in modern New Mexico within the boundaries of the current United States at the time of first sustained contact with Spanish colonists in the 17th century.

Likewise, the available evidence also indicates that in the late 18th and early 19th centuries, the Barrial District of the town of El Paso del Norte, located in present-day Juarez, Mexico, also contained a Piro Indian population. This analysis shows that for the purposes of criterion 83.11(e), this Indian population constitutes a historical group from which the petitioner might trace descent in records from the Spanish colonial period. This population of Piro Indians also had its origins in pueblos located in modern New Mexico within the boundaries of the current United States at the time of first sustained contact with Spanish colonists in the 17th century.

The available evidence regarding the Piro Indian population at El Paso del Norte comes from a variety of primary and secondary sources but also includes a copy of an English translation of a 1751 Spanish land-grant document. OFA does not have a copy of the original Spanish version.

The petitioner will need to obtain a copy of the original document to submit with its response to this TA.¹

The following summarizes the character of these three Indian entities:

- The Indian group in Ysleta del Sur exists to this day as a federally recognized Indian tribe. Censuses and other records used in this Phase I TA review to document membership for the historical Indian tribe at Ysleta range from 1784 to 1895. This review only notes the Ysleta del Sur tribe's existence and character as a potential point from which the petitioner may trace the Indian ancestry of its membership.
- The available evidence indicates the Piro Indian group in Senecú del Sur existed until around the 1850s. Spanish and Mexican censuses and other records used in this Phase I TA to document membership for this group exist from about 1784 to about 1844.
- The available evidence indicates the Piro Indian population in the Barrial district of El Paso del Norte existed until about 1821. Censuses and other documents that record membership in this group exist from 1784 to about 1821. From 1822 to around the 1850s, a small population of Indians, who resided within the Barrial section of El Paso del Norte, were living among a much larger population of non-Indians. The available evidence at this time is insufficient to determine if the Indians in this town were distinct from the non-Indians. Censuses and other documents refer to the *Indios* of the town of El Paso del Norte from 1822 to 1863.

The above summaries are provided as guidance for the petitioner to identify possible historical Indian entities from which it may possibly demonstrate, with further research, descent for criterion 83.11(e). The description also provides a preliminary response to the petitioner's claims that a combined "Piro-Manso-Tiwa" entity existed in the El Paso and Las Cruces areas during the 18th and 19th centuries from which it might trace descent.

¹ This document is described in full later in the attachment to this TA review letter. The Spanish-language version may provide further evidence regarding community and politics among the Indian population in the Barrial District of the town of El Paso, and thus help identify an Indian entity from which the petitioner descends.

The available evidence, however, does not demonstrate the Indian populations from these El Paso area settlements merged into a “Piro-Manso-Tiwa” Indian entity before the 1850s, as the petitioner claims. Instead, the available evidence shows the settlements were separate. The Spanish Colonial and Mexican governments also viewed them as such. Further, the available evidence at this time does not demonstrate that Indians from these two entities migrated as a group from the El Paso area to the Las Cruces area before or after 1850. The records indicate that the immigrants from the El Paso area in the late 19th century were Mexican-born individuals who immigrated at various times as individuals or a nuclear family, rather than in a group. The petitioner’s current record does not demonstrate that any of these Mexican-born individuals represented an Indian town, settlement, or band that migrated at one time, or in waves, or that they merged with an Indian entity after they arrived in the Las Cruces area.

Finally, the available evidence at this time does not indicate the existence of any Indian entity in the Las Cruces area in the late 19th century, a time when the petitioner claims its ancestors had already migrated to that region as a group. If the petitioner does demonstrate descent from the Indian entities in the El Paso area, further evidence and evaluation may help to demonstrate if any migration of a group from that area to the Las Cruces area occurred after 1850. Attached to this technical assistance letter is a fuller discussion of the evidence. However, at this time, the evidence does not show an Indian entity that included the petitioner’s ancestors in the Las Cruces area in the late 19th century and does not show the migration of an Indian entity from the El Paso area to Las Cruces.

The petitioner will need to submit such evidence.

I. Unambiguous Previous Federal Acknowledgment

If the documented petition also claims previous Federal acknowledgment and/or includes evidence of previous Federal acknowledgment, the Phase I TA review (§ 83.26(a)(1)(ii)) will determine whether that evidence meets the requirements of previous Federal acknowledgment (§ 83.12). If a petitioner meets the requirements for unambiguous previous Federal acknowledgment under the 2015 regulations, it is eligible for evaluation under the modified requirements of § 83.12. Three of the seven acknowledgment criteria—83.11(a), 83.11(b), and 83.11(c)—have modified requirements for petitioners with unambiguous previous Federal acknowledgment. Once the petitioner establishes it was previously acknowledged, it must demonstrate the Community criterion (83.11(b)) at present and the Indian Entity Identification (83.11(a)) and Political Authority (83.11(c)) criteria since the time of previous Federal acknowledgment or 1900, whichever occurs later.

In its review, the Department decides three things: First, if the Federal Government unambiguously acknowledged, through its actions, a relationship with the Indian tribe claimed by the petitioner. Second, if the petitioner is the same group, or evolved from the federally acknowledged group. Third, when that previous Federal acknowledgment ended.

The PMT petitioner did not make a claim of unambiguous previous Federal acknowledgment and did not submit evidence addressing this issue, and OFA’s evaluation of the record did not find such evidence.

If the petitioner wishes to make a claim of unambiguous previous Federal acknowledgment, it still can submit evidence before the Phase II review process begins.

II. Specific Comments about Criteria 83.11(d) through 83.11(g)

Criterion 83.11(d): Governing document

Criterion 83.11(d) requires a petitioner to submit a copy of its present governing document including its membership criteria. In the absence of a written document, a petitioner must provide a statement fully describing its membership criteria and current governing procedures.

The PMT petitioner provided a March 17, 1990, “Records, Enrollment and Membership Ordinance” that described a three-person committee (Membership Committee) charged with “establishing and maintaining” the record of “Piro, Manso and San Juan de Guadalupe family histories, individual histories, genealogies, history and ethnohistory” and preparing and maintaining the official membership list (PMT 1990/03/17 Sections I-II).

The petitioner submitted its current governing document in 1996 in response to the Department’s August 23, 1993, obvious deficiencies letter (OD). On December 15, 1996, the petitioner’s governing body approved “The Constitution of the Piro/Manso/Tiwa Indian Tribe Pueblo of San Juan de Guadalupe, Las Cruces, New Mexico” dated September 30, 1995. It describes how the group governs itself and has three brief statements regarding membership criteria. According to a statement at the end of this document, it replaces all prior bylaws and governing documents. A brief chronological list of those documents follows, beginning with the incorporation of “Los Indigenes de Nuestra Senora de Guadalupe” in 1914, a constitution dated January 18, 1971, and resolutions passed in 1994 and 1995 that amended the 1971 constitution. However, none of those documents provided guidance for determining membership eligibility or described a process for enrollment.

The petitioner’s response to this TA review should include a fuller explanation of its enrollment process since the 1995, and any amendments or revisions to its governing document.

Criterion 83.11(e): Descent

Criterion 83.11(e) requires a demonstration that the members of a petitioner descend from a historical Indian tribe, or from historical Indian tribes that combined and functioned as a single autonomous entity, that existed before 1900. The PMT submitted a certified, current membership list, dated April 2010. The list gives the names, dates of birth, and residential addresses of 160 living, current members. The petitioner chose not to supplement its petition before the Department proceeded with review of it under the 2015 regulations. Thus, this analysis is based upon a membership list that has not been updated for more than six years, and is not “current.” The 2015 regulations specify “an official current membership list” as a required element of a documented petition (§ 83.21(a)(4)(i)). [Emphasis added.] Undoubtedly, there are births, deaths, new enrollments, dis-enrollments or “abandonments” (as described in the governing document), and changes in residence in the last six years that should be accounted for

in an updated membership list. The regulations require that members consent to being listed as a member of the group (§ 83.1 in both 1994 and 2015).

The petitioner must submit an updated membership list in its response to this TA review letter.

Please provide membership files and consent statements, bearing dated original signatures of the members, as well as photocopies of birth certificates, baptismal records, or other reliable contemporary records verifying the child-to-parent links in each generation from the current member to his or her historical Indian ancestor[s] for any new members added since April 2010.² This TA direction also applies to any other members whose membership files are incomplete. The petitioner produced various lists that identified the claimed Indian ancestors of its members. They are:

- 19 “selected ancestors” were identified in 2010,
- 31 “earliest identified PMT full blood Indian ancestors” were identified in 1996, and
- 22 “key ancestors” were identified in 1992.

These lists of ancestors appear to be the petitioner’s reconstructions of its ancestors rather than contemporary identifications of those individuals as members of a historical Indian tribe. Thus, these lists do not reflect the composition of a historical Indian tribe.

The petitioner also claimed a historical record that identified 34 men, “inhabitants of the Pueblo of Guadalupe,” who pledged to help build the church of *Nuestra Senora de Guadalupe* at Las Cruces in about 1890 (Baca et al. ca. 1890), as a “tribal base population list” (PMT Narrative 1992, 52). The PMT claimed Piro or Tigua ancestry originating in Ysleta, El Paso County, Texas for the men on the pledge list (PMT Narrative 1992, 52-56). The timing of this list falls within the definition in the 2015 regulations of “historical” as being before 1900. However, the evidence in the record, either submitted by the petitioner or located by OFA during this review, does not support the petitioner’s claims that the pledge list is a “tribal base population list.” See the attached report for details.

The evidence in the petition does not support that these lists represent “Piro-Manso-Tiwa” Indians, some other Indians entity, or in some cases, that these individuals are even ancestors of the petitioner. This constitutes a critical deficiency under criterion 83.11(e). Please refer to the enclosed reports for the evaluation of the evidence and analyses.

This Phase I TA review letter utilizes the petitioner’s documentation as well as other records OFA obtained in its verification research. The regulations require the Department to provide “[a]ny comments and evidence OFA may consider that the petitioner does not already have, to the extent allowable by Federal law,” after a petitioner responds to its TA review letter (§ 83.26(a)(2)). OFA will provide the records it obtained during its review process in a separate mailing following conveyance of this TA review letter. The OFA provides these materials to

² The petitioner submitted membership files of its members containing ancestry charts, individual history forms, membership “declarations” (consent statements), and other forms, most of which were prepared by the petitioner’s researcher, Allogan Slagle, in the 1990s.

make the best use of Departmental resources expended on this petition since it went on active consideration in 2010, and to provide the petitioner with the best guidance in preparing its response to this TA review.

The evidence, both in the petition and obtained by OFA, at this point does not demonstrate that the PMT petitioner descends from an amalgamation of Piro, Manso, and Tiwa tribes or from some other historical Indian tribe or tribes that combined and functioned as a single autonomous political entity. Many of the historical figures that the petitioner has identified on the lists of “selected,” “key,” or “earliest” ancestors or on the ca. 1890 pledge list (whether or not they are the petitioner’s ancestors), were not identified in the currently available record as Indians or descendants of an Indian tribe. This deficiency would prevent the petitioner from meeting this criterion for descent. The enclosed evaluation describes the evidence OFA reviewed and offers suggestions to possibly overcome deficiencies.

Criterion 83.11(f): Unique Membership

Criterion 83.11(f) prohibits the Department from acknowledging groups composed principally of members of federally recognized Indian tribes. The PMT’s 1990 enrollment ordinance states that members may be removed from the current membership by “voluntary abandonment of affiliation through enrollment in another American Indian Tribe.” However, the membership files do not include signed applications or statements that the members are not enrolled in federally recognized Indian tribes.

The petitioner should provide copies of applications or statements signed by the members stating they are not enrolled in federally recognized Indian tribes.

The Ysleta del Sur Pueblo, a federally recognized tribe in El Paso, Texas, provided a list in 1992 of its “certain enrollees” from Las Cruces, New Mexico, and elsewhere whom the Pueblo mistakenly enrolled, but had since removed from its rolls. In 2010 Ysleta del Sur provided a “census report” generated from its tribal rolls that identified 111 members of the Pueblo who resided in Las Cruces. The OFA staff compared the names on these two lists with PMT’s 2010 membership list but did not find any of the individuals were enrolled with the PMT. Thus, it appears that the petitioner is composed principally of persons who are not members of any acknowledged North American Indian tribe.

Criterion 83.11(g): Congressional Termination

The PMT does not appear, from the materials submitted or that OFA located, to be part of a group that is the subject of congressional legislation expressly terminating or forbidding a Federal relationship. The 2015 regulations do not require a petitioner to submit any evidence to meet criterion (g), although it may choose to do so.

III. Recommendations

During the period following the issuance of this TA review letter, the petitioner will need to identify the historical Indian tribe and document historical individuals as members of that tribe, whether they are “Piro-Manso-Tiwa” Indians or some other Indian tribal entity that existed

before 1900. Likewise, the petitioner will need to document its members' descent from individuals in that historical Indian tribe. This constitutes the deficiencies found to date that would prevent the petitioner from meeting criterion 83.11(e) for Phase I.

The petitioner must submit the evidence that documents the generation-to-generation links between its current members and those members of the historical Indian tribe. The petitioner should do this by submitting a GEDCOM export of its genealogical database (such as the one used by Allogan Slagle in the 1990s, or another genealogical program it may now be using). This program should cite the evidence relied upon for each generation-to-generation connection and illustrate how its members descend from the historical Indian tribe.

If the petitioner does not currently use such a genealogical database, it must submit the ancestry charts, individual history charts, or other forms it uses to verify the applicant or member's descent from his or her claimed ancestor(s). The petitioner will also need to submit the new evidence relied upon for each member's generation-by-generation connection back to the members of the historical Indian tribe. PMT does not need to submit additional copies of the materials that are already in the record.

See the enclosed reports for additional, more specific recommendations.

IV. Summary

This Phase I TA review letter describes deficiencies in the PMT documented petition the group needs to address for it to be evaluated under the Phase I criteria for Federal acknowledgment. The deficiencies are primarily in criterion 83.11(e).

The OFA has not made a Phase I decision concerning the PMT documented petition. This TA review letter is neither a Phase I preliminary finding under criteria 83.11(d), 83.11(e), 83.11(f), and 83.11(g), nor a conclusion that the documented petition will result in a negative or positive preliminary finding under Phase I. In addition, the PMT should not assume OFA has made positive conclusions about parts of the documented petition not discussed in this letter. Finally, the PMT should not assume it would meet criterion 83.11(e) by simply re-arguing the current record or submitting additional data and analyses.

To make this letter most useful to the PMT, OFA described deficiencies it detected while reviewing the documented petition during its evaluation under the 1994 regulations and the Phase I TA review. There may be other deficiencies revealed after OFA completes a Phase I review.

After reading this TA review letter, the PMT must submit a written response that it

- withdraws the documented petition for further preparation;
- submits additional information and/or clarification; or
- asks OFA to proceed with the review. (§ 83.26(a)(1)(i)(A)-(C))

The current regulations do not set a time limit for a petitioner's submission of additional information or clarification, but OFA encourages the petitioner supplement its documented

petition in its response to this TA review letter as soon as possible to capitalize on the availability of OFA staff (25 CFR 83 Preamble iii (F1)). OFA requests that the group's initial response include its estimation of the amount of time it will need to prepare a full response to the TA review letter.

The records and analyses relied upon for this TA review letter under the 2015 regulations will be sent to you under separate cover on a thumb drive. Bureau of Indian Affairs security policy requires that electronic files containing privacy information be encrypted. When OFA has completed preparing the files and encrypting them, we will provide the instructions for opening the encrypted file.

If the PMT has any questions, please feel free to contact the Office of Federal Acknowledgment, Office of the Assistant Secretary-Indian Affairs, Department of the Interior, 1951 Constitution Street, N.W., MS-34B-SIB, Washington, D.C. 20240, or call (202) 513-7650.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Lee Henning". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Director, Office of Federal Acknowledgment

Enclosures

PMT Phase I Technical Assistance Reports

cc: Notified and Other Individuals or Entities that requested to be kept informed receive letter and technical reports