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Ross Swimmer, Assistant Secretary for Indian Affairs in the Department of Interior, today announced revised guidelines for Bureau of Indian Affairs (BIA) review of tribal bingo management contracts and asked Indian tribes that are presently operating with unapproved contracts to submit them for review.

Previous guidelines provided that review and approval by the BIA would be at the option of the tribes

"It is now the Department's policy to exercise its authority to review tribal bingo management contracts in all cases," Swimmer said. ''This fully implements the policy established in Interior Secretary Don Hodel's letter of August 6. 1985. to the Governor of the Pueblo of Santa Ana concerning the Pueblo's proposed pari-mutuel dog racing enterprise."

In a letter to all tribal chairmen with a copy of the new guidelines, Swimmer said that tribes conducting bingo under an unapproved bingo management contract were at risk that someone may file suit to have the contract nullified. He said that federal courts are continuing to hold that 25 U.S. Code. Section 81 makes tribal bingo management contracts null and void unless they are approved. He said the law also authorizes anyone to file suit in the name of the United States and, if successful to recover half of any money paid to any person by or on behalf of the tribe.

"For your own protection," Swimmer continued, "you should submit your contract for review if you have not done so." He recommended that tribes review contracts under the new guidelines with the management companies and attempt to bring the contracts into conformity prior to submitting them for review by the Bureau.

Three new provisions of the guidelines cover possible conflicts of interest. One provides that "no elected member of the tribal government or relative in the immediate household of an elected member of the tribal government may be an employee of the contractor or of the bingo enterprise." Another calls for contract language stating that no payments have been made (or will be made) to any elected member of the tribal government (or their relative[s]) for the purpose of obtaining or maintaining the contract or any other privilege for the contractor. A third provides that no party having an interest in the contract may be an elected member of the tribal government or a relative thereof.

Among the other contract provisions required by the revised guidelines are:

(1) An accompanying resolution setting forth the scope of authority of the tribal officials signing the contract on behalf of the tribe;

(2) A fixed limited time to run, which must be distinctly stated (usually not to exceed five years unless there is provision for renegotiation of the management fee);

(3) Amount or rate per centum of the contractor's fee and method of computation;

(4) That the tribe has the right to inspect the contractor's books and to secure an independent audit at any time;

(5) Specifically state whether assignments or subcontracts will be permitted;

(6) Prior to approval of any contract names of all members of the management firm must be submitted to the FBI for name and record checks;

(7) Require contractor to furnish monthly statements showing revenues and expenses and provide tribe with its portion of the proceeds;

(8) That the contract should be reviewed for legal sufficiency by the regional or field solicitor's office; and

(9) Require the establishment of a cash management system adequate to safeguard the funds of the operation with provisions that the tribe has the right to oversee the system.

Authority for approval or disapproval of contracts for bingo remains at the area office level while contracts for gambling other than bingo will be reviewed in Washington.

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