

FUND DISTRIBUTION PROCESS

Program: Litigation Support and Attorney Fees

Type of Funding: Non Recurring – Project Proposal Based

Funding Authority/Responsibility: 25 U.S.C. 13 (The Snyder Act of November 2, 1921), 42 Stat. 208, Pub.L. 67-85; 90 Stat. 2233, Pub.L. 94-482; 25 U.S.C. 5108 et seq. (The Indian Reorganization Act of 1934), 48 Stat. 984, Pub.L. 73-383; Pub.L. 103-263; 25 U.S.C. 450 (The Indian Self-Determination and Education Assistance Act), 88 Stat. 2203, Pub.L. 93-638; Pub.L. 100-472; 102 Stat. 2285, Pub.L. 103-413.

The Deputy Bureau Director, Office of Trust Services has responsibility for this funding.

Criteria: This program is administered in accordance with 25 CFR Part 89.40; this funding will provide the necessary support for the tribes to protect their tribal trust resources or treaty rights in cases where the Federal Government cannot represent Indian interests for various reasons, including conflicts of interest.

Litigation support funds are used by tribes and tribal organizations to defray costs associated with litigation and to affirm and implement their treaty reserved rights. These funds have been used to pay expenses associated with showing the continuing nature of the tribes' treaty reserved rights and to demonstrate and verify their self-regulatory systems, including the adequacy of their conservation regulations and enforcement mechanisms. Funds are also used to cover costs associated with developing evidence, for research services, or to procure the services of expert witnesses to support the tribe's position.

The program has an Attorney Fee Review Committee (Committee) to prioritize funding distribution. The Committee finalizes funding recommendations for the Indian Affairs Attorney Fee/Litigation Support program for fiscal year. The attorney fee requests were evaluated by a three member committee comprising the Deputy Assistant Secretary – Indian Affairs for Policy and Economic Development, a delegate representing the Deputy Bureau Director, Office of Trust Services, and a delegate representing the Associate Solicitor – Indian Affairs, as directed by 25 CFR § 89.43.

Distribution Process:

- The request for proposals is put out by June 15 each year and proposals are due back by October 1.
- All proposals are ranked and scored by December 31st.
- The proposal funding recommendations are subsequently approved by the Deputy Bureau Director of Trust Services.
- Upon apportionment, The Office of Budget and Performance Management (OBPM) moves funding to the Office of Trust Services. (within 5 days)
- OTS Division Chief, Program Management prepares FEDs and obtains signatures and submits the Regional FED to OBPM and OSG FED to OSG for approval. (within 5 days)
- OBPM processes funds to the appropriate BIA Region (within 3 days)
- OSG approves FED and submits to OBPM for processing (within 3 days).
- OBPM processes funds to OSG. (within 3 days)

Regional Processing:

- Indian Self Determination (ISD) Awarding Official negotiates terms, conditions of award,

including payments. They calculate Contract Support Costs and prepare contract award/modifications in PRISM. (within 5 days)

- The ISD Awarding Official prints and mails the award/modification to tribe for review and acceptance. (within 5 days)
- Tribal elected official approves award/modification and returns the documentation to the Region/Agency.
- The ISD Awarding Official executes the award/modification and releases the obligation in PRISM. PRISM interfaces with ASAP and funds are available to tribes. (within 3 days of receipt of signed document)

OSG Processing:

- Once both OSG and OBPM are in agreement with the distribution list, a FED document is processed to OSG for fund distribution. (within 3 business days.)
- OSG will process the FED, subsequent PR, and obligate funding. (within 7 business days.)

Tribes log into ASAP to draw funds into their account.