



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

January 12, 2026

Mr. Manuel P. Sanchez
c/o Dr. Irene Vasquez
1216 Hall Ct SW
Albuquerque, New Mexico 87105

Dear Mr. Sanchez:

The Office of Federal Acknowledgment (OFA), within the Office of the Assistant Secretary – Indian Affairs, Department of the Interior (Department), has completed a Phase I technical assistance (TA) review of the documented petition for Petitioner #404, a group named the Chihene Nde Nation of New Mexico. The OFA issues this TA review letter in accordance with § 83.26(a)(1) of Part 83 of Title 25 of the Code of Federal Regulations (25 CFR Part 83).

The petitioner's documented petition consists of materials dated February 13, 2024, and received by OFA on February 16, 2024. OFA notified the petitioner by letter dated February 27, 2024, that the materials constituted a complete documented petition under § 83.21. Notice of receipt of the documented petition was published in the *Federal Register* and posted to OFA's website on April 17, 2024.¹ This commenced a 120-day comment period, which ended on August 15, 2024.

During the comment period following publication of notice of the documented petition in the *Federal Register*, OFA received comments from the following parties: Neal W. Ackerly, Ph.D.; Dr. Donna Miranda-Begay, California Tribal Geographical Information Systems, Inc.; Tiffany S. Lee, Ph.D., University of New Mexico, College of Arts and Sciences, Native American Studies; Lynda A. Sanchez; Jeff Haozous, former Chairman of the Fort Sill Apache Tribe; the Mescalero Apache Tribe; and Brenda Wilkinson, Archaeologist (Retired); as well as several members of the petitioner and the public who submitted nearly identical letters of support. The OFA has reviewed these comments and has taken them into consideration, insofar as they relate to the evaluation under the criteria set forth in § 83.11(d) Governing document, § 83.11(e) Descent, § 83.11(f) Unique membership, and § 83.11(g) Congressional termination. The OFA will give these comments further consideration and may discuss them in a Phase I proposed finding. Insofar as the comments relate to the evaluation of the criteria under § 83.11(a) Indian entity identification, § 83.11(b) Community, or § 83.11(c) Political influence or authority, OFA would review and discuss them in Phase II.

This Phase I TA review is to inform the petitioner of deficiencies that would prevent it from establishing unambiguous previous Federal acknowledgment (UPFA) and meeting criterion 83.11(e). Upon receiving

¹ 89 FR 27447.

this TA review letter, the petitioner must submit a written response that takes one of the following actions: (1) withdraws the documented petition for further preparation; (2) submits additional information and/or clarification; or (3) asks OFA to proceed with the review.² OFA recommends that the petitioner review the information provided below, as well as the third-party comments, in formulating its response. The regulations do not impose any limit on the amount of time that the petitioner may take to respond to technical assistance.³

PHASE I TECHNICAL ASSISTANCE REVIEW

Unambiguous previous Federal acknowledgment (UPFA) (25 CFR § 83.12)

§ 83.12 What are the criteria for a previously federally acknowledged petitioner?

- (a) The petitioner may prove it was previously acknowledged as a federally recognized Indian tribe, or is a portion that evolved out of a previously federally recognized Indian tribe, by providing substantial evidence of unambiguous Federal acknowledgment, meaning that the United States Government recognized the petitioner as an Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians with which the United States carried on a relationship at some prior date including, but not limited to, evidence that the petitioner had:
- (1) Treaty relations with the United States;
 - (2) Been denominated a tribe by act of Congress or Executive Order;
 - (3) Been treated by the Federal Government as having collective rights in tribal lands or funds; or
 - (4) Land held for it or its collective ancestors by the United States.

In accordance with § 83.26(a)(1)(ii), OFA staff conducted a preliminary review to determine whether the petitioner's evidence of UPFA meets the requirements in § 83.12. Specifically, OFA staff reviewed whether the evidence demonstrates that the petitioner "was previously acknowledged as a federally recognized Indian tribe, or is a portion that evolved out of a previously federally recognized Indian tribe." In addition, OFA staff reviewed the petitioner's claims of previous Federal acknowledgment to ensure that those claims are consistent with the petitioner's claims regarding its historical Indian tribe or tribes (identified for the purpose of meeting the Descent criterion).⁴

The petitioner claims UPFA based principally on three treaties: (1) the Treaty with the Apaches, signed July 1, 1853, enacted March 25, 1853,⁵ (2) the unratified Treaty with the Rio Mimbres and Rio Gila Apache, a "provisional Compact" signed April 7, 1853,⁶ and (3) the unratified Treaty with the Jicarilla

² 25 CFR § 83.26(a)(1)(i)(A)-(C).

³ 80 FR 37862, 37878.

⁴ See further discussion below.

⁵ 10 Stat. 979.

⁶ "Copy – Compact of U.S. with Ponce & other Apaches – made 7 Apl. '53," in "Documents Relating to the Negotiation of an Unratified Treaty of April 7, 1853, with the Apache Indians;" NARA microfilm publication T494, roll 8.

Apache, “Articles of Agreement” signed September 12, 1855.⁷ Although the second and third of these treaties were not ratified, the Department has previously clarified that a tribe’s “participation in [treaty] negotiations constitutes unambiguous Federal acknowledgment of the tribe’s sovereignty.”⁸ That is, the negotiation of a treaty itself can serve as evidence of “[t]reaty relations with the United States” for the purpose of establishing UPFA.⁹

Reviewing the three treaties cited above, each of them identifies a different entity on behalf of whom the treaty was negotiated (“the Apaches,” “the Rio Mimbres and Rio Gila Apache,” and “the Jicarilla Apache”). In addition, the signatories for each of these treaties, identified as “chiefs,” “captains,” or “head men,” were different individuals. These differences are consistent with the petitioner’s claim that the petitioner is composed of descendants of multiple historical Indian tribes. However, this claim does not support the conclusion that the petitioner was previously acknowledged. Under 25 CFR § 83.12(a), the petitioner must show that it was, itself, previously acknowledged or that it is “a portion that evolved out of a previously federally recognized Indian tribe.”

In response to this preliminary assessment of the petitioner’s UPFA claim, the petitioner may wish to clarify or revise its claim. For example, the petitioner could clarify whether the three parties that negotiated the treaties with the United States were, in fact, a single Indian tribe at the time of the treaty negotiations, from which the petitioner subsequently evolved. Alternatively, the petitioner could clarify whether the three parties, though separate at the time of treaty negotiation, later combined and were acknowledged by the Federal government as a single autonomous political entity (again, from which the petitioner evolved).

In response to the technical assistance presented here, the petitioner may respond with additional clarification and evidence to support its claims, alter its UPFA claim, or withdraw its UPFA claim. Please note that OFA staff will continue to consider the UPFA claim in later stages of its review of this petition, including in Phase II, should OFA’s review proceed to Phase II.¹⁰

The Governing Document criterion (25 CFR § 83.11(d))

(d) Governing document. The petitioner must provide:

(1) A copy of the entity's present governing document, including its membership criteria; or

⁷ “Treaty with the Jicarilla band of Apaches, of the 12th September, 1855, in New Mexico,” item 274-A; NARA microfilm publication M668, roll 10.

⁸ 62 FR 8983. *See also*, Dept. of the Interior, “Reconsidered Final Determination for the Cowlitz Indian Tribe,” Dec. 31, 2001, p. 5; Dept. of the Interior, “Reconsideration on Referral by the Secretary and Summary Under the Criteria and Evidence for the Reconsidered Final Determination Against Federal Acknowledgment of the Chinook Indian Tribe / Chinook Nation (formerly: Chinook Indian Tribe, Inc.),” Jul. 5, 2002, p. 60.

⁹ 25 CFR 83.12(a)(1).

¹⁰ *See* 25 CFR § 83.28. If a petitioner does not prove UPFA after receiving TA in Phase II, “OFA will consider [the petitioner’s] documented petition on the same basis as documented petitions submitted by petitioners not claiming previous Federal acknowledgment.” *Id.*

- (2) In the absence of a governing document, a written statement describing in full its membership criteria and current governing procedures.

Summary

The petitioner provided a copy of its “present governing document, including its membership criteria.” OFA staff have not identified any deficiencies that would prevent the petitioner from meeting this criterion.

Technical Assistance Review

The petitioner submitted a document entitled “Constitution and By-Laws of the Chihene Nde Nation of New Mexico, 2012 Edition,” that, according to the “Forward from Tribal Chair and Council” included as part of the document, was “ratified and adopted” on January 21, 2012, in San Lorenzo, New Mexico, “during the quarterly meeting.” This forward was signed by Manuel P. Sanchez as Chairman and Paul Martinez as Secretary.

The 2012 “Constitution and By-Laws” is organized into a “Forward” and three “Chapters.” The first Chapter is the “Preamble.” The second Chapter, “Legal Provisions,” contains three “Articles”: “Name,” “Philosophy, Aims and Purpose,” and “Bill of Rights.” The third Chapter, “Organizational Structure,” contains ten Articles: “Status,” “Tribal Membership,” “Tribal Government,” “Meetings,” “Elections and Terms of Office,” “Financial Provisions,” “Removal from Office,” “Committees,” “Amendments and Resolutions,” and “Public Information and Media Advisories.”¹¹

According to Chapter III, Article II, section 2 of the 2012 governing document, the petitioner’s membership is open to “[a]ll applicants who can prove Chihene Nde (Warm Springs) or any Apache bloodline thru genealogical birth (lineal descendant), supported by documentation.” The remainder of section 2 outlines procedures for application and approval of member enrollment. Section 3 of the same article adds that “[m]ember(s) of another Native American or Indigenous North American Apache Band may, upon filing an application, be considered for membership of the Chihene Nde Nation of New Mexico.” Section 4 addresses adopted children, noting that “Children adopted by a current Band member(s) may be enrolled as a member of the Chihene Nde Nation of New Mexico. . . . When the child has attained the age of eighteen (18), he/she may continue to be a member with full membership privileges in the Band. Under traditional custom, a child raised in a Chihene family is entitled to full membership.” Section 5 of the article describes loss of membership through relinquishment, removal, or ban.¹²

¹¹ “Constitution and By-Laws of the Chihene Nde Nation of New Mexico, 2012 Edition,” adopted Jan. 21, 2012; submitted by the petitioner.

¹² “Constitution and By-Laws,” ch. 3, art. 2 § 2–5.

The Descent criterion (25 CFR § 83.11(e))

(e) Descent. The petitioner's membership consists of individuals who descend from a historical Indian tribe (or from historical Indian tribes that combined and functioned as a single autonomous political entity).

Summary

The petitioner has not demonstrated that its membership consists of individuals who descend “from a historical Indian tribe (or from historical Indian tribes that combined and functioned as a single autonomous political entity).” OFA has identified deficiencies that would prevent the petitioner from meeting the Descent criterion (§ 83.11(e)), discussed below.

Historical Indian Tribe

The petitioner’s narrative includes a section titled “(e) Descent.” In this section, the petitioner claims that its membership descends from “the 21 individual signers of the 1852, 1853, and 1855 Treaties.”¹³ This description of the historical Indian tribe is consistent with the petitioner’s claim of unambiguous previous Federal acknowledgment.

Although the signatories of these treaties appear to represent three separate and distinct historical Indian tribes, this criterion may be met if the petitioner demonstrates that these three historical entities “combined and functioned as a single autonomous political entity.”¹⁴ In its response, the petitioner should further explain and demonstrate with supporting documentation the process by which these three tribes came together to function as “a single autonomous political entity.” It is otherwise insufficient for the petitioner to show, in lieu of historical tribes combining, that individuals of varying tribal backgrounds formed a new entity in recent times.¹⁵

Descent of Petitioner’s Members

As part of the supporting documentation for this petition, the petitioner provided a membership list identifying 418 current members (in accordance with § 83.21(a)(4)(i)) and membership files for each of its current members. These files generally include the membership card, membership application, family group sheet(s), and other documentation of descent. In preparation of this Phase I TA review letter, OFA staff reviewed a representative sample of approximately half of the lines of descent by which the

¹³ “Petition for Federal Acknowledgment of Chihene Nde Nation of New Mexico Known in the June 9, 1855 Treaty as the Mimbres Bands of Gila Apache” (hereinafter cited as “Petition”), 234–37, quote at 234; submitted by the petitioner.

¹⁴ 25 CFR § 83.11(e).

¹⁵ 25 CFR 83.4(a); *see also* Dept. of the Interior, “Evidence for Proposed Finding against Federal Acknowledgment of the Southeast Cherokee Confederacy, Inc., [et al.]” Mar. 26, 1985, p. 8 (finding that a group “open to persons of at least 1/16th Indian blood of any recognized American Indian tribe” and comprised of members claiming ancestry “in as many as 37 other recognized and unrecognized tribes and groups,” did “not establish[] their descendancy from a tribe which existed historically or from historical tribes which combined and functioned as a single autonomous entity”).

petitioner organized its member's files. This review entailed a review of more than half of the petitioner's current members.

Based on this preliminary review, OFA staff was unable to confirm that the petitioner's members descend from a historical Indian tribe or tribes that combined to function as a single autonomous political entity. For purposes of this review, OFA staff considered the petitioner's membership's descent from the historical entities that negotiated the three treaties cited in the petitioner's narrative.

In response to this Phase I TA review letter, please address the following deficiencies:

1. **The petitioner's membership does not appear to be consistently based on descent from the claimed historical Indian tribe or tribes.** Many of the lineages reviewed appear to have been accepted on the basis of an ancestor's residence in a particular location at a particular time, without documentation of an ancestor's membership in a tribe at that time. In quite a few of the reviewed membership files, the petitioner does not identify any ancestors living during the historical period (before 1900), making it difficult, if not impossible, to establish those members' descent from a historical Indian tribe. While some allowance is made for members that cannot demonstrate their descent, the petitioner cannot meet this criterion if the petitioner does not demonstrate that its membership "consists of individuals who descend from a historical Indian tribe (or from historical Indian tribes that combined and functioned as a single autonomous political entity)."¹⁶
2. **The petitioner has not consistently identified, by name, the ancestors that the petitioner believes represented the treaty-signing entities claimed by the petitioner as its historical Indian tribe or tribes.** To address this issue, the petitioner should identify which of each current member's ancestors is believed to have been a member of the treaty-signing entities and which entity or entities they were a member of at the time (1852–55). The OFA also recommends that the petitioner provide documentation supporting the petitioner's contention that these historical individuals were members of the named entity or entities. Please note that evidence of membership in a particular entity need not necessarily be contemporaneous with the treaties themselves but should establish a reasonable likelihood that the individual was a member of the entity during the individual's lifetime.¹⁷
3. **The submitted membership files do not consistently provide supporting documentation for the generation-to-generation relationships between the current member and the ancestor(s) from whom descent should be evaluated.** Many membership files include only the current member's birth certificate and family group sheets for themselves and/or some of their ancestors, without citations or supporting documentation for their ancestral relationships.

¹⁶ 25 CFR § 83.11(e).

¹⁷ See 25 CFR § 83.10(a): "The Department will consider a criterion in § 83.11 to be met if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion."

To address this issue, the petitioner should review each member's membership file and, to the extent possible, identify the complete line of descent between a member of the historical Indian tribe and the current member. For each generation, please cite and provide supporting documentation of the relationship between a parent and child. This documentation may include the forms of evidence listed under § 83.11(e)(2)(i-v) or any other document that establishes the reasonable likelihood of the relationship in question.

Although the current membership list includes many groups of extended families, the petitioner need not provide multiple copies of the same document(s) for shared ancestors or relationships in common. The petitioner may simply provide a single copy of the supporting documentation, citing and cross-referencing the appropriate document(s) in each of the lineages for which it may be relevant.

Finally, if the petitioner believes that the documentation supporting any intergenerational relationship may be ambiguous or open to misinterpretation, the petitioner may wish to provide additional written explanation of the submitted evidence.

Please note that the deficiencies and technical assistance set forth above are based on a preliminary review of the submitted evidence. Further review may result in the identification of additional deficiencies that would prevent the petitioner from meeting the Descent criterion in the Phase I proposed finding.

The Unique Membership criterion (25 CFR 83.11(f))

(f) Unique membership. The petitioner's membership is composed principally of persons who are not members of any federally recognized Indian tribe.

Summary

OFA staff have not identified any evidence that the petitioner's membership is "composed principally" of members of any federally recognized Indian tribe, though a few of the individual members may be former or current members of a federally recognized tribe. Therefore, OFA staff have not identified any deficiencies that would prevent the petitioner from meeting this criterion.

Technical Assistance Review

The petitioner's claimed history, regarding its historical Indian tribe or tribes and descent from those tribes, shares much in common with the history of several federally recognized tribes, in particular, the Fort Sill Apache Tribe of Oklahoma; the Gila River Indian Community of the Gila River Indian Reservation, Arizona; the Jicarilla Apache Nation, New Mexico; the Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; and perhaps one or more of the federally recognized Pueblos in New Mexico.

The petitioner’s governing document includes a section suggesting that members of other tribes or entities might also be eligible for enrollment in the petitioner:

All applicants whose parent(s) or legal guardian (s) are members of another Native American Band or Tribe of Apache, are eligible for membership as a member of the Chihene Nde Nation of New Mexico provided he/she meets the application criteria as described in Article II, Sections 2 and 3.¹⁸

However, the governing document elsewhere clarifies that “If the applicant is a member of another federally recognized tribe, the applicant must relinquish his/her membership and affiliation in the respective nation in writing.”¹⁹ Concerning the Unique Membership criterion, the petitioner’s narrative states, “The Petitioner’s members have provided unequivocal written confirmation of their exclusive membership in the tribe through their signature on an enrollment form as required by our membership criteria.”²⁰

The petitioner provided membership files for each of the members included on its current membership list, which include each member’s enrollment form as indicated. In its review of a representative sample of these membership files, OFA staff noted evidence that only one or two of the petitioner’s members may have been members of a federally recognized tribe. The membership files of these members did not mention whether the respective members had submitted evidence of relinquishing their “membership and affiliation in the respective nation.”

Finally, the Mescalero Apache Tribe submitted a comment on this petition during the public comment period. The comment, which includes an extensively researched report addressing each of the seven criteria, states that “The petitioner appears to meet criterion§ 83.11(f).”²¹ In addition, a former Chairman of the Fort Sill Apache Tribe submitted a comment on this petition during the public comment period. While his comment notes that the current petition claims much of “the history and identity of Chiricahua Apaches, most of whom are members of the Fort Sill Chiricahua Warm Springs Apache Tribe and the Mescalero Apache Tribe,” the former Chairman did not claim that the petitioner is “composed principally” of members of that tribe or any other.²²

¹⁸ “Constitution and By-Laws,” ch. 3, art. 2 § 2(B).

¹⁹ “Constitution and By-Laws,” ch. 3, art. 2 § 2(D).

²⁰ Petition, 239.

²¹ Michael L. Lawson and Alex Sanders, “Comments on the Documented Petition for Federal Acknowledgment Presented by the Chihene Nde Nation of New Mexico,” Aug. 13, 2024, p. 56; under cover, Thora Padilla (President, Mescalero Apache Tribe), letter to Department of the Interior, “RE: Comment Opposing the Petition of the ‘Chihene Nde Nation of New Mexico,’” Aug. 13, 2024; received by OFA, Aug. 16, 2024.

²² Jeff Haozous, “Comment on Petition Number 404 – Chihene Nde Nation of New Mexico,” Aug. 13, 2024; received by OFA, Aug. 14, 2024.

Congressional termination (25 CFR § 83.11(g))

(g) Congressional termination. Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

Summary

The petitioner does not appear to have been the subject of congressional legislation that expressly terminated or forbid a Federal relationship. OFA staff have not identified any deficiencies that would prevent the petitioner from meeting this criterion.

Technical Assistance Review

In its review of sources relating to the termination of Indian tribes, including the U.S. Statutes at Large and the *Federal Register*, OFA staff did not locate any evidence that the petitioner or its members have been the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. Consistent with that review, several federally recognized Apache tribes with histories that overlap with that claimed by the petitioner have similarly never been the subject of termination legislation.

Summary

This TA review letter is not a Phase I proposed finding on criteria 83.11(d), (e), (f), and (g). Rather, the purpose of a Phase I TA review is to notify a petitioner, prior to the issuance of a finding, of “any deficiencies that would prevent the petitioner” from meeting criteria (d) through (g) (§ 83.26(a)(1)(i)). As detailed in this letter, OFA identified deficiencies that would prevent the petitioner from establishing UPFA and meeting the Descent criterion (83.11(e)).

This Phase I TA review discusses the deficiencies known to OFA at the time of review. However, the petitioner’s submission of additional information or clarification in response to the TA review, or other materials added to the administrative record, might raise additional deficiencies or other issues that OFA would have to address in the Phase I proposed finding. In addition, the petitioner should not assume it will meet criterion 83.11(e) by simply submitting additional information or clarification. The petitioner’s ability to cure the deficiencies in criterion 83.11(e) will depend on the content of those submissions and the results of the OFA’s review. Finally, the petitioner should not assume OFA has made positive conclusions about claims and evidence not discussed in this letter.

After reviewing this letter, you must submit a written response that (1) withdraws the documented petition for further preparation; (2) submits additional information and/or clarification; or (3) asks OFA to proceed with the review (§ 83.26(a)(1)(i)(A)-(C)). As noted above, the regulations do not impose any limit on the amount of time that the petitioner may take to respond to technical assistance, and the timetable for OFA’s Phase I review will be suspended while the Department awaits a response or additional information from the petitioner. Upon receipt of your response to this TA review letter, OFA will

reevaluate the suspension and return to its review of the documented petition as soon as possible. See 25 CFR § 83.23(a)(1).

If you have any questions, please feel free to contact the Office of Federal Acknowledgment at (202) 513-7650, via email at ofa_info@bia.gov, or by mail at:

Department of the Interior
Office of the Assistant Secretary–Indian Affairs
Attention: Office of Federal Acknowledgment
Mail Stop 4071 MIB
1849 C Street NW
Washington, DC 20240

Sincerely,

A handwritten signature in black ink that reads "Nikki Bass". The signature is written in a cursive, slightly slanted style.

Nikki Bass
Director, Office of Federal Acknowledgment