

Documented Petition Description

Any entity within the contiguous 48 states seeking Federal acknowledgment as an Indian tribe must petition under the Department of the Interior's ("Department") "Procedures for Federal Acknowledgment of Indian Tribes," Part 83 of Title 25 of the Code of Federal Regulations (25 CFR Part 83).

Any entity that believes it can satisfy the mandatory criteria for acknowledgment may submit a documented petition to:

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

Please **do not** send letters of intent to petition. Under the current regulations, the petitioning process does not begin until OFA has received a documented petition (see below).

Documented Petition Description

A documented petition may be submitted in "any readable form,"¹ including both physical (paper) or digital submissions. The following tips will ensure that your petition is in a "readable form":

- Digital submissions may be sent **by courier service** (*not* USPS) on a flash drive containing common file formats (such as PDF or Microsoft Office products). Any package sent through USPS is susceptible to additional screening that may damage the digital media.
- Do not submit digital petition materials in any other proprietary formats (such as genealogical software) as these are unable to be read.

In order for your submission to be accepted as a documented petition and begin the acknowledgment process, your submission must include ***all*** of the following elements (see § 83.21):

¹ 25 CFR § 83.21.

1. A certification, signed and dated by the petitioner's governing body, stating that it is the petitioner's official documented petition;
2. A concise written narrative, with citations to supporting documentation, thoroughly explaining how the petitioner meets the criteria at § 83.11(a–f) — you may also submit evidence for the Congressional Termination criterion (§ 83.11(g)) if you wish, but research for this criterion is OFA's responsibility;
3. Supporting documentation cited in the written narrative (see #2 above) containing “specific, detailed evidence” that the petitioner meets each of the criteria;
4. (a) An official current membership list of all known current members, including:
 - i. A separate certification, signed and dated by the governing body, stating that it is the official current membership list;
 - ii. Each member's full name, including maiden name, if any;
 - iii. Each member's date of birth;
 - iv. Each member's current residential address.
- (b) A statement describing the circumstances surrounding the preparation of the current membership list;
- (c) Any available earlier lists of members and statements describing the circumstances surrounding the preparation of these earlier lists, as much as possible.

In addition, if the documented petition contains any information that is “protectable under Federal law, the petitioner must provide both unredacted and redacted copies of any such pages, as well as an explanation of the legal basis for withholding the information from public release. The Department will not publicly release information that is protectable under Federal law but may release redacted information that is not protectable under Federal law. If the petitioner does not believe any material in the petition is protectable, a statement to that effect in lieu of a redacted copy of the petition is also acceptable.

Personally identifiable information (information about living individuals, including names, birth dates, family relationships, tribal affiliations, blood quantum, medical or personnel matters, home addresses, Social Security numbers, phone numbers, e-mail addresses, or other personal information that is not generally known) appearing in the petition—particularly in membership lists, in membership files, and within the concise written narrative—should be redacted.

Additionally, Federal law may protect certain financial information (such as bank statements, consultant's fees, and grant applications) or privileged communications with the group's lawyer. OFA's website has a few links providing guidance on redacting.

The Criteria for Acknowledgment

The seven criteria a petitioner must satisfy to be acknowledged under 25 CFR Part 83 are

- (a) *Indian entity identification*. Evidence that the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900.
- (b) *Community*. Evidence that the petitioner comprises a distinct community and has existed as a community since 1900. *Distinct community* means "an entity with consistent interactions and significant social relationships within its membership and whose members are differentiated from and distinct from nonmembers."
- (c) *Political influence or authority*. Evidence that the petitioner has maintained political influence or authority over its members as an autonomous entity since 1900. This means that "the entity uses a council, leadership, internal process, or other mechanism as a means of influencing or controlling the behavior of its members in significant respects, making decisions for the entity which substantially affect its members, and/or representing the entity in dealing with outsiders in matters of consequence."
- (d) *Governing document*. The petitioner must provide a copy of its present governing document, including its membership criteria, or a written statement describing its membership criteria and current governing procedures.
- (e) *Descent*. Evidence that the petitioner's membership consists of individuals who descend from a historical (pre-1900) Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity.
- (f) *Unique membership*. Evidence that the petitioner's membership is composed principally of persons who are not members of any federally recognized Indian tribe.
- (g) *Congressional termination*. Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. (The Department will determine whether the petitioner meets this criterion; the petitioner is not required to submit evidence to meet it.)

In addition, a petitioner may optionally submit evidence that it was previously acknowledged as a federally recognized Indian tribe or is a portion that evolved out of a previously federally recognized Indian tribe. To prove it was previously acknowledged, a petitioner must provide *substantial evidence of unambiguous Federal acknowledgment*. This evidence may include, but is 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.²

A petitioner can be acknowledged as a federally recognized Indian tribe under 25 CFR Part 83 in two ways. First, a petitioner can meet all the criteria in § 83.11(a–g). Alternatively, a petitioner may demonstrate previous Federal acknowledgment, meet criterion § 83.11(b) *at present only*, and criteria § 83.11(a) and (c) from the date of previous Federal acknowledgment or 1900, whichever is later.³

Standards for Evaluation of a Petition

OFA will use the following standards to evaluate whether a petition meets any of the § 83.11 criteria. Keep these in mind when preparing your petition.

- 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.” The Department does not require “conclusive proof” of the facts to consider the criterion met.
- Evidence or methodology found sufficient to satisfy a criterion in a previous decision will be sufficient to satisfy the criterion for a present petitioner.
- Any suitable evidence may allow a petitioner to meet the criteria, rather than the specific forms of evidence stated in the regulations.
- The criteria will be applied in context with the history, regional differences, culture, and social organization of the petitioner.

² See 25 CFR § 83.12.

³ See 25 CFR § 83.5.

- The criteria must be met on a *substantially continuous* basis (meaning without substantial interruption).
 - However, the Department will take into account historical situations and time periods for which evidence is demonstrably limited or not available, including limitations inherent in demonstrating historical existence of community and political influence or authority.
 - This does not require meeting the criteria at every point in time; fluctuations in tribal activity during various years will not be a cause for denial of acknowledgment in themselves.