

U.S. Department of Labor

Office of Administrative Law Judges  
1111 20th Street, N.W.  
Washington, D.C. 20036

gm

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In the Matter of :  
 :  
U.S. DEPARTMENT OF LABOR : Case No. 84-JTP-8  
 :  
V. :  
 :  
KLAMATH TRIBE :  
.....

Susan M. Williams, Esq.  
For the Klamath Tribe

LaFayette S. Rose, Esq.  
For the Government

Before: GLEN ROBERT LAWRENCE  
Administrative Law Judge

DECISION AND ORDER OF DISMISSAL

The Klamath **Tribe** by counsel on February 14, 1984 moved to dismiss this case without prejudice alleging:

1. As a remedy for its appeal, the Klamath Tribe does not wish to take grant funds from the existing Native American grantee, the Organization of Forgotten Americans, without its consent. Such consent was not obtained.

2. The Agency takes the position that no additional funds, through the JTPA allocation of otherwise with the Department, are available to fund the Klamath Tribe JTPA program request.

3. The Klamath Tribe has brought to the attention of the Agency that the present lack of a JTPA tribal consultation procedure, with regard to designation of non-tribal grantees, other than that the Agency will "hear tribal complaints", is inconsistent with the Job Training Act (the "Act").

4. The Klamath Tribe has brought to the attention of the Agency that the lack of a procedure for awarding tribes a preference, as required under the Act, is arbitrary and capricious, and, more- over, that a formula **must** be derived to ensure fairness in the application of the tribal preference.

5. The Klamath Tribe has brought to the attention of the Agency that the criteria for reviewing applications gives excessive weight to existing grantees, which is inconsistent with the Act, especially where a tribe is applying for the first time.

6. In light of the foregoing, the Klamath Tribe, with its limited financial resources, has **accomplished** many of its objectives in asserting this appeal.

Taking into account that the Department- of Labor consented on February 14, 1984 to the dismissal and without considering the validity of the above allegations, the motion to dismiss without prejudice is granted.

*Glen R. Lawrence*  
GLEN ROBERT LAWRENCE  
Administrative Law Judge

Dated: **18 APR 1984**  
Washington, D.C.

GRL/det

SERVICE SHEET

Case Name: Klamath Tribe

Case No. : 84-JTP-8

Susan M. Williams  
Fried, Frank, Harris, Shriver  
& Kampelman  
600 New Hampshire Avenue, N.W.  
Suite 1000  
Washington, D.C. 20037

Herbert **Fellman**, Chief  
Division of Indiana and  
Native American Programs  
ETA  
601 D Street, N.W.  
Washington, D.C. 20213

Lafayette S. Rose, Esq.  
Office of the Solicitor  
U.S. Department of Labor  
200 Constitution Ave., N.W.  
Room N2101  
Washington, D.C. 20210

Daniel **Teehan**  
Regional Solicitor  
P.O. Box 36017, Federal Bldg.  
450 Golden Gate Avenue  
San Francisco, CA 94102

Douglas Cochennour, Director  
Division of Financial Policy  
Audit and Closeout  
U.S. Department of Labor  
601 D Street, N.W.  
Washington, D.C. 20213

Lynn J. Schonchin, Sr.  
Tribal Chairman  
Klamath Tribe  
P.O. Box 436  
Chiloquin, Oregon 97624  
Attn: Charles E. Kimbol, Sr.

Francis Harjo  
Tribal Administrator  
Klamath Tribe  
P.O. Box 436  
Chiloquin, Oregon 97624

Eloise King  
c/o DOL/DINAP  
Room 1114, Federal Office Bldg.  
909 First Avenue  
Seattle, WA 98174