

Bureau of Indian Affairs, Interior

§ 87.1

encumber tribal lands for a period of seven or more years. Within thirty days after receipt of final, executed documents, the Secretary will return such contracts and agreements with a statement explaining why Secretarial approval is not required. The provisions of the Act will not apply to those contracts or agreements the Secretary determines are not covered by the Act.

§ 84.006 Under what circumstances will the Secretary disapprove a contract or agreement that requires Secretarial approval under this part?

(a) The Secretary will disapprove a contract or agreement that requires Secretarial approval under this part if the Secretary determines that such contract or agreement:

- (1) Violates federal law; or
- (2) Does not contain at least one of the following provisions that:
 - (i) Provides for remedies in the event the contract or agreement is breached;
 - (ii) References a tribal code, ordinance or ruling of a court of competent jurisdiction that discloses the right of the tribe to assert sovereign immunity as a defense in an action brought against the tribe; or
 - (iii) Includes an express waiver of the right of the tribe to assert sovereign immunity as a defense in any action brought against the tribe, including a waiver that limits the nature of relief that may be provided or the jurisdiction of a court with respect to such an action.

(b) The Secretary will consult with the Indian tribe as soon as practicable before disapproving a contract or agreement regarding the elements of the contract or agreement that may lead to disapproval.

§ 84.007 What is the status of a contract or agreement that requires Secretarial approval under this part but has not yet been approved?

A contract or agreement that requires Secretarial approval under this part is not valid until the Secretary approves it.

§ 84.008 What is the effect of the Secretary's disapproval of a contract or agreement that requires Secretarial approval under this part?

If the Secretary disapproves a contract or agreement that requires Secretarial approval under this part, the contract or agreement is invalid as a matter of law.

PART 87—USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

Sec.

- 87.1 Definitions.
- 87.2 Purpose.
- 87.3 Time limits.
- 87.4 Conduct of hearings of record.
- 87.5 Submittal of proposed plan by Secretary.
- 87.6 Extension of period for submitting plans.
- 87.7 Submittal of proposed legislation by Secretary.
- 87.8 Enrollment aspects of plans.
- 87.9 Programing aspects of plans.
- 87.10 Per capita payment aspects of plans and protection of funds accruing to minors, legal incompetents and deceased beneficiaries.
- 87.11 Investment of judgment funds.
- 87.12 Insuring the proper performance of approved plans.

AUTHORITY: 5 U.S.C. 301; 87 Stat. 466, 467, 468.

SOURCE: 39 FR 1835, Jan. 15, 1974, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 87.1 Definitions.

As used in this part 87, terms shall have the meanings set forth in this section.

(a) *Act* means the Act of October 19, 1973 (Pub. L. 93-134; 87 Stat. 466, 467, 468).

(b) *Secretary* means the Secretary of the Interior or his authorized representative.

(c) *Commissioner* means the Commissioner of Indian Affairs or his authorized representative.

(d) *Area Director* means the Area Director or his equivalent of any one of the Area Offices of the Bureau of Indian Affairs or his authorized representative.

(e) *Superintendent* means the Superintendent or Officer in Charge of any one of the Agency Offices or other local