AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(1) SF 424, Application for Federal Assistance, OMB Control Number 0348–0043; and

(2) SF 424A, Budget Information, OMB Control Number 0348–0044.

(b) Information collected in §1200.13 (How does a tribe apply to withdraw funds?) will be used to determine the eligibility of applicants, and the capability of tribes or their contractors to manage and invest large blocks of funds.

(c) Information collected in §1200.43, (How can a tribe apply for technical assistance?) will be used to determine the eligibility of applicants, as well as the level of need for technical assistance, in order for tribes to develop Management Plans and to complete the application for withdrawal process.

[61 FR 67932, Dec. 26, 1996, as amended at 71 FR 15339, Mar. 28, 2006]

Subpart B—Withdrawing Tribal Funds From Trust

§ 1200.10 Who is eligible to withdraw their tribal funds from trust?

Any tribe for whom we manage funds in trust.

§ 1200.11 What funds may be withdrawn?

A tribe may withdraw some or all funds that we hold in trust if we approve a plan that it submits under this part.

§ 1200.12 What limitations and restrictions apply to withdrawn funds?

(a) A tribe may withdraw funds appropriated to satisfy judgments of the Indian Claims Commission (ICC) and the Court of Federal Claims and that we hold under the Indian Judgment Funds Use and Distributions Act (25 U.S.C. 1401) or another act of Congress if:

(1) The tribe uses the funds as specified in the previously approved judgment fund plan, and;

(2) The tribe withdraws only funds held for Indian tribes and does not include any funds held for individual tribal members.

(b) A tribe may withdraw funds appropriated to satisfy settlement agreements relating to certain tribal claims and that we hold and manage for the tribe pursuant to an act of Congress if:

(1) The tribe uses the funds as specified in the previously approved settlement act plan;

(2) The tribe withdraws only funds held for Indian tribes and does not include any funds held for individual tribal members; and

(3) It is determined that there is no provision in the act or settlement agreement requiring that the funds remain in trust to implement the act or agreement that cannot be waived.

(c) Tribal funds commonly known as ''Proceeds of Labor'' funds, usually income to trust resources, are generally withdrawn under normal tribal budgeting procedures, but may also be withdrawn from trust under this part. These funds may be returned to trust under the provisions of subpart C of this part.

§ 1200.13 How does a tribe apply to withdraw funds?

To withdraw funds, a tribe must submit four copies of its application and the attachments listed in this section to: Director, Office of External Affairs, Office of the Special Trustee for American Indians, Department of the Interior, MS–5140, 1849 C Street NW., Washington, DC 20240. We will notify the tribe if the application is incomplete and will help the tribe complete the application if requested. When we determine that the application is complete, we will send copies to the appropriate agency superintendent and regional director, and to the Special Trustee and the Solicitor. Each application package must contain the items listed below.

(a) Proof that the tribe has notified its members of its intent to remove funds from trust and that, when the request is approved, the tribe and not the United States Government will be liable for funds management. Notification must be by the method(s) that the tribe customarily uses to notify its members of significant tribal actions. The notification must identify the specific funds to be withdrawn.

(b) A tribal resolution that:

(1) Expressly authorizes the withdrawal of the funds and indicates the

(approximate) dollar amount of the funds to be withdrawn;

(2) Expressly acknowledges that the funds, once withdrawn in accordance with the Act, will no longer be held in trust status by the United States, and that we have no further liability or responsibility for the funds; and

(3) Acknowledges that:

(i) Neither we nor the tribe necessarily accept the account balances at the time of withdrawal as accurate; and

(ii) Neither we nor the tribe have waived any rights regarding the balances, including the right to seek compensation for incorrect balances.

(c) A copy of a formal agreement between the tribe and the manager of the funds to be withdrawn, in which the manager agrees to:

(1) Comply with the terms of the plan we approve under §1200.15 and make only those changes that conform to revision procedures in the approved plan and the requirements of §1200.19; and

(2) Transfer funds to the tribe or another manager only after receiving a valid tribal resolution calling for this transfer and proof that the tribe has notified its members of intent to transfer the funds. The resolution must clearly state that:

(i) The funds are being withdrawn to be reinvested by the tribe in a manner consistent with the goals and strategies of the approved plan; and

(ii) The fund managers will continue to follow any previously approved distribution plan conditions.

(d) A legal opinion by the tribe's attorney or its general counsel that:

(1) The resolution referred to in paragraph (b) of this section was enacted under procedures established by the tribe's organic documents or oral tradition;

(2) The tribal governing body has the legal authority to withdraw funds from trust status and that the withdrawal does not require a referendum vote or other procedure beyond a tribal council resolution; and

(3) If the funds to be withdrawn are judgment or settlement funds, that the tribe's plan for managing the funds meets the requirements of any applicable judgment fund use and distribution plan or settlement act.

(e) The results of a tribal referendum, if one was held.

(f) If the funds to be withdrawn are judgment or settlement funds, a copy of the act and/or plan that sets out the conditions for the uses of the funds or income from them.

(g) A management plan as provided for in §1200.14.

[61 FR 67932, Dec. 26, 1996, as amended at 71 FR 15339, Mar. 28, 2006]

§1200.14 What must the Tribal Management Plan contain?

The Tribal Management Plan required by §1200.13 must include each of the following:

(a) Tribal investment goals and the strategy for achieving them.

(b) A description of the protection against the substantial loss of principal, as set forth in §1200.16.

(c) A copy of the tribe's ordinances and procedures for managing or overseeing the management of the funds to be withdrawn. These must include adequate protections against fraud, abuse, and violations of the management plan.

(d) A description of the tribe's previous experience managing or overseeing the management of invested funds. This should include factual data of past performance of tribally-managed funds (i.e., audited reports) and the identity and qualifications of the tribe's investment officer.

(e) A description of the capability of all of the individuals or investment institutions that will be involved in managing and investing the funds for the tribe. Provide copies of State or Federal security applications for account executive(s).

(1) Investment entities named must submit:

(i) Ownership information (including Central Registry Depository (CRD) numbers);

(ii) Asset size and capitalization;

(iii) Assets under management;

(iv) Performance statistics on managed accounts for the past 5 years; and

(v) Any adverse actions by licensing and/or regulatory bodies within the past 5 years.

(2) In addition, we may ask about:

(i) Soft dollar arrangements;