

(e) When a tribe determines, and the Assistant Secretary—Indian Affairs, after consultation with the Solicitor concurs, that a substantial possibility of a negotiated settlement or agreement exists.

(f) Payment of fees will not be allowed if such payment was not authorized before services were performed.

(g) This rule applies to expenditure of appropriated Federal funds and not a tribe's own funds on deposit in the U.S. Treasury.

#### § 89.42 Factors to be considered.

The following factors are to be considered in determining whether funds should be paid to provide private legal representation for a tribe.

(a) The merits of the legal position which the tribe asserts. Greater weight will be given to those cases where the tribe's legal argument is deemed particularly meritorious than to those cases where the tribe's position, although not entirely without merit, may be relatively weak;

(b) The ability of the tribe to pay all or a part of its legal expenses out of its own funds. A review of the tribe's financial resources under this subsection will include an examination of the tribe's total expenditures to determine whether its expenditures for other purposes comport with the asserted importance of the case for which it seeks funds;

(c) Whether the question the tribe seeks to litigate is being litigated in another case by another tribe;

(d) Whether, as a matter of strategy, the issues the tribe seeks to litigate could be more satisfactorily resolved in another forum, in a different factual context, or a different time; and

(e) Whether the issue should be litigated at all in preference to a legislative or other solution.

#### § 89.43 Procedures.

The information collection requirements contained in this section do not require approval by the Office of Management and Budget under 44 U.S.C. 3051 *et seq.*, because it is anticipated there will be fewer than 10 respondents annually.

(a) A tribe or other organization seeking funds under § 89.41 shall submit

a written request through the Agency Superintendent and the Area Director, including

(1) A detailed statement describing the nature and scope of the problems for which legal services are sought;

(2) A statement of the terms, including total anticipated costs, of the requested legal services contract;

(3) A current financial statement and a statement that the tribe does not possess sufficient tribal funds or assets to pay for all or a part of the legal services sought; and

(4) A statement of why the matter must be handled by a private attorney as opposed to Department of Justice or Department of Interior attorneys.

All requests shall be considered by a committee consisting of the Deputy Assistant Secretary—Indian Affairs (Policy), or his delegate, the Director of the Office of Trust Responsibilities in BIA or his delegate, and the Associate Solicitor—Indian Affairs or his delegate.

(b) If two of the three committee members recommend approval of a tribe's request, the request, along with the committee's recommendation, shall be submitted to the Assistant Secretary for final determination after consultation with and the advice of the Solicitor. The committee's recommendation shall indicate the amount of funds recommended to assist the tribe, the hourly rate allowed, the maximum amount permitted to be expended in the recommended action and the tribal contributions, if any. The Assistant Secretary shall approve the request only with the concurrence of the Solicitor.

(c) The requirements imposed by this policy are supplementary to those contained in all existing regulations dealing with attorney contracts with Indian tribes and, in particular, those contained in parts 88 and 89 of this title.

### PART 90—ELECTIONS OF OSAGE MINERALS COUNCIL

Sec.

90.100 What role does the Bureau of Indian Affairs (BIA) play in the Osage Minerals Council's elections?

90.101 [Reserved]

## § 90.100

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9; Sec. 9, Pub. L. 59-321, 34 Stat. 539; Pub. L. 108-431, 118 Stat. 2609, 118 Stat. 2609.

SOURCE: 86 FR 54366, Oct. 1, 2021, unless otherwise noted.

### § 90.100 What role does the Bureau of India Affairs (BIA) play in the Osage Minerals Council's elections?

(a) The Superintendent of the Osage Agency must compile, at the request of the Chair of the Osage Minerals Council, a list of the voters of Osage descent who will be 18 years of age or over on the election day designated by the Osage Minerals Council and whose names appear on the March quarterly annuity roll at the Osage Agency as of the March quarterly payment immediately preceding the date of the election. Such list must set forth only the name and last known address of each voter.

(b) For purposes of calculating votes, the Superintendent must furnish to the Osage Minerals Council designee charged with carrying out Osage Minerals Council elections a separate list containing the name and last known address of each eligible voter and including the voter's headright interest shown on the last March quarterly annuity roll.

### § 90.101 [Reserved]

## PART 91—GOVERNMENT OF INDIAN VILLAGES, OSAGE RESERVATION, OKLAHOMA

Sec.

- 91.1 Purpose.
- 91.2 Definitions.
- 91.3 Description of village reserves.
- 91.4 Plats of village reserves.
- 91.5 Tracts reserved from selection by individuals.
- 91.6 Custody of public buildings and tracts reserved from selection by individuals; village committees.
- 91.7 Permits to occupy land for dwelling purposes.
- 91.8 Sale or mortgage of improvements.
- 91.9 Inheritance of improvements.
- 91.10 Renting of improvements.
- 91.11 Domestic animals in village reserves.
- 91.12 Business enterprises and public buildings.
- 91.13 Health, sanitation, and sewerage disposal.
- 91.14 Confirmation of permits.

## 25 CFR Ch. I (4-1-25 Edition)

91.15 Suspension or amendment of regulations.

AUTHORITY: Subdivision 9 of sec. 2, sec. 12, Act of June 28, 1906 (34 Stat. 539), sec. 3, Act of June 24, 1938 (52 Stat. 1034). Interpret or apply Act of April 18, 1912 (37 Stat. 86).

SOURCE: 28 FR 10203, Sept. 18, 1963, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### § 91.1 Purpose.

The purpose of the regulations in this part is to establish policies and procedures for the government of Indian villages, Osage Reservation, Oklahoma.

### § 91.2 Definitions.

As used in this part:

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

(b) *Superintendent* means the Superintendent or other officer in charge of Osage Agency.

(c) *Council* means the Osage Tribal Council, that elected governing body of the Osage Tribe of Indians.

(d) *Tribal Member* means any person of Osage Indian blood of whatever degree, allotted or unallotted.

(e) *Minor* means any person under 21 years of age.

(f) *Resident* means an adult tribal member who has resided in the village for thirty (30) days, in the 12-month period preceding the election.

### § 91.3 Description of village reserves.

The act of June 28, 1906 (34 Stat. 539), as amended by the act of June 24, 1938 (52 Stat. 1034), set aside certain tribal lands exclusively as dwelling sites for the use and benefit of the Osage Indians until January 1, 1984, unless otherwise provided by Act of Congress. These lands are described as follows:

(a) *Grayhorse Indian Village*. The southeast quarter (SE  $\frac{1}{2}$ ) of the southeast quarter (SE  $\frac{1}{4}$ ), and the west half (W  $\frac{1}{2}$ ) of the southwest quarter (SW  $\frac{1}{4}$ ) of the southeast quarter (SE  $\frac{1}{4}$ ), and the south half (S  $\frac{1}{2}$ ) of the northeast quarter (NE  $\frac{1}{4}$ ) of the southeast quarter (SE  $\frac{1}{4}$ ) of the southwest quarter (SW  $\frac{1}{4}$ ), and the south half (S  $\frac{1}{2}$ ) of the north half (N  $\frac{1}{2}$ ) of the northeast quarter (NE  $\frac{1}{4}$ ) of the southeast quarter (SE  $\frac{1}{4}$ ) of the southwest quarter (SW  $\frac{1}{4}$ ), and the southeast quarter (SE  $\frac{1}{2}$ ) of