

REFERENCES IN TEXT

The Indian Claims Commission, referred to in text, terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1987—Subsec. (a). Pub. L. 100-153, §4(1), (2), designated existing provision as subsec. (a) and substituted “any investment income” for “any interest”.

Subsecs. (b), (c). Pub. L. 100-153, §4(3), added subsecs. (b) and (c).

1982—Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 1402. Plan for use or distribution of funds**(a) Preparation and submission to Congress by Secretary of the Interior; contents; copy to affected Indian tribe**

Within one year after appropriation of funds to pay a judgment of the Indian Claims Commission or the United States Court of Federal Claims to any Indian tribe, the Secretary of the Interior shall prepare and submit to Congress a plan for the use and distribution of the funds. Such plan shall include identification of the present-day beneficiaries, a formula for the division of the funds among two or more beneficiary entities if such is warranted, and a proposal for the use and distribution of the funds. The Secretary shall simultaneously submit a copy of such plan to each affected tribe or group.

(b) Time for preparation and submission of plan

With respect to judgments, for which funds have been appropriated prior to January 12, 1983, but for which use or distribution has not been authorized by enactment of legislation or by an effective plan under this chapter, the Secretary shall prepare and submit such plans within one year of January 12, 1983.

(c) Submission of proposed legislation and report to Congress

In any case where the Secretary determines that the circumstances do not permit the preparation and submission of a plan as provided in this chapter, he shall submit to the Congress within the one-year period proposed legislation to authorize use or distribution of such funds, together with a report thereon.

(d) Submission of proposed legislation and report to Congress in absence of consent of tribal governments to division of judgment funds between two or more beneficiary entities

In cases where the Secretary has to submit a plan dividing judgment funds between two or

more beneficiary entities, he shall obtain the consent of the tribal governments involved to the proposed division. If the Secretary cannot obtain such consent within one hundred and eighty days after appropriation of the funds for the award or within one hundred and eighty days of January 12, 1983, he shall submit proposed legislation to the Congress as provided in subsection (c) of this section.

(e) Extension of time for preparation and submission of plan

An extension of the one-year period, not to exceed one hundred and eighty days, may be requested by the Secretary or by the affected Indian tribe, submitting such request to the committees through the Secretary, and any such request will be subject to the approval of both the Senate Committee on Indian Affairs and the United States House of Representatives Committee on Natural Resources.

(Pub. L. 93-134, §2, Oct. 19, 1973, 87 Stat. 466; Pub. L. 97-164, title I, §160(a)(1), Apr. 2, 1982, 96 Stat. 48; Pub. L. 97-458, §1, Jan. 12, 1983, 96 Stat. 2512; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103-437, §10(e)(1), (2)(A), Nov. 2, 1994, 108 Stat. 4589.)

REFERENCES IN TEXT

The Indian Claims Commission, referred to in subsec. (a), terminated Sept. 30, 1978. See Codification note set out under former section 70 et seq. of this title.

CODIFICATION

In subsec. (a), “United States Claims Court” [now United States Court of Federal Claims] substituted for “Court of Claims” pursuant to section 160(a)(1) of Pub. L. 97-164, as the probable intent of Congress, notwithstanding later amendment by section 1 of Pub. L. 97-458, which made reference to Court of Claims.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103-437 substituted “Committee on Indian” for “Select Committee on Indian” and “Natural Resources” for “Interior and Insular Affairs”.

1992—Subsec. (a). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1983—Subsec. (a). Pub. L. 97-458 substituted “one year” for “one hundred and eighty days”; inserted provision for contents of the plan; inserted provision for submission of copy of the plan to each affected tribe or group, incorporating part of former subsec. (c); struck out proviso prescribing Oct. 19, 1973, as the commencing date with respect to judgments for which funds were appropriated and for which legislation authorizing use or distribution was not enacted prior to Oct. 19, 1973; and struck out second sentence respecting submission of proposed legislation and report to Congress, incorporated in subsec. (c). See Codification note above.

Subsec. (b). Pub. L. 97-458 added subsec. (b). Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 97-458 redesignated second sentence of subsec. (a) as subsec. (c) and substituted “he shall submit to the Congress within the one-year period proposed legislation to authorize use or distribution of such funds, together with a report thereon” for “he shall submit, within such one hundred and eighty-day period, proposed legislation as provided in section 1405(b) of this title”. Former subsec. (c) respecting notification of affected Indian tribe on the date of submission of the plan covered in part in subsec. (a) as to provision for a copy of the plan.

Subsec. (d). Pub. L. 97-458 added subsec. (d).

Subsec. (e). Pub. L. 97-458 redesignated subsec. (b) as (e); increased time allowed for submission of plans to

one year from a one hundred and eighty-day period and additional time allowed for such submissions to one hundred and eighty from ninety days; and substituted the Senate Select Committee on Indian Affairs for the Senate Committee on Interior and Insular Affairs as the Senate committee approving any extensions.

1982—Subsec. (a). Pub. L. 97-164 substituted “United States Claims Court” for “Court of Claims”. See Codification note above.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§ 1403. Preparation of plan

(a) Prerequisites for final preparation

The Secretary shall prepare a plan which shall best serve the interests of all those entities and individuals entitled to receive funds of each Indian judgment. Prior to the final preparation of the plan, the Secretary shall—

(1) receive and consider any resolution or communication, together with any suggested use or distribution plan, which any affected Indian tribe may wish to submit to him; and

(2) hold a hearing of record, after appropriate public notice, to obtain the testimony of leaders and members of the Indian tribe which may receive any portion, or be affected by the use or distribution, of such funds, in the area in which such Indian tribe is located and at a time which shall best serve the convenience of the eligible members thereof.

(b) Guidelines

In preparing a plan for the use or distribution of the funds of each Indian judgment, the Secretary shall, among other things, be assured that—

(1) legal, financial, and other expertise of the Department of the Interior has been made fully available in an advisory capacity to the Indian tribe which is entitled to such funds to assist it to develop and communicate to the Secretary pursuant to clause (1) of subsection (a) of this section its own suggested plan for the distribution and use of such funds;

(2) the needs and desires of any groups or individuals who are in a minority position, but who are also entitled to receive such funds, have been fully ascertained and considered;

(3) the interests of minors and other legally incompetent persons who are entitled to receive any portion of such funds as are subsequently distributed to them are and will be protected and preserved;¹ *Provided*, That such funds may be disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the minor or legal incompetent's health, education, welfare, or emergencies under a plan or plans approved by the Secretary and the tribal governing body of the Indian tribe involved.²

¹ So in original. The semicolon probably should be a colon.

² So in original. The period probably should be a semicolon.

(4) any provision, including enrollment provisions, of the constitution, bylaws, rules, and procedures of such tribe which may affect the distribution or other use of such funds are in full accord with the principles of fairness and equity;

(5) a significant portion of such funds shall be set aside and programed to serve common tribal needs, educational requirements, and such other purposes as the circumstances of the affected Indian tribe may justify, except not less than 20 per centum of such funds shall be so set aside and programed unless the Secretary determines that the particular circumstances of the pertinent Indian tribe clearly warrant otherwise: *Provided*, That in the development of such plan the Secretary shall survey past and present plans of the tribe for economic development, shall consider long range benefits which might accrue to the tribe from such plans, and shall encourage programing of funds for economic development purposes where appropriate; and

(6) methods exist and will be employed to insure the proper performance of the plan once it becomes effective under section 1405 of this title.

(Pub. L. 93-134, § 3, Oct. 19, 1973, 87 Stat. 467; Pub. L. 97-458, § 2, Jan. 12, 1983, 96 Stat. 2512.)

AMENDMENTS

1983—Subsec. (b)(3). Pub. L. 97-458, § 2(a), inserted proviso.

Subsec. (b)(5). Pub. L. 97-458, § 2(b), inserted proviso.

DISBURSEMENTS FOR URGENT NEEDS OF MINORS AND LEGAL INCOMPETENTS AND ACCOUNTING FOR EXPENDITURES

Section 2(a) of Pub. L. 97-458 provided in part that plan or plans approved by the Secretary and the tribal governing body of an Indian tribe for disbursements to parents or legal guardian of minors or legal incompetents for health, education, welfare, or emergencies of their charges “shall be limited to urgent needs arising from extenuating circumstances and shall accord with general principles governing administration of trust funds of minors and legal incompetents, including a requirement for strict accounting for expenditures.”

§ 1404. Hearing transcripts and tribal support statements; submission to Congress with plan

When submitting the plan as provided in section 1402 of this title, the Secretary shall also submit to the Congress with such plan—

(1) copies of the transcripts of hearings held by him concerning the Indian judgment pursuant to clause (2) of section 1403(a) of this title and all other papers and documents considered by him in the preparation of such plan, including any resolution, communication, or suggested use or distribution plan of the pertinent Indian tribe submitted pursuant to clause (1) of section 1403(a) of this title; and

(2) a statement of the extent to which such plan reflects the desires of the Indian tribe or individuals who are entitled to such funds, which statement shall specify the alternatives, if any, proposed by such Indian tribe or individuals in lieu of such plan, together with an indication of the degree of support among the interested parties for each such alternative.