

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

(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

Pub. L. 97-458, § 2(a), Jan. 12, 1983, 96 Stat. 2512, 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.

(Pub. L. 93-134, § 4, Oct. 19, 1973, 87 Stat. 467.)

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

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

§ 1405. Effective date of plan; joint resolution of disapproval

(a) Original plan

The plan prepared by the Secretary shall become effective, and he shall take immediate action to implement the plan for the use or distribution of such judgment funds, at the end of the sixty-day period (excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) beginning on the day such plan is submitted to the Congress, unless during such sixty-day period a joint resolution is enacted disapproving such plans.

(b) Proposed legislation and report to Congress following Congressional disapproval

Within thirty calendar days after the date of enactment of a joint resolution disapproving a plan, the Secretary shall submit to the Congress proposed legislation, together with a report thereon, authorizing use or distribution of such funds.

(c) Successor plan previously withdrawn or amended prior to Congressional action; consent to amendments

Within the sixty-day period and before the adoption of any resolution disapproving a plan, the Secretary may withdraw or amend such plan: *Provided*, That any amendments affecting the division of an award between two or more beneficiary entities shall be subject to the consent of these entities as provided in section 1402(d) of this title. Any such amended plan shall become valid at the end of a sixty-day period beginning on the day such amendment is submitted to the Congress, unless during such sixty-day period, a joint resolution is enacted disapproving such plan as amended.

(d) Resubmission of successor plan within prescribed period following withdrawal of plan

Once a plan is withdrawn before the end of a sixty-day period, the Secretary has until the expiration of the original one-year deadline to resubmit a plan to Congress. Such a plan shall become valid at the end of a sixty-day period beginning on the day such new plan is submitted to the Congress, unless during such sixty-day period, a joint resolution is enacted disapproving such plan.

(e) Recomputation of sixty-day period from date of introduction of joint resolution of disapproval; reextension restriction

Upon the introduction of the first such resolution of disapproval in either the House of Representatives or the Senate, the sixty-day period shall be recomputed from the date of such introduction and shall not again be extended.

(Pub. L. 93-134, § 5, Oct. 19, 1973, 87 Stat. 468; Pub. L. 97-458, § 3, Jan. 12, 1983, 96 Stat. 2513.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 97-458, § 3(a), substituted “unless during such sixty-day period a joint resolution is enacted” for “unless during such sixty-day period either House adopts a resolution disapproving such plans”.

Subsec. (b). Pub. L. 97-458, § 3(b), substituted “date of enactment of a joint resolution disapproving a plan”

for “date of adoption of a resolution disapproving a plan”.

Subsecs. (c) to (e). Pub. L. 97-458, § 3(c), added subsecs. (c) to (e).

§ 1406. Rules and regulations

(a) Promulgation

The Secretary shall promulgate rules and regulations to implement this chapter no later than the end of the one hundred and eighty-day period beginning on October 19, 1973. Among other things, such rules and regulations shall provide for adequate notice to all entities and persons who may receive funds under any Indian judgment of all relevant procedures pursuant to this chapter concerning any such judgment.

(b) Publication in Federal Register

No later than sixty days prior to the promulgation of such rules and regulations the Secretary shall publish the proposed rules and regulations in the Federal Register.

(c) Hearings

No later than thirty days prior to the promulgation of such rules and regulations, the Secretary shall provide, with adequate public notice, the opportunity for hearings on the proposed rules and regulations, once published, to all interested parties.

(Pub. L. 93-134, § 6, Oct. 19, 1973, 87 Stat. 468.)

§ 1407. Tax exemption; resources exemption limitation

None of the funds which—

(1) are distributed per capita or held in trust pursuant to a plan approved under the provisions of this chapter, or¹

(2) on January 12, 1983, are to be distributed per capita or are held in trust pursuant to a plan approved by the Congress prior to January 12, 1983,

(3) were distributed pursuant to a plan approved by Congress after December 31, 1981 but prior to January 12, 1983, and any purchases made with such funds, or

(4) are paid by the State of Minnesota to the Bois Forte Band of Chippewa Indians or the Grand Portage Band of Lake Superior Chippewa Indians, or both, pursuant to the agreements of each Band to voluntarily restrict tribal rights to hunt and fish in territory cede² under the Treaty of September 30, 1854 (10 Stat. 1109), including all interest accrued on such funds during any period in which such funds are held in a minor's trust,

including all interest and investment income accrued thereon while such funds are so held in trust, shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act [42 U.S.C. 301 et seq.] or, except for per capita shares in excess of \$2,000, any Federal or federally assisted program.

¹ So in original. The word “or” probably should not appear.

² So in original. Probably should be “ceded”.