

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

RAMAH NAVAJO CHAPTER,
and **OGLEALA SIOUX TRIBE,** for
themselves and on behalf of a
Class of persons similarly situated,

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Robert M. March
CLERK-ALBUQUERQUE

Plaintiffs,

vs.

CIV No. 90-0957 LH/WWD

BRUCE BABBITT, Secretary of the
Interior; **KEVIN GOVER,** Assistant
Secretary of the Indian Affairs; **ROBERT J.**
WILLIAMS, Acting Inspector General;
U.S. DEPARTMENT OF THE INTERIOR;
and **THE UNITED STATES OF AMERICA,**

Defendants.

**STIPULATED ORDER REGARDING TREATMENT OF ALLOCATIONS
TO CLASS MEMBERS FOR PURPOSES OF CALCULATING
INDIRECT COST RATES**

The Plaintiffs, by and through Class counsel, Michael P. Gross, and Co-Class counsel,
C. Bryant Rogers, and the Defendants, by and through their counsel of record, John W. Zavitz,
hereby agree to entry of the following order:

BE IT ORDERED, ADJUDGED AND DECREED

1. Receipt of funds from the Net Common Fund under the Partial Settlement Agreement by Members of the Class (including the opt-out tribes heretofore given permission to re-enter the class, the DCA tribes, and the Red Lake Band of Chippewa Indians), shall not be considered or cause an over-recovery or duplicate recovery of indirect costs or contract support for purposes of calculating a recipient's indirect cost rate under OMB Circular A-87.


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2. Recipients are authorized to expend any of said funds for the purposes authorized under ¶ 12 of the Partial Settlement Agreement heretofore approved by the Court (Docket Nos. 284 and 286). Funds paid to Class Members under this partial settlement may be used for any lawful purpose or expenditures (direct or indirect) which would be permitted by any self-determination contract under Section 102 of the ISDEA, as amended.

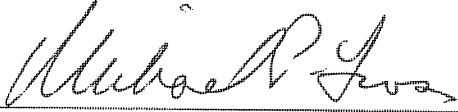
3. If a recipient chooses to spend any of said funds for direct program supplements to an Indian Self-Determination Act (“ISDA”) contract or grant program, function, service, or activity, such expenditure shall not give rise to any additional federal indirect costs or contract support obligation. But, any expenditure for such program enhancement may give rise to a tribal indirect cost burden commensurate with the recipient’s ordinary indirect cost rate under OMB Circular A-87 and the tribe should reserve an adequate portion of its Ramah Class allocation to cover this obligation. The funds will not be included as part of a recipient’s BIA’s base funding when calculating a recipient’s indirect cost rate under OMB Circular A-87.

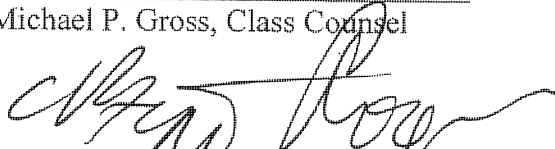
4. If a recipient chooses to spend any of said funds to cover current shortfalls in federal indirect cost reimbursement, said reimbursements shall not relieve the federal government of any existing obligation as regards the said shortfalls or act as a waiver of the recipient’s rights to full recovery from the federal government.

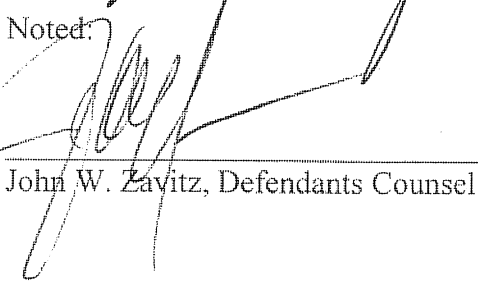
5. If a recipient chooses to use any of said funds to repay itself for direct or indirect costs previously incurred in the operation of any ISDA contract or grant for which it has not theretofore been reimbursed by the federal government, said repayment shall be treated as unrestricted tribal funds for all purposes.


United States District Judge

Approved as to Form:


Michael P. Gross, Class Counsel


C. Bryant Rogers, Co-Class Counsel

Noted:

John W. Zavitz, Defendants Counsel