

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

RAMAH NAVAJO CHAPTER,

Plaintiff,

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.

CLASS DISTRIBUTION NOTICE NUMBER 3
("DCA" cognizant agency tribal contractors only)

By Order entered July 18, 2000, the District Court for the District of New Mexico gave final approval to a settlement entitling certain contractors (described here as "DCA cognizant agency tribes") to receive allocations from the Reserve Account established by ¶ 7.d of the Partial Settlement Agreement previously entered in this case. The Indian Self-Determination Act contractors covered by the settlement are contractors whose indirect cost rates were set by the Division of Cost Allocation of the U.S. Department of Health and Human Services, and who had contracts with the Bureau of Indian Affairs at any time during the period October 1, 1988 through September 30, 1993.

Pursuant to prior orders of the court, the Class has engaged as the Independent CPA the Albuquerque firm of Rogoff Erickson Diamond & Walker, L.L.P. The purpose of this Notice is:

1. To publish a provisional list of "DCA cognizant agency tribes" secured from the Division of Cost Allocation identifying all such tribes as of 1999. These entities may or may not be eligible for an allocation from the Reserve Fund, depending upon their circumstances during the period October 1, 1988 through September 30, 1993. In addition, other entities may be eligible to participate that are not included in the provisional list.

2. To give notice to any tribe or tribal entity not on the provisional list of procedures it must follow in order to challenge its omission from the list.

3. To give notice to all DCA cognizant agency tribes of the requirement to submit a timely "DCA Claim Form" with requested documents and to submit a Certificate of Lack of Documentation if the "Schedule of Federal Financial Assistance" from its single agency audit cannot be located for any settlement year.

I. Who Will Qualify For A Share In The Reserve Fund?

To qualify for a share in the Reserve Fund, you must be a DCA cognizant agency tribe.

i.e.:

A. Have had a P.L. 93-638 contract or compact or school grant with the Bureau of Indian Affairs in any or part of any settlement year (FY 1989 through FY 1993 or CY 1989 through CY 1993);

B. Have had an indirect cost rate with the Division of Cost Allocation of the U.S. Department of Health and Human Services in any or part of any settlement year; and

C. Have received "other federal agency" funding as defined in the PSA in any or part of any settlement year.

II. Provisional List of Class Members And Procedure for Challenge

Attached to this notice is a list compiled by Class Counsel of tribes and tribal entities believed to be DCA cognizant agency tribes and thus may be eligible for an allocation from the Reserve Fund. The list is also published on the Class web site www.rncclassaction.santa-fe.net and linked to the settlement web site www.RNCsettlement.com. The web site contains important pleadings, other documents, and notices previously sent to the Class as well as the complete Partial Settlement Agreement including Appendix D.

A. If You Are On The List But Wish To Be Removed

If for some reason you do not wish to share in this settlement, and believe you were incorrectly added to the provisional list, you may perfect a challenge by sworn affidavit delivered to Counsel for Plaintiffs and Counsel for Defendants within thirty (30) days of receipt of this Notice. Opposing counsel may dispute the challenge before the Magistrate, whose decision shall be final as to matters of fact but not of law.

B. If You Are Not On The List But Wish To Be Included

Any tribal entity which does not appear on the provisional list and which believes it is eligible to receive a share of the Reserve Fund must file a statement certifying under oath under penalty of perjury that (1) it had a Public Law 93-638 contract, self-governance compact or tribally controlled school grant with the BIA during any year of the fiscal or calendar years 1989 through 1993, and (2) had a DCA-approved indirect cost rate during any of the same years. The response must state that the said representations are true and correct to the best of the signatory's knowledge, information, and belief. The statement must also be accompanied by documentary proof (e.g., contract award documents, IDC rate agreements, independent audits, etc.) showing

these elements for each year the entity claims to have had such contracts, compacts, or school grants and indirect cost rate agreements or lump sum agreements during the settlement period. The statements and proofs must be received no later than sixty (60) days after the date of mailing of this Notice and shall also be served on Defendants' counsel within the same period. Challenges to inclusion or exclusions from the provisional list by other Class Members are not permitted.

Entities seeking to be added to the provisional list must send the attached DCA Claim Form with supporting documentation within the deadline above to:

ROGOFF ERICKSON DIAMOND & WALKER, LLP
Ramah Navajo Chapter Class Action Settlement Administrator
6401 Jefferson NE
Post Office Box 93659
Albuquerque, New Mexico 87199-3656
1-888-726-9418

John W. Zavitz
Assistant United States Attorney
Post Office Box 607
Albuquerque, New Mexico 87103

C. Who Is Entitled To Share In The Allocations

Only DCA cognizant agency tribes who actually received "other-federal-agency" funds as that term is used in the Partial Settlement Agreement during one or more of the settlement years (fiscal or calendar years 1989 through 1993) are eligible for an allocation from the Reserve Fund. The allocations will be made on the basis of each tribal entity's level of "other-federal-agency" funding compared with that of the entire Class for each settlement year. The definition of "other-

federal-agency” funds is set out at ¶3.a of the Partial Settlement Agreement which can be viewed on the Class website or the linked settlement website.

III. Need To Submit Timely Claim Form

TO SUBSTANTIATE ELIGIBILITY, EACH DCA COGNIZANT AGENCY TRIBE, INCLUDING THOSE LISTED ON THE PROVISIONAL LIST, MUST SUBMIT TO THE INDEPENDENT CPA SUFFICIENT FINANCIAL INFORMATION ABOUT ITS FEDERAL FUNDING FOR EACH OF THE SETTLEMENT YEARS. THE PREFERRED INFORMATION IS YOUR “SCHEDULE OF FEDERAL FINANCIAL ASSISTANCE” FROM EACH YEAR’S SINGLE AGENCY AUDIT.

THE INDEPENDENT CPA WILL ALSO ACCEPT COPIES OF YOUR FINAL INDIRECT COST AGREEMENTS WITH ATTACHMENTS, OR INDIRECT COST RATE PROPOSALS, OTHER FEDERAL AGENCY CONTRACTS OR GRANTS, OR PROOF OF RECEIPT OF PAYMENTS FROM OTHER FEDERAL AGENCIES IN A FORM ACCEPTABLE TO THE INDEPENDENT CPA.

IF YOUR ENTITY CANNOT LOCATE ANY “SCHEDULE OF FEDERAL FINANCIAL ASSISTANCE” YOU MUST SEND IN THE ATTACHED “LACK OF DOCUMENTATION CERTIFICATION”. THE INDEPENDENT CPA MAY BE CONTACTED FOR MORE INFORMATION ABOUT THE DOCUMENTS NEEDED. EACH DCA COGNIZANT AGENCY TRIBE IS THE BEST SOURCE FOR THE INFORMATION SOUGHT. IT IS THEREFORE INCUMBENT ON EACH SUCH TRIBE TO MAKE THE BEST EFFORT POSSIBLE TO LOCATE THE DATA AND DOCUMENTS REQUIRED.

YOU MUST RETURN THE COMPLETED CLAIM FORM WITHIN SIXTY (60) DAYS OF THE DATE OF MAILING OF THIS NOTICE. AUDIT DATA RECEIVED FROM DCA COGNIZANT AGENCY TRIBES WILL BE KEPT CONFIDENTIAL PURSUANT TO PARAGRAPH 9(C) OF APPENDIX D. ENTITIES FOR WHOM THE REQUIRED DOCUMENTS ARE NOT RECEIVED MAY NOT RECEIVE AN ALLOCATION.

IF THE COURT, ON PETITION, LATER FINDS THAT THE METHODOLOGY FOR DISTRIBUTION BASED ON “OTHER FEDERAL AGENCY FUNDS” IS UNWORKABLE, TOO COSTLY, OR NOT BENEFICIAL TO THE INTERESTS OF THE CLASS, SOME OTHER METHOD MAY BE SUBSTITUTED AFTER NOTICE AND AN OPPORTUNITY FOR HEARING OBJECTIONS.

Following the expiration of the response periods set forth in this Notice, the Class Independent CPA will determine the Final List of DCA cognizant agency tribes who may be eligible for an allocation from the Reserve Fund.

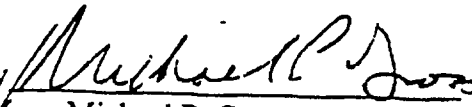
Unless DCA cognizant agency tribes timely provide necessary documentation to the Settlement Administrator/Independent CPA they may not receive any share of the Reserve Fund attributable to the year or years for which there is insufficient data.

**ANY QUESTIONS REGARDING THE PLAN OF ALLOCATION
FOR THE PARTIAL SETTLEMENT AGREEMENT COMMON FUND
SHOULD BE DIRECTED TO:**

ROGOFF ERICKSON DIAMOND & WALKER, L.L.P.
Ramah Class Action Settlement CPA
Post Office Box 93659
Albuquerque, New Mexico 87199-3659
1-888-726-9418
website: www.rncsettlement.com
e-mail: rncsettlement@redw.com

**ANY OTHER QUESTIONS REGARDING THIS NOTICE
SHOULD BE DIRECTED TO CLASS COUNSEL BELOW.**

M.P. GROSS & ASSOCIATES, P.C.

By 

Michael P. Gross
Class Counsel
460 St. Michael's Drive, #300
Santa Fe, New Mexico 87505
(505) 983-6686
(505) 989-1096 fax
e-mail: mpgross@santa-fe.net

ROTH, VanAMBERG, ROGERS,
ORTIZ, FAIRBANKS & YEPA, LLP

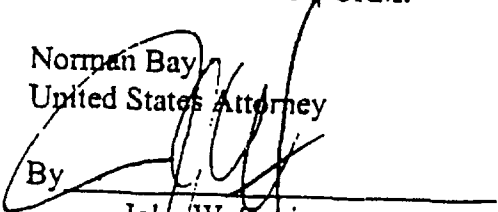
By Telephonically Approved 06/26/00

C. Bryant Rogers
Co-Class Counsel
347 East Palace Avenue
Post Office Box 1447
Santa Fe, New Mexico 87504-1447
(505) 988-8979
(505) 983-7508 fax
e-mail: rogers@trail.com

APPROVED AS TO FORM:

Norman Bay
United States Attorney

By



John W. Zavitz
Assistant U.S. Attorney
Defendants' Counsel
P.O. Box 607
Albuquerque, New Mexico 87103
(505) 224-1505
(505) 346-7205 fax

United States District Court
For the District of New Mexico

Ramah Navajo Chapter et al. v. Bruce Babbitt et al.
CIV No. 90-00957 LH/WWD

DCA CLAIM FORM
(please type or print)

NOTE: THIS CLAIM FORM MUST BE POSTMARKED NO LATER THAN SIXTY (60) DAYS AFTER MAILING OF THIS NOTICE.

PART I: DCA COGNIZANT AGENCY TRIBE INFORMATION

Name of federally recognized tribe or tribal organization

Contact person

Mailing address

City State Zip Code

Area Code Telephone Number

Area Code Fax Number

E-mail address

Taxpayer Identification Number

DCA CLAIM FORM
PAGE 2 OF 3

_____ Federally Recognized Tribe

_____ Tribal Organization

 Name of federally recognized tribe or tribal organization

Attached in support of this claim are the following documents:

	FY1989	FY 1990	FY 1991	FY 1992	FY 1993
SCHEDULE OF FEDERAL FINANCIAL ASSISTANCE FOR SINGLE AGENCY AUDIT, OR					
INDIRECT COST AGREEMENT (FINAL), OR					
LUMP SUM AGREEMENT INDIRECT COST PROPOSAL., OR					
OTHER					

PART II: IF YOU ARE NOT ON THE PROVISIONAL LIST OF DCA COGNIZANT AGENCY TRIBES AND WISH TO BE INCLUDED, YOU MUST FILL OUT PART I ABOVE AND THIS PART II WITH SUPPORTING DOCUMENTATION AND SIGN UNDER PENALTY OF PERJURY:

The above entity, _____, was
 (name of federally recognized tribe or tribal organization)
 incorrectly omitted from the Provisions List of DCA cognizant agency tribes because (1) it had a Public Law 93-638 contract, self-governance compact or tribally controlled school grant with the BIA during any year of the fiscal or calendar years 1989 through 1993, and (2) had a DCA-approved indirect cost rate agreement for indirect costs during any of the same years. True and accurate copies of documents showing the entity's entitlement to be added to the list are attached.

Name of federally recognized tribe or tribal organization

These representations are true and correct to the best of the undersigned signatory's knowledge, information, and belief.

Signature of Responsible Official

Print Name

State of _____)
County of _____) ss.

The foregoing was duly sworn to and subscribed before me this day by _____, known to me to be that person whose name appears above, this _____ day of _____, 2000.

NOTARY PUBLIC

My Commission Expires: _____

(Seal)

**Ramah Navajo Chapter et al. v. Bruce Babbitt et al.
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**LACK OF DOCUMENTATION CERTIFICATION AND
REQUEST FOR DCA ASSISTANCE UNDER THE FREEDOM OF INFORMATION ACT**

I, _____, the _____
(Name) (Position)

of the _____
(Federally Recognized Tribe or Tribal Organization)

I (we) hereby certify that our tribe/tribal organization does not have or is not able to retrieve its Schedule of Federal Assistance for the following settlement years: (please mark appropriate box(es))

- 1989 _____
- 1990 _____
- 1991 _____
- 1992 _____
- 1993 _____

We have _____ or have not _____ attached other documents to support our DCA Claim Form. We hereby request that the Division of Cost Allocation furnish to Class Counsel and the Independent CPA copies of all records which, as indicated herein, we are unable to locate, under the provisions of the Freedom of Information Act.

Signature

Date

State of _____)
County of _____) ss.

The foregoing was duly sworn to and subscribed before me this day by _____, known to me to be that person whose name appears above, this _____ day of _____, 2000.

NOTARY PUBLIC

My Commission Expires: _____

(Seal)

**ACCURATE CLAIMS PROCESSING TAKES A
SIGNIFICANT AMOUNT OF TIME
THANK YOU FOR YOUR PATIENCE**

REMINDER CHECKLIST:

- Please sign the above declaration.
- Remember to attach requested documentation that applies to your situation.
- Please sign and notarize the LACK OF DOCUMENTATION for if you lack required documents for any of the settlement years.
- Keep a copy of your claim forms for your records.
- If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested.
- Please notify us of any change in telephone or address.

If you have any questions, please direct them to the Settlement Administrator:

**RAMAH NAVAJO CHAPTER SETTLEMENT ADMINISTRATOR
ROGOFF ERICKSON DIAMOND & WALKER, LLP
P. O. BOX 93659
ALBUQUERQUE, NM 87199-3659**

(888) 726-9418

TELEPHONE CONTACTS:

**SARAH LEE
SUSAN HANSEN**

E-MAIL: RNCSETTLEMENT@REDW.COM