In the Matter of:

U.S. DEPARTMENT OF LABOR : Case No. 84-JTP-8

v.

KLAMATH TRIBE

* * *

Susan M. Williams, Esq.
For the Klamath Tribe

LeFeyette S. Rose, Esq.
For the Government

Before: GLEN ROBERT LAWRENCE
Administrative Law Judge

DECISION AND ORDER OF DISMISSAL

The Klamath Tribe by counsel on February 14, 1984 moved to dismiss this case without prejudice alleging:

1. As a remedy for its appeal, the Klamath Tribe does not wish to take grant funds from the existing Native American grantee, the Organization of Forgotten Americans, without its consent. Such consent was not obtained.

2. The Agency takes the position that no additional funds, through the JTPA allocation of otherwise with the Department, are available to fund the Klamath Tribe JTPA program request.

3. The Klamath Tribe has brought to the attention of the Agency that the present lack of a JTPA tribal consultation procedure, with regard to designation of non-tribal grantees, other than that the Agency will "hear tribal complaints", is inconsistent with the Job Training Act (the "Act").

4. The Klamath Tribe has brought to the attention of the Agency that the lack of a procedure for awarding tribes a preference, as required under the Act, is arbitrary and capricious, and, moreover, that a formula must be derived to ensure fairness in the application of the tribal preference.

5. The Klamath Tribe has brought to the attention of the Agency that the criteria for reviewing applications gives excessive weight to existing grantees, which is inconsistent with the Act, especially where a tribe is applying for the first time.

6. In light of the foregoing, the Klamath Tribe, with its limited financial resources, has accomplished many of its objectives in asserting this appeal.
Taking into account that the Department of Labor consented on February 14, 1984 to the dismissal and without considering the validity of the above allegations, the motion to dismiss without prejudice is granted.

GLEN ROBERT LAWRENCE
Administrative Law Judge

Dated: 18 APR 1984
Washington, D.C.

GRL/det
SERVICE SHEET

Case Name: Klamath Tribe

Case No.: 84-JTP-8

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