MILWAUKEE INDIAN HEALTH BOARD, INC., Appellant	:	Order Docketing Appeal and Affirming Decision
v.	:	Docket No. IBIA 94-171-A
MINNEAPOLIS AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS, Appellee	:	September 27, 1994

Appellant Milwaukee Indian Health Board, Inc., seeks review of a July 29, 1994, decision issued by the Minneapolis Area Director, Bureau of Indian Affairs (Area Director; BIA), declining to accept and review appellant's application for a FY 1994 Indian Child Welfare Act (ICWA) grant as an off-reservation organization. Appellant's application was filed pursuant to a notice of availability of funds published at 59 FR 25542 (May 16, 1994). For the reasons discussed below, the Board of Indian Appeals (Board) affirms the Area Director's decision.

The Area Director's decision states that appellant's application was not reviewed because it did not include written assurances that the organization meets the definition of Indian organization at 25 CFR 23.2. Such assurances were required by 25 CFR 23.33(b)(3) and Part III.C(3) of the program announcement. The Area Director indicated that the information appellant "provided from the Indian Health Service was not specific to your agency and the narrative did not contain sufficient information to met the requirement."

On appeal, appellant contends that it identified itself as an Indian organization in Standard Form (SF) 424, which was signed by its Executive Director "giving written assurance that this information is true and correct." The Board has previously held that self-identification as an Indian organization on the SF 424 is a conclusory statement that "does not provide any information upon which BIA can base an independent determination" concerning whether an organization meets the definition in 25 CFR 23.2. See Minneapolis American Indian Center v. Minneapolis Area Director, 26 IBIA 210, 211 (1994). Appellant here has presented no new arguments that cause the Board to reconsider this holding.

Appellant next contends that it shows that it is Indian-controlled on page 20 of its application, Section b, Organization Structure. This section states:

> [Appellant] is a private non-profit community health organization incorporated in June 1974 under Section 501(c)(3) of the

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> Internal Revenue Code. The organization was created through the initiative of local Indian people who were interested in bringing health care services to their community. [Appellant] is governed by a community Board of Directors that establishes the mission, sets policies, goals, and priorities for the agency. The majority of the Board of Directors are Indian; the Board Chairperson * * * is Stockbridge-Munsee.

This section merely states that a majority of appellant's Board of Directors is Indian. As noted by the Area Office, identification of the members of the Board of Directors, with their tribal affiliation, would have permitted BIA to make a determination of whether appellant was Indian controlled. The application, however, identifies only the Chairperson and her tribal affiliation. The Board concludes that the Area Director did not commit reversible error by concluding that this section did not show that appellant was an Indian organization within the meaning of 25 CFR 23.2.

Appellant next argues that, contrary to the Area Director's conclusion, Attachment M to its application, a copy of an Indian Health Service (IHS) request for proposal, was specific to appellant because the identifying number on the document, RFP 239-92-R-0007, is a unique identifying number for appellant. The Board has carefully reviewed appellant's application and Attachment M and finds no indication in those documents that the identifying number is specific to appellant. BIA is not required to know the internal procedures of another executive agency, here IHS in the Department of Health and Human Services. It was appellant's responsibility to indicate in its application if the identifying number was unique to it.

To the extent that appellant asks that the information relating to the uniqueness of the IHS identifying number be considered on appeal, the Board has consistently held that, in a competitive grant program, consideration of information presented after the date for filing an application would violate BIA's and the Board's duty to give fair and equitable consideration to all applications, by giving some applicants two chances to submit an acceptable application. See Baltimore American Indian Center v. Eastern Area Director, 26 IBIA 189 (1994), and cases cited therein. Therefore, the Board cannot consider this new information on appeal.

Appellant contends that it has met the requirement of being an Indian organization in prior years and it has not changed its Articles of Incorporation. Although this may be true, the regulations and the program announcement specifically required a showing in this application that the applicant met the definition of Indian organization under 25 CFR 23.2. Appellant did not make the required showing within its application.

Finally, appellant argues that its letters of support show that it is recognized as an Indian organization within the community. Community recognition of a group as an Indian organization, although informative, does not provide a basis for BIA to make a determination that an organization meets the definition in 25 CFR 23.2.

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Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Minneapolis Area Director's July 29, 1994, decision is docketed, and the decision is affirmed.

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Kathryn A. Lynn
Chief Administrative Judge

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Anita Vogt
Administrative Judge

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