

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

**RAMAH NAVAJO CHAPTER,
OGLALA SIOUX TRIBE, and
PUEBLO OF ZUNI**, for themselves
and on behalf of a class of persons
similarly situated,

Plaintiffs,

No. 1:90-CV-00957-JAP/KBM

vs.

SALLY JEWELL, Secretary of the
Interior, *et al.*,

Defendants.

SUMMARY NOTICE OF FINAL SETTLEMENT

TO ALL MEMBERS OF THE RAMAH CLASS:

PLEASE READ THIS NOTICE CAREFULLY.

**IT CONTAINS IMPORTANT INFORMATION ABOUT A
PROPOSED FINAL SETTLEMENT AGREEMENT IN THE ABOVE-
REFERENCED CASE.**

**THIS NOTICE DOES NOT CONTAIN
ALL TERMS AND CONDITIONS OF THE PROPOSED
FINAL SETTLEMENT AGREEMENT.**

**THE COMPLETE AGREEMENT, INCLUDING ITS APPENDICES,
THE JOINT MOTION FOR PRELIMINARY APPROVAL OF THAT
AGREEMENT, AND THE APPLICATION FOR ATTORNEYS' FEES**

AND COSTS MAY BE FOUND AT:

<WWW.RNCSETTLEMENT.COM>.

QUESTIONS MAY BE ADDRESSED TO CLASS COUNSEL.

In 1990, the Ramah Navajo Chapter brought suit against the Government in the United States District Court of the District of New Mexico claiming that the Department of the Interior (DOI) improperly calculated indirect cost rates for Indian Self Determination and Education Assistance Act, Pub. L. 93-638, as amended (ISDA) contractors. In 1993, the District Court certified a class of all Tribes and tribal organizations that have BIA ISDA contracts or compacts. In 2012, the Supreme Court ruled that the plaintiffs' claims covering fiscal year 1994 and later years were not barred by the government's appropriations law defense. *Salazar v. Ramah Navajo Chapter*, 132 S. Ct. 2181 (2012). Following nearly three years of settlement discussions, including final negotiations facilitated by Chief U.S. Magistrate Judge Karen B. Molzen, the parties have agreed upon the proposed Final Settlement Agreement now pending before the Court.

The parties have agreed to a proposed Final Settlement Agreement (FSA), which requires Defendants to pay \$940,000,000 to settle the remaining claims in this lawsuit. The settled claims are for alleged underpayments of contract support costs by the Bureau of Indian Affairs (BIA) and/or the Office of Self Governance (OSG) under ISDA during fiscal years 1994 through 2013. Your Tribe or tribal organization may be a Class

Member eligible to share in this settlement. The settlement is not final until approved by the Court.

SUMMARY OF SETTLEMENT TERMS

Under Rule 23 of the Federal Rules of Civil Procedure, the Court advises you as follows:

1. The Class consists of those Indian tribes and organizations that have entered into contracts with BIA or self-governance funding agreements with OSG under ISDA at any time between FY 1994 and FY 2013.
2. Upon payment by the Defendants of the settlement amount, the Class Counsel will be deemed to have fully released the Defendants from all settled claims as to underpayment of contract support costs, both indirect and direct, for FY 1994 through FY 2013.
3. Each eligible Class Member will be entitled to share in the net settlement amount remaining after the deduction of (1) attorneys' fees and costs; and (2) funds for a reserve account to cover certain expenses.
4. Each eligible Class Member's share has been predetermined according to a methodology set forth in the Final Settlement Agreement.
5. Each Class Member will be required to file a claim on a form to be provided by the Settlement Administrator. Unclaimed amounts exceeding \$10,000,000 will be repaid to the United States Treasury.

6. Class Counsel have applied to the Court for an award of attorneys' fees of 8.5% of the settlement amount for achieving this final settlement. The Government agrees that an 8.5% fee is fair and reasonable for achieving this settlement and supports the application for attorneys' fees. Class Counsel have also applied for reimbursement of estimated costs to date of \$1,158,222.01 to be paid out of the settlement amount.

7. Class members that entered the Class since March 27, 2002 (identified on Table 2, at pages 21-22, of Appendix 2 to the Final Settlement Agreement, ECF No. 1306-2, Sept. 16, 2015), may request exclusion from the Class by filing a Notice of Exclusion with the Court on or before November 19, 2015. If a Class Member is excluded, that Class Member's share of the Settlement Amount will be retained by the Government and the Settlement Amount will be reduced accordingly.

OBJECTIONS

Any Class Member that wishes to object to the proposed settlement or fee application must file a Notice of Intention to Appear and Object (Objection) with the Clerk of the Court and deliver it to all listed Counsel no later than November 19, 2015, and must appear at the fairness hearing described in this Notice. If more than one Class Member makes the same objection, the Court may designate one of them to present the objection at

the hearing. Objections must be sent to the Clerk of Court, 333 Lomas, NW, #270, Albuquerque, New Mexico 87102. Each Objection must include (i) a reference to the case number, “No. 90-CV-0957;” (ii) a statement of each reason for the Objection; (iii) the specific ground(s), if any, for each reason, including any legal support, evidence, papers or briefs the Class Member wishes the Court to consider; (iv) the person or persons who will present the Objection at the hearing; and (v) the signature of the responsible official or attorney for the Class Member making the Objection.

Objections must also be sent to the following attorneys:

Michael P. Gross
Lead Class Counsel
M. P. GROSS LAW FIRM, P.C.
460 St. Michael’s Drive, Suite 401
Santa Fe, New Mexico 87505-7602
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C. Bryant Rogers
Co-Class Counsel:
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Lloyd B. Miller
Co-Class Counsel
SONOSKY, CHAMBERS, SACHSE,
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James D. Todd, Jr.
Counsel for Defendants
UNITED STATES DEPARTMENT
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900 West Fifth Avenue, Suite 700
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The Court will conduct a hearing at the Federal Building and United States Courthouse, 421 Gold SW, Sixth Floor, Albuquerque, New Mexico at 9:00 o'clock a.m. on January 20, 2016, at which time the Court will hear Objections, if any, to the settlement and fee application and thereafter render a ruling approving or declining to approve the settlement, and acting upon the fee application. Persons intending to appear at or attend the hearing are advised to so inform the Court and to reconfirm the date, time and place of the hearing by contacting the Clerk of Court before traveling to Albuquerque.

DEADLINES

The Court and counsel must receive any Objections or other motions or applications for relief no later than November 19, 2015, 45 days after the dissemination of this Notice.

**APART FROM FILING OBJECTIONS, PLEASE DO NOT
CONTACT THE COURT OR THE CLERK'S OFFICE ON ANY
SUBSTANTIVE MATTER DEALING WITH THIS NOTICE EXCEPT
TO CONFIRM THE DATE OF THE FAIRNESS HEARING.**