

**RESOLUTION NO. 93-04
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION**

A Resolution Adopting a Revenue Allocation Plan

WHEREAS: The Yavapai-Apache Tribal Council ("Council") is empowered to represent the Yavapai-Apache Nation ("Nation") and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation; and

WHEREAS: The Council is the legislative body of the Nation empowered to enact laws; ordinances and resolutions incidental to the exercise of legislative powers as provided by Article V(v) of the Nation's Constitution; and to appropriate and regulate the use of tribal funds pursuant to Article V (k) of the Nation's Constitution; and

WHEREAS: The Nation is committed to providing for the long range security of the Nation and its members; and

WHEREAS: The Nation is committed to using net revenues generated by its tribal gaming operation to strengthen tribal government, to enhance tribal-self sufficiency, to support tribal economic development, and improve standards of living for tribal members; and

WHEREAS: The Nation has amended its Tribal Gaming Ordinance Section 12, G, to address its current revenue allocation needs, and the Nation hereby adopts the formal Revenue Allocation Plan ("RAP") attached hereto, that incorporates the amendments to Section 12, G, of its Tribal Gaming Ordinance and specifies in detail the revenue allocation of its casino's net gaming revenue; and

WHEREAS: The Gaming Revenue Allocation Plan attached hereto is in compliance and developed by the Tribal Council pursuant to the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C., 2701 *et seq.*, and is for the purpose of providing for the allocation of the net gaming revenue generated by the Nation's Casino, and the Nation has submitted a prior RAP, and the Indian Gaming Management Office of the Department of Interior did not object to the basic allocation of revenue as stated in the RAP, but did require certain technical language, and the Chairman with the assistance of the Attorney General have revised the initial RAP to contain this additional language without substantial modification of the substantive terms of the original RAP; and

WHEREAS: The revised RAP attached hereto contains the technical language required by the Indian Gaming Management Office of the Department of Interior and should be submitted to said Office for final approval;

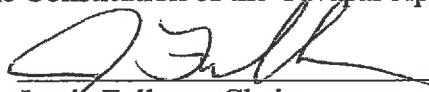
NOW THEREFORE BE IT RESOLVED, that the Yavapai-Apache Nation's Tribal Council, hereby approves and adopts the Gaming Revenue Allocation Plan ("RAP") attached hereto and authorizes the Chairman of the Nation to execute the same and present the same to the Department of Interior, Indian Gaming Management Office for approval and implementation.

BE IT FURTHER RESOLVED, that the Chairman is authorized to take all necessary actions to insure that the Nation's RAP is approved by the Secretary of the Interior or her authorized representative in compliance with the Indian Gaming Regulatory Act, 25 U.S.C.2701 *et seq.*, including making any technical modifications to the language of the RAP as long as the substantive language and legal effect of the substantive language remains unaltered.

BE IT FINALLY RESOLVED, that the Chairman take all necessary actions to allow the Nation to complete the RAP this calendar year and make a distribution in January 2005.

CERTIFICATION

I hereby certify that the foregoing resolution was adopted at a Regular Meeting of the Yavapai-Apache Nation's Tribal Council by an affirmative vote of the Tribal Council, presented for approval on November 04, 2004, by a vote of 6 in favor, 0 opposed and 0 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation.


Jamie Fullmer, Chairman

ATTEST:



Karla Reimer, Council Secretary

**Yavapai-Apache Nation
Indian Gaming Revenue Allocation Plan
Adopted: November 4, 2004,**

The Yavapai-Apache Nation (“Nation”) is a federally recognized Indian Tribe exercising governmental powers over the regulation of the Class III Indian Gaming activities pursuant to the Indian Gaming Regulatory Act (“IGRA”) 25 USC 2701 *et seq.* conducted on Indian lands held in trust by the United States government for the benefit of the Nation pursuant to the Nation’s Constitution.

The Nation, in an effort to promote tribal economic development, to enhance tribal self-sufficiency, to strengthen tribal government and sovereignty, and to improve standards of living for tribal members, hereby adopts and approves the Yavapai-Apache Nation Indian Gaming Revenue Allocation Plan (“RAP”) pursuant to IGRA, 25 USC 2710 (b) (3) (A) & (B) via the enactment of the Resolution No. 93-04, dated November 4, 2004, by the Nation’s Tribal Council.

This RAP is in compliance with IGRA, 25 USC 2701 *et seq.*, and the negotiated Tribal–State Compact with the State of Arizona, and the RAP governs the allocation of available net gaming revenues to fund tribal government operations and programs and promote tribal economic development, including the payment of a tribal dividend or distribution (per capita) to qualified members of the tribe.

I. Use of Net Gaming Revenues:

A. Allocation of Revenue.

The Yavapai-Apache Nation has reviewed its tribal government operations and programs currently being provided to the tribal membership through its general tribal revenues and is committed to enhancing tribal programs in accordance with this plan. The Nation hereby allocates its net gaming revenues as follows:

- 1. To fund the Nations governmental operations and programs;**
- 2. To provide for the general welfare of the Nation and its members;**
- 3. To promote tribal economic development;**
- 4. To donate to charitable organizations;**
- 5. To fund the general reserve investment account for the Nation; Provided that the funding of governmental purposes stated in items 1-5 shall not exceed eighty-five percent (85%) of the annual net revenues of the Casino; and**
- 6. To fund a per capita investment fund for the benefit of tribal members, with fifteen percent (15%) of the Casino’s annual net revenue being distributed to the per capita investment fund and the per capita investment funds shall pay 2/3 of the 15% of**

the annual net revenue directly to the tribal members and the other 1/3 of the 15% of the annual net revenue being invested in an investment fund for future allocation.

The Nation shall budget for items 1-5 on an annual basis pursuant to its annual budget. The annual budget shall include up to 85% of the annual net revenues of the Casino.

The per capita investment fund shall pay 2/3 of the 15% of the annual net revenue of the Casino directly to tribal members, and the other 5% shall be invested for future distributions as provided in Article II below.

B. Tribal Government Operations and Programs.

On an annual basis the Tribal Council shall budget and allocate from all of its funds, including the net gaming revenue, to provide funding for tribal government operations and programs. The tribal government operations and programs will be funded or supplemented from net gaming revenues under this Section shall include, but not be limited to the following: tribal planning, enrollment, improvements to tribal building and facilities, community health representative, fire protection services, funeral assistance, health services, tribal education, summer youth workers, adult education, tribal courts, security and police services, summer school, library, tribal recreation, including the gymnasium, tribal elderly programs, special functions, arts and crafts, beauty pageants, tribal youth programs, environmental services, welfare program, legal services, and all other necessary and appropriate governmental operations and programs.

The Nation is committed to providing for the long range security of the Nation and its members. Accordingly, the Nation shall ensure that net gaming revenue are allocated toward investments, programs, and projects that impact not only the present needs, but also anticipated future needs. In addition, the Nation shall ensure that investments, programs, and projects funded by net gaming revenue are aimed toward improving tribal conditions and life opportunities of tribal members from generation to generation.

The Nation also retains the inherent sovereign right to determine the best interest of its minor tribal members by providing for their future welfare by placing monies into trust for the benefit of those minor tribal members. The money set aside for the minor shall vest in the minor on their eighteenth birthday.

C. General Welfare and Education of the Nation and its Members.

The Tribal Council shall budget a portion of the net revenues to provide funding and supplemental funding to the general welfare and education of the Nation and its members. Welfare and education programs shall include, but shall not be limited to utility assistance, tribal ambulance service, clothing allowance, health services,

daycare center, medical assistance, health insurance, General Education Diploma (“GED”) assistance, tutorial services, education counseling, scholarships, tuition, books and fees for college students; assistance with living expenses for college students; similar welfare and education assistance, and other assistance such as water and sewer utilities.

D. Tribal Economic Development:

The Tribal Council shall budget from the net gaming revenues to provide supplemental funding to the tribal economic development authority.

Investments in economic developments will include land acquisition for retail; commercial and industrial development; infrastructure development; business location, relocation and expansion; business creation and development; economic development planning; and other organic documents relating to economic development and similar activities.

Revenues designated for this purpose shall be budgeted on an annual basis.

E. Donation to Charitable Organizations.

The Tribal Council shall allocate a percentage of its net gaming revenues to provide revenues to charitable organizations. This allocation shall be made on an annual basis as a part of the budget process of the tribe.

F. Tribal Dividend Distribution Payments (Per Capita) to Eligible Tribal Members:

The RAP allocates 15% of the net gaming revenues to tribal dividend payment (per capita) to eligible tribal members, of which two-thirds of the 15% shall be paid direct to members. The total portion of the 15% that is paid direct to the members is 10 % of the entire net gaming revenue, which shall be provided as a direct payment to the enrolled qualified tribal members for their personal health, safety and general welfare in the tribal dividend payment.

G. Direct Payment.

1. For purposes of this plan, tribal dividend payment shall mean those payments made or distributed to all tribal members, which are paid directly from net revenues from any gaming activities through a fund designated for the same. No other commonly accepted or used definition of the term “Tribal Dividend Payments” affects the use of the term as used herein. This shall be considered a direct per capita payment.

a. Dividend payments made to qualified tribal members shall be made annually with the first payment being made within thirty (30) days of

December 31, 2004, and the payments shall commence accruing January 1, 2004 through December 31, 2004, with the first year ending on December 31, 2004, and each subsequent year ending for calculation purposes on the 31st day of December. The annual payments shall be made within thirty (30) days of the December 31 accrual date.

- b. The Council hereby reserves the right to amend this provision to provide for an alternative distribution schedule for the per capita payments. An amendment to this provision to the RAP shall be made by Resolution.
- c. All net gaming revenues designated for direct distribution as a tribal dividend payment shall be deposited when received by the Nation from the tribal gaming operation, into an interest bearing account with a financial institution that handles federal funds, investments, bonds, prior to distribution. For purposes of this direct payment distribution pursuant to this subdivision, all deposits shall be made timely and within thirty (30) days of the date that such revenue is received by the Nation.

2. Qualified Tribal Member.

For purposes of the RAP, a qualified tribal member shall mean those individuals who are enrolled members of the Yavapai-Apache Nation pursuant to the Nation's Constitution on the annual accrual date.

- a. The Council shall invest the minors' funds in the same manner as designated in Article II except the funds of each minor must be capable of being separately identified in the accounting procedure. Tribal dividend payments to minor qualified tribal members as defined in Section I, G, 3 shall be made in accordance with the provision of Section I, G, 3.

3. Disbursement of Payments.

The disbursement of payments required by any provision of I.G. (a) shall be under the direction of the Finance Director of the YAN through the Nation's Finance Director and shall be made in a manner consistent with generally accepted accounting principles.

4. Trust for Incompetents.

The YAN Tribal Council shall place into trust in a low-risk interest or dividend bearing account in a financial institution handling federal bonds, money market funds and other federal investments the per capita payments, or any portion or

percentage thereof, of any individual who is declared to be incompetent by a court of competent jurisdiction.

a. Procedure for Placing Payments Into Trust.

Upon its own initiative, or upon receiving an application from at least two enrolled members of the Nation, one of which must be an immediate family member of the affected individual, the Nation's Tribal Trial Court may place into trust the per capita payment of any individual who is declared to be legally incompetent by a court of competent jurisdiction. Acting on an application, the Court shall consider all testimony and evidence as to the reasons that the applicants believe that the per capita payment of the individual who has been declared to be incompetent should be placed into trust. The Court may place the per capita payment of a person declared to be incompetent into trust before holding a hearing, provide that the court shall hold a hearing within thirty (30) days of such action.

b. Authority to Pay Living Allowance.

After a hearing the Court may authorize the Finance Director to pay a living allowance up to the entire per capita payment amount out of the trust established pursuant to I. G. 4. a. Upon the receipt of an application of a legal guardian of any individual declared to be legally incompetent, the court shall determine the amount if only to be paid from trust such application shall included a detailed budget of monies necessary for the health, education and welfare of the individual declared incompetent. The Court shall review and approve applications on a case-by-case basis, and may deny access to the funds if the application fails to demonstrate to the Court's satisfaction that the money will be used for the education, health, or welfare of the incompetent. In the event the application is denied, the applicant may seek review by the Tribal Appellate Court. Tribal Appellate Court review shall be based on the application and other documents submitted to the Tribal Court, and its decision shall be final.

c. Account Statements of Trust Account.

The Nation's Finance Director shall make available a statement of account of any monies placed into trust for an individual declared to be legally incompetent to the legal guardian of such person on no less than an annual basis.

Any individual who is regarded as legally incompetent under this section shall have the right to petition the Tribal Trial Court and dispute any of the claims being litigated involving the person alleged to be legally incompetent and the use of his or her per capita payments.

5. To Delegate Responsibility.

The Tribal Court shall have the authority to delegate by appropriate order the responsibility to oversee the administration of trust accounts established for minors or persons declared to be legally incompetent under this section (I.G.) to the Finance Director of the Nation.

6. To Provide for the Future Safety and the Well Being of the Children of the Nation.

Tribal dividend payments designated for minor qualified tribal members shall be deposited into a Minors' Trust Fund to be invested in an investment fund as identified in Article II. The following terms shall govern these Minors' Trust Fund: a minor qualified tribal member shall mean an individual who is a qualified tribal member as defined in Section I. G. 2, but under the age of eighteen (18) as of the date of distribution.

- a. Payments into the "Minors' Trust Fund" shall be deposited into the designated accounts to be held on behalf of the qualified minor tribal members. Account balance statements shall be available to the participant, parents or legal guardian of the qualified minor tribal member.**
- b. Each minor qualified tribal member shall receive one trust account maturity payment of the monies accumulated in the "Minors' Trust Fund", including interest, for the minor qualified trust member upon attaining the age of eighteen (18) as of the distribution date. Application for maturity payment shall be approved upon sufficient evidence showing eligibility to Finance Director.**
- c. The Council or its appointed agent shall have the authority to disburse proceeds of any funds placed into the Minors' Trust Fund on behalf of a minor qualified tribal member. Only upon meeting all requirements of the proceeding provision, Section I, G, b,**
- d. If a qualified minor child fails to meet the qualifications above and dies before meeting the qualifications of Section I, G, 6, b, for payment, then in that event, that share of the Minors' Trust Fund shall not vest in that child but shall be returned to the fund used by the Tribe for annual distribution to be disbursed in the next annual distribution.**

e. **For limited purposes and upon a proper showing, the funds being held for a minor until the minor attains the age of majority may be invaded. This subsection pertains to the process and procedures for such a use. The Nation's Tribal Council finds that the immediate needs and living expenses of minors under the age of 18 are primarily the responsibility of the parents or legal guardians of the minors and that such minors are not faced with the same financial obligations as are adults. The Tribal Council further finds that the best interests of the Nation are furthered if per capita payments are used by adult members to the YAN to improve the living conditions for their families and themselves. Accordingly, the Tribal Council shall deposit the per capita payment for each enrolled minor child of the Nation in a low-risk interest or dividend bearing trust investment fund/account, and shall pay all applicable taxes out of such account prior to any disbursements from this fund/account. The trust fund/account, including all interest accrued shall be available to each member affected by this subsection upon his or her attaining the age of 18 and submitting an application to the Finance Director, and shall also be available as provided in the following numbered subsections of this subsection, to wit:**

- (1) **The Finance Director shall provide account balance statements of all accounts established under this subsection to the parents or legal guardians of the minor on no less than an annual basis.**
- (2) **The Finance Director shall have the authority to delegate by appropriate resolution the responsibility to oversee the administration of trust funds/accounts established for minors under this subsection.**
- (3) **A parent or legal guardian of a minor YAN member may seek to withdraw funds from the minor's account by filing a written application for release of funds with the Nation's Tribal Trial Court ("Court"). A copy of the application shall be served on the Finance Director; however, the Finance Director shall not be considered a party to the proceeding unless the Nation's Tribal Council determines that the Finance Director should intervene to insure that the financial integrity of the funds/account be protected. The application shall contain at least one compelling written justification as to why the funds are necessary for the health, education, or welfare of the minor; a description of the extraordinary circumstances which make such payment appropriate; a certification that the minor is either currently covered by fundamentally adequate health**

insurance or that the payment will be used to provide such coverage; a detailed budget for the use of the payment; and the date by which the payment must be made to meet the needs of the minor. The Finance Director or the Finance Director's designee shall within twenty (20) days following the receipt of the court petition/complaint provide the Tribal Court with the following information:

- a. The current balance of the minor's trust fund/account;**
- b. A statement of any previous withdrawals from the minors trust fund/account; and**
- c. The estimated tax consequences of the withdrawal to insure the taxes are paid prior to any disbursements as required by Section IG6e.**

The Court may order such further hearings, proceedings, or submissions as the Court deems desirable, and shall inquire with respect to whether the petitioner is employed, whether the petitioner is receiving child support, and whether all persons legally responsible for the support of the minor are currently meeting those obligations. Upon a finding, that the petitioner has provided all information required by this subsection and demonstrated by a preponderance of the evidence that payment from the minor's trust account is necessary for the health, education and welfare of the minor, the Court shall provide written findings and conclusions to the Finance Director. Following receipt of the Court's findings and conclusions, the Finance Director shall authorize payment from a minor's trust account in a manner consistent with the findings and conclusions. Access to the funds may be denied if the petitioner fails to meet the burden of proof required in this subsection. A petitioner who is denied access to a minor's trust fund/account may seek reconsideration by the Court or appeal to the Nation's Appellate Court ("Appellate Court"). All proceedings shall be in conformity with the Nation's Code of Civil Procedure. A decision of the Court unless timely appealed shall be final, and if appealed to the Appellate Court, the decision of the Appellate Court shall be final.

"Fundamentally adequate insurance" as used in this subsection, means a governmental, group, or individual health insurance program that, at a minimum, provides for significant contributions to the care of the minor in case of catastrophic or long-term health problems.

7. **Only Qualified Tribal Members Entitled to Individual Tribal Dividend Payments.**

Tribal enrollment of individuals will be the sole responsibility of the members. It is the sole responsibility of parents/guardians to insure children are enrolled with the Yavapai-Apache Nation. Payments will be made only to those eligible members upon approval of membership, based on membership on the date of annual distribution or accrual date. Retroactive dividend payments will not be made to newly-enrolled members. Any future adoptees into the tribe will not be eligible for per capita payments unless they are enrolled as a Yavapai-Apache Tribal Member.

8. **Death of Member.**

Notwithstanding any other provision of the RAP, any qualified tribal member who dies during the fiscal year but 30 days before the distribution date shall not be entitled to receive any tribal dividend payments for that year or future years.

9. **IRS Regulations.**

The Council or its appointed agent shall ensure that notification of the application of federal tax laws to tribal dividend payments authorized by this RAP is given when such payments are made. At the time the payments are made, the tribal members shall be informed in a written notice accompanying the dividend payment that the payment is subject to Federal income tax liability.

The Council or its appointed agent shall also implement a procedure whereby qualified tribal members who receive tribal dividend payments can have applicable taxes automatically deducted from the payments. The Council or its appointed agent shall include in the notice of the application of federal tax laws a notice of the existence of the withholding procedure. The notifications required herein shall be required for all distributions provided for in this Section.

II. **Per Capita Investment Fund.**

Of the 15% of the per capita of the annual net revenues being distributed to the per capita investment fund, 1/3 of those funds or 5% of the annual net revenues of the casino shall be invested in an investment fund, and the same shall be considered principal when so deposited to the fund.

The Tribal Council shall review the balance in this fund on an annual basis, and shall order distributions of earnings from this fund at least once every five (5) years. The principal shall not be subject to distribution.

This permanent investment fund shall consist of a investment fund authorized by the Tribal Council, and it is the specific intent of the Tribal Council to provide for the long term security of the Nation and its future generations by creating this permanent fund and allowing only the earnings, income, or interest on the invested principal to be paid at least once every five (5) years to its tribal members. The Nation further states that such payments from the per capita investment fund shall be made to the qualified tribal members as the annual payments are made pursuant to all Section I, G, 1, a, of this RAP.

The portion of the casino's annual net revenue invested in this permanent investment fund for the benefit of the tribal members shall be invested based on a long term gross value investment plan. This investment fund may be part of the Tribe's overall investment funds, but all sums that are subject to the terms of this provision shall be accounted for in a separate portion of the investment fund. Minors' funds may also be invested in this investment fund provided the minors' funds can be separately tracked for accounting purposes.

As the investment fund grows through the years, the fund may be diversified in reasonably safe long term investments. The Tribal Council shall not modify the investment fund designation of the RAP except by Resolution.

III. Severability

If any section, or any part thereof, of this RAP or the application thereof to any party, person, or entity, in any circumstances, shall be held invalid for any reason whatsoever by a court of competent jurisdiction, or by the Department of the Interior, the remainder of the section or part of RAP shall not be affected thereby, and shall remain in full force and effect as though no section, or part thereof, has been declared to be invalid.

IV. No waiver of Sovereign Immunity

Nothing in this RAP shall provide or be interpreted to provide a waiver of the Nation's, or any of its governmental officers' or agents' sovereign immunity from suit.

V. Amendment or Repeal of Plan.

The RAP and or any section, part, and word thereof, may be amended or repealed only by a majority vote of the Council in accordance with the provisions of the Nation's Constitution, and the applicable federal laws. Any such amendment shall be by Resolution.

VI. Automatic Re-adoption of Nations Plan for Subsequent Fiscal Year.

The RAP is prepared and its effective is the date it is enacted, subject to approval of the Department of Interior Bureau of Indian Affairs, and subject to the approval of the amendment of the Tribal Gaming Ordinance by the National Indian Gaming Commission of the provisions paralleling the revenue allocation designations stated at Section I of this RAP and as amended in Section 9 (G), of the Tribal Gaming Ordinance. The terms of this plan are automatically adopted without any further action by the Council for all subsequent fiscal years after its adoption. This RAP shall govern the allocation of net gaming revenues for all subsequent fiscal years after its adoption unless amended or modified as allowed by law.

VII. Effective Date.

This plan governs the distribution of all net gaming revenues generated from January 1, 2004 forward notwithstanding date by the Tribal Council on November 4, 2004. This plan shall be effective as of an enacted date provided the same is approved by the Department of Interior, Bureau of Indian Affairs, but no distribution shall be made without the approval of the Area Director of the BIA and in accordance with United States Department of Interior, in compliance with 25 C.F.R. Part 290, IGRA and all other tribal and federal laws. Any amendment of this plan shall be submitted to the Area Bureau Office for approval pursuant to 25 C.F.R. 290.12.

VIII. No Retroactive Payments.

No individual who becomes enrolled in the Yavapai-Apache Nation subsequent to the date of this Plan shall be retroactively entitled to receive per capita payments under this plan.

IX. Waiver of Compensation.

Any adult tribal member may elect to waive the receipt of his or her annual per capita distribution payment provided the waiver is timely made in written form for the year being waived, and made in full compliance with all Internal Revenue Service ("IRS") laws, rules and regulations, to avoid taxation of the annual distribution.

X. Deferred Compensation.

Any adult tribal member may elect to defer receipt of his or her annual per capita payment (s) by filing a written declaration of intent to defer receipt of the per capita payments to a later date and direct that the payment (s) be made on his or her behalf to the "Nation's Deferred Compensation Plan". Said written declaration for deferral payments (s) shall comply with all applicable IRS laws, rules and regulations to be effective. All IRS laws, rules, and regulations must be followed for the deferred of compensation to be implemented. If the IRS laws, rules and regulations are not

properly followed, then the deferred of income shall not be effective until full compliance with the IRS laws, rules, and regulations is accomplished.

In Witness Whereof, this Tribal Ordinance was enacted by resolution on November 4, 2004.

Yavapai-Apache Nation



Jamie Fullmer, Chairman

ATTEST:



Karla Reimer, Secretary

The undersigned, acting on behalf of the United States Department of Interior, Bureau of Indian Affairs, Area Director hereby approves the above and forgoing revenue and allocation plan of the Yavapai-Apache Nation, on this _____, 2004

United States Department of Interior, Bureau of Indian Affairs



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



DEC 29 2004

Honorable Jamie Fullmer
Chairman, Yavapai - Apache Nation
2400 West Datsi Street
Camp Verde, Arizona 86322

Dear Chairman Fullmer:

On July 29, 2004, the Western Regional Director submitted a new Yavapai - Apache Nation (Nation) Indian Gaming Revenue Allocation Plan (RAP) to this office for review and approval. In accordance with the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.*, and 25 CFR Part 290, Tribal Revenue Allocation Plans, we have reviewed the new RAP adopted by Yavapai - Apache Tribal Council Resolution No. 55-04 dated July 28, 2004.

By letter dated September 2, 2004, we requested additional information because we determined that certain provisions of the RAP did not comply with IGRA and requirements in 25 CFR Part 290. On November 5, 2004, the Yavapai-Apache Tribal Council submitted a revised RAP adopted by Resolution 93-04 dated November 4, 2004.

It is our determination that the RAP complies with IGRA and the regulations in 25 CFR Part 290. Therefore, pursuant to 25 U.S.C. § 2710 (b)(3)(B), and the authority delegated to the Deputy Assistant Secretary - Policy and Economic Development by 210 DM 8.2 the RAP is hereby approved.

Under the RAP, the Nation proposes to utilize the funds in the following manner:

- 85% Tribal Government Operations & Programs - Tribal planning, improvements to tribal buildings and facilities, tribal education, health services, tribal courts, tribal elderly programs welfare programs, legal services and other appropriate governmental operations and programs, etc.
- General Welfare & Education of the Nation and Its Members - Utility assistance, tribal ambulance services, medical assistance, educational scholarships, tuition and other similar welfare and education assistance, etc.
- Tribal Economic Development - Land acquisition, commercial and industrial development business creation and development and other economic development and similar activities, etc.
- Donation to Charitable Organizations shall be made on an annual basis.

15% Per Capita Payment
10% Direct Per Capita Payment
5% Investment Fund

Section G.1.a provides that payments shall be made to the qualified tribal members who are enrolled members of the Yavapai - Apache Nation.

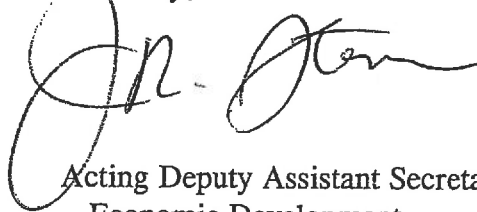
Section G.4.b. provides that the Tribal Court may authorize the Finance Director to pay a living allowance from the trust established for an individual declared to be legally incompetent upon submission of an application from the legal guardian which includes a detailed budget of monies necessary for the health, education and welfare of the legal incompetent. The applications shall be reviewed and approved on a case by case basis, if the application fails to demonstrate the funds will be used for the health, education or welfare of the incompetent the application may be denied. If denied the applicant may appeal to the Tribal Appellate Court whose decision shall be final.

Section G.6.e.3. provides that upon written application to the Tribal Court by a parent or legal guardian the funds of a minor may be withdrawn provided the application includes a detailed budget and justification why the funds are necessary for the health, education or welfare of the minor and a description of the extraordinary circumstances which make the payment appropriate. Based upon the Tribal Court's findings, the Finance Director shall authorize the payment. Failure by the petitioner to meet the burden of proof to withdraw the funds may seek reconsideration by the Court or appeal to the Tribal Appellate Court whose decision shall be final.

Section G. 9. provides that with each payment a written notice shall inform tribal members that the payments are subject to federal income tax and the existence of the withholding procedure.

If you have any questions, please contact Nancy Pierskalla, Office of Indian Gaming Management, at (202) 219-4066.

Sincerely,



Acting Deputy Assistant Secretary - Policy and
Economic Development

cc: Regional Director, Western Region