

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF CONTRACT APPEALS

APPEAL OF: : IBCA Docket Nos.:
: :
MISSISSIPPI BAND OF : IBCA 4819-2006 (FY 2003)
CHOCTAW INDIANS : IBCA 4820-2006 (FY 2004)

STIPULATED ORDER GRANTING A MONETARY AWARD

This matter comes on before the Board on the Joint Motion of the parties seeking entry of a stipulated order granting a monetary award to the Appellant, Mississippi Band of Choctaw Indians. Wherefore, premises considered, the Board finds that said Motion is well taken and will therefore be granted. The Board further finds and concludes based upon the pleadings, the Administrative Record and the Stipulations of the parties, that:

1. Appellant duly filed a contract dispute with Appellee's contracting officer on December 2, 2005 pursuant to 41 U.S.C. § 605, 25 U.S.C. § 450m-1(d) and 25 U.S.C. § 2507(e). That dispute claimed that Appellee had breached contract obligations to pay to Appellant \$3,372,148 in contract support costs for FY 2003 and FY 2004 (collectively), plus interest as provided by 41 U.S.C. § 611, in connection with Appellant's tribally-controlled school grant Nos. GTS78T98081 (FY 2003) and No. GTS78T98082 (FY 2004).



2. Appellee's contracting officer did not take any action on Appellant's contract dispute within the timeframes established by 41 U.S.C. § 605(c)(2).

3. Appellant elected to treat the claim as submitted in its December 2, 2005 contract dispute as a "deemed denied" claim pursuant to 41 U.S.C. § 605(5) and duly perfected its appeal to the Board from that denial and simultaneously filed its Complaint on appeal pursuant to 41 U.S.C. § 601 *et seq.* and 43 C.F.R. Parts 4.102(a) and 4.107. Appellant's appeal was duly docketed and its Complaint on appeal were duly docketed on or about September 6, 2005.

4. Appellee duly submitted its compilation of the administrative record per 43 C.F.R. Part 4.104 on or about October 18, 2006 and duly filed its Answer to the Complaint on or about November 21, 2006.

5. Based upon Appellee's review of the allegations of Appellant's Complaint on Appeal and the law established in this Board's prior ruling in Appeals of Mississippi Band of Choctaw Indians, IBCA 4711 through 4715 (April 14, 2006), Appellee generally admitted Appellant's allegations, subject to verification of the exact dollar amounts claimed due.

6. Upon further review, Appellee has agreed that the dollar amounts claimed due by Appellant were accurately calculated and that Appellee has a present contract obligation to pay to Appellant the \$3,372,148.00 claimed due for FY 2003 and FY 2004 (collectively), and that

Appellant is also entitled to receive interest from and after December 3, 2005 until paid per 41 U.S.C. § 611.

7. Appellee no longer has funds available from FY 2003 or FY 2004 or otherwise which can legally be used to pay the amounts due to Appellant. In the circumstances of this case the Judgment Fund established per 31 U.S.C. § 1304 is the only available source of funds from which this amount can be paid to Appellant and an award should be entered by this Board authorizing and requiring that Appellee submit the appropriate documents to the U.S. Department of the Treasury for payment of such award from the said Judgment Fund.

8. Appellant is entitled to a monetary award in the amount of \$3,372,148.00 plus interest from December 2, 2005, until the sum is paid per 41 U.S.C. § 611 and

9. The parties have agreed that each party should bear their own costs and attorneys fees herein.

NOW, THEREFORE, based on the foregoing findings and conclusions, it is hereby ordered and adjudged that:

1. This Board has jurisdiction over the parties and over Appellant's claims per the Contract Disputes Act, 41 U.S.C. § 601 et seq., 25 U.S.C. § 450m-1(d) and 25 U.S.C. § 2507(e).

2. Appellant has established its contract right to recover \$3,372,148.00, on its grant Nos. Nos. GTS78T98081 (FY 2003) and No.

GTS78T98082 (FY 2004) plus interest from and after December 2, 2005, until paid pursuant to 41 U.S.C. § 611.

3. Appellant is hereby awarded \$3,372,148.00 in this proceeding plus interest from December 2, 2005 until the sum is paid per 41 U.S.C. § 611.

4. This monetary award is and shall be payable from the Judgment Fund established per 31 U.S.C. § 1304.

5. Appellee shall promptly process and submit the appropriate documents to secure payment of this award from the Judgment Fund.


6. Each party shall bear its own costs and attorneys' fees.

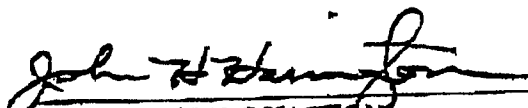
SO ORDERED this 14th day of December, 2006.



CANDIDA S. STEEL
Chief Administrative Judge

Submitted:


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