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UNITED STATES CIVILIAN BOARD OF CONTRACT APPEALS

CIVILIAN BOARD OF CONTRACT APPEALS

ARCTIC SLOPE NATIVE ASSOCIATION, LTD., )

Appellant, )

v. )

DEPARTMENT OF HEALTH AND HUMAN SERVICES, )

Respondent. )

CBCA No. 294-ISDA through 297-ISDA

APPELLANT'S SUPPLEMENTAL STATEMENT OF UNCONTESTED FACTS

Appellant Arctic Slope Native Association (ASNA) submits the following Supplemental Statement of Uncontested Facts in support of Arctic Slope Native Association's Cross-Motion for Summary Judgment Awarding \$183,790.93 in CBCA Nos. 294-ISDA through 295-ISDA, and \$147,153.51 in CBCA Nos. 296-ISDA through 297-ISDA.

114. As of September 30, 2004, when the account established for the Indian Health Service fiscal year 1999 appropriation was closed and the unexpended funds therein were statutorily withdrawn and lapsed to the Treasury, the unobligated balance in the account was \$179,539, and the undelivered orders balance was \$4,251.93, for a total of \$183,790.93 in unexpended funds that lapsed to the Treasury. Fowler Decl. at ¶10. Funds were classified as undelivered orders at that time likely because IHS staff had neglected to deobligate these funds. Fowler Decl. at ¶14.

115. In fiscal year 1999, ASNA experienced a shortfall in IHS payments to ASNA for ASNA's contract support cost requirement that exceeded the sum of \$183,790.93 (see par. 114, above). Mather Affid. at ¶¶11 and 17.

116. As of September 30, 2005, when the account established for the Indian Health Service fiscal year 2000 appropriation was closed and the unexpended funds therein were statutorily withdrawn and lapsed to the Treasury, the unobligated balance in the account was \$137,013.51, and the undelivered orders balance was \$10,140, for a total of \$147,153.51 in unexpended funds that lapsed to the Treasury. Fowler Decl. at ¶13. Funds were classified as undelivered orders at that time likely because IHS staff had neglected to deobligate these funds. Fowler Decl. at ¶ 14.

117. In fiscal year 2000, ASNA experienced a shortfall in IHS payments to ASNA for ASNA's contract support cost requirement that exceeded the sum of \$147,153.51 (*see* par. 116, above). Mather Affid. at ¶¶21 and 27.

118. The FY1999 Amended and Restated Compact between ASNA and IHS was executed by the parties, respectively, on October 1 and September 28, 1998. AR 7 at 37. The FY1999 Annual Funding Agreement between ASNA and IHS was executed by the parties, respectively, on October 1 and September 28, 1998. AR 8 at 22.

119. The Amended and Restated Compact referred to in pars. 36 and 118 remained in effect throughout FY2000. AR 9 at 1. The FY2000 Annual Funding Agreement between ASNA and IHS was executed by the parties, respectively, on September 13 and September 30, 1999. AR 10 at 15.

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Respectfully submitted this 24th day of February 2009.

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