



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the
General Counsel

Region VI
1301 Young Street, Suite 1138
Dallas, Texas, 75202

January 26, 2007

Candida S. Steel
Administrative Judge
Civilian Board of Contract Appeals
1800 M Street, N.W.
6th Floor
Washington, DC 20036

Re: Citizen Potawatomi Nation v. Leavitt, et al.;
IBCA 4838-2006 thru IBCA 4846-2006

Dear Judge Steel:

Enclosed please find an original and one copy of the Parties' Joint Motion and Order to Suspend Proceedings submitted for filing in the above-referenced appeal.

If you have any questions, please do not hesitate to call at (214) 767-9227.

Sincerely,


Shara Michalka

Enclosures

cc: Lloyd Benton Miller

CIVILIAN BOARD OF CONTRACT APPEALS

CITIZEN POTAWATOMI NATION,)	
Appellant,)	Docket Nos. IBCA 4838-4846/2006
)	
vs.)	ISDA Contract No. 246-97-0017
)	(eff. Dec. 4,1996 - Dec. 31,1997)
MICHAEL O. LEAVITT, SECRETARY,)	
U.S. DEPARTMENT OF HEALTH AND)	ISDA Compact No. 60G980053
HUMAN SERVICES; CHARLES GRIM,)	(eff. Jan. 1, 1998 to the present)
DIRECTOR, INDIAN HEALTH SERVICE;)	
UNITED STATES OF AMERICA,)	
Appellees.)	

PARTIES' JOINT MOTION TO SUSPEND PROCEEDINGS

Pursuant to the Rules of Procedure Before the Civilian Board of Contract Appeals, Rule 127, Appellant, Citizen Potawatomi Nation, and Appellees, Michael O. Leavitt, Secretary, U.S. Department of Health and Human Services; Charles Grim, Director, Indian Health Service; and the United States of America, by their undersigned counsel, move to suspend all proceedings in this appeal. In support of this motion, the parties show as follows:

1. In this appeal, Appellant asserted that Appellee is liable for money damages due to non-payment of certain "contract support costs" for contracts entered into under the Indian Self-Determination and Education Assistance Act, 25 U.S.C §450 *et seq.*, between Appellant and Appellee. In its Answer, Appellee contends that several of Appellant's claims are barred by laches or the six-year presentment period set forth in 41 U.S.C. §605(a).

2. Similar legal issues are a part of several other appeals pending before the Civilian Board of Contract Appeals (CBCA), including *Arctic Slope Native Association, Ltd v. Leavitt, et al*, IBCA Nos. 4794-2006 through 4803-2006, and *Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians v. IHS*, IBCA Nos. 4724-2005 through 4727-2005. The parties in

the *ASNA* and *Coos* appeals are scheduled to conclude briefing within the upcoming weeks, and oral arguments are scheduled for February 28, 2007 and March 15, 2007, respectively. The parties expect that a decision will be issued by the CBCA shortly thereafter. The dispositions of these motions will in all likelihood assist the parties in evaluating how they wish to proceed with this appeal.

3. Given the pendency of the motions to dismiss filed by the Appellee in the above-referenced cases, among other things, the parties agree that the most efficient course of action is to suspend this appeal until March 30, 2007, reserving to either party the right to request that the suspension be lifted prior thereto for good cause shown.


4. In addition, the parties agree that this Motion to Suspend Proceedings does not prejudice either party to file dispositive motions under Rule 108(b) in the future. Furthermore, the parties agree that Appellee can supplement its Appeal File during the pendency of this suspension without causing the suspension to be lifted.

For the foregoing reasons, the parties respectfully request that this Motion to Suspend Proceedings be granted.

Respectfully submitted,

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Dated: January 26, 2007

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UNITED STATES OF AMERICA,)	
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ORDER GRANTING MOTION TO SUSPEND PROCEEDINGS

The parties' Motion to Suspend Proceedings is hereby GRANTED. The appeal is suspended until March 30, 2007, and either party may move that the suspension be lifted prior thereto for good cause shown.

In addition, this suspension does not prejudice either party to file dispositive motions under Rule 108(b) in the future, and Appellee may supplement its Appeal File during the pendency of this suspension without causing the suspension to be lifted.

SO ORDERED this ____ day of _____, 2007.

Candida Steel
Administrative Judge