



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Interior Board of Contract Appeals

4015 Wilson Boulevard

Arlington, Virginia 22203

November 15, 2001

APPEALS OF CHEROKEE NATION OF OKLAHOMA

Compact No. 60G 930002-01-18 : IBCA 3877-3879/98
HHS Indian Health Service

APPEARANCE FOR APPELLANT: Lloyd Benton Miller, Esq.
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Sonosky, Chambers, Sachse, et al.
Anchorage, Alaska

APPEARANCE FOR GOVERNMENT: Jocelyn S. Beer, Esq.
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Rockville, Maryland

Order Accepting the Parties' Joint Stipulation on Quantum

The above appeals were received by the Board and docketed on February 11, 1998. Appellant's Complaint was received on April 20, and the Government's Answer on June 18, 1998. Hundreds of hours of legal time have been spent on these appeals during the intervening nearly four years. The Board issued its decision in favor of Appellant on June 30, 1999, 33 IBCA 1, 99-2 BCA 30,462, remanding the matter to the parties to ascertain quantum and to report back to the Board within 60 days. On August 12, however, the Government notified the Board that it intended to appeal the decision to the Federal Circuit and that the parties had agreed to defer their quantum negotiations until the Court had issued its decision.

However, on February 25, 2000, the Federal Circuit, by Order, dismissed the appeal as premature on the ground that it was not final and therefore not ripe for appeal (Fed. Cir. No. 00-1056, unpublished). On March 27 the Government moved for reconsideration of Board's entitlement decision, although the parties continued their quantum negotiations. On October 31, the Board granted reconsideration, with final briefs due by January 15, 2001. On March 16, the Board rejected a request for further briefs, and on March 21, 2001, it issued its decision on reconsideration affirming its earlier decision.

On May 9, 2001, Appellant suggested the appointment of a settlement judge, and Judge Candida S. Steel accepted that assignment. Further meetings were held, and on November 9, during a mediation with Judge Steel, the parties entered into a Joint Stipulation on Quantum, which provided that:

1. Damages to be awarded in favor of the Appellant on its Contract Disputes Act claim filed September 30, 1996, shall be \$8,500,000, plus interest from September 30, 1996, to the date of payment pursuant to 41 U.S.C. §611 of the Contract Disputes Act.

2. The claim filed September 30, 1996, at issue in this appeal did not include any claim for damages arising out of any alleged miscalculation of indirect contract support costs, as addressed by the Tenth Circuit in Ramah Navajo Chapter v. Babbitt, 112 F.3d 1455 (10th Cir. 1997).

3. By this stipulation all outstanding matters in this appeal have been resolved.

The Board hereby accepts this Stipulation as fully responsive to its original remand of June 30, 1999, and certifies that this matter is now final for appeal to the Federal Circuit at the discretion of the parties.



Bernard V. Parrette
Acting Chief Administrative Judge

I concur:

Candida Steel
Candida S. Steel
Administrative Judge