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| NOTICE OF APPEAL | DATE: <u>4-30-2007</u> | OMB APPROVAL NO. 3090-0221 |
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**Board of Contract Appeals
General Services Administration
Washington, D.C. 20405**

I/We hereby appeal the final decision of Martha R. Young, issued Jan. 31, 2007,
(Name of Contracting Officer) (Date)

in connection with a dispute under Contract No. 248-96-0029. This contract was awarded Jan 1, 1997
(Date)

for health care to Suquamish Tribe members and others
(Type of commodity, service, or construction)

by Indian Health Service, Dept. of Health & Hum. Servs., Washington, DC
(Name of agency and organizational unit) (City and State)

1. DESCRIBE THE NATURE OF THE DISPUTE INVOLVED IN THE FINAL DECISION AND ANY OTHER CIRCUMSTANCES GIVING RISE TO THIS APPEAL:

See attached.

2. DESCRIBE THE RELIEF WHICH YOU SEEK INCLUDING AN ESTIMATE OF THE AMOUNT OF MONEY IN CONTROVERSY, IF ANY, AND IF KNOWN:

See Attached.

| APPELLANT | | | ATTORNEY FOR APPELLANT | | |
|--------------------------------|-------------------------------|--|--|--------------------------|--|
| NAME <u>Suquamish Tribe</u> | | | NAME <u>Geoffrey D. Strommer</u> | | |
| TITLE | | | FIRM <u>Hobbs, Straus, Dean & Walker, LLP</u> | | |
| STREET <u>P.O. Box 498</u> | | | STREET <u>806 SW Broadway, Suite 900</u> | | |
| CITY <u>Suquamish</u> | | | CITY <u>Portland</u> | | |
| STATE <u>WA</u> | ZIP CODE <u>98392-0498</u> | TELEPHONE NO. <u>(360) 598-3311</u> | STATE <u>OR</u> | ZIP CODE <u>97205</u> | TELEPHONE NO. <u>(503) 242-1745</u> |
| APPELLANT'S SIGNATURE | | | ATTORNEY'S SIGNATURE | | |

GENERAL SERVICES ADMINISTRATION

GSA Form 2465 (REV 6-85)

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**Board of Contract Appeals
General Services Administration
Washington, D.C. 20405**

I/We hereby appeal the final decision of Charles W. Grim, D.D.S., issued March 16, 2007,
(Name of Contracting Officer) (Date)

in connection with a dispute under Contract No. 64G980047. This contract was awarded 1/1/98; 1/1/99
(Date)

for health care to Suquamish Tribe members and others
(Type of commodity, service, or construction)

by Indian Health Service, Dept. of Health & Hum. Servs., Washington, DC
(Name of agency and organizational unit) (City and State)

1. DESCRIBE THE NATURE OF THE DISPUTE INVOLVED IN THE FINAL DECISION AND ANY OTHER CIRCUMSTANCES GIVING RISE TO THIS APPEAL:
See attached.

2. DESCRIBE THE RELIEF WHICH YOU SEEK INCLUDING AN ESTIMATE OF THE AMOUNT OF MONEY IN CONTROVERSY, IF ANY, AND IF KNOWN:
See Attached.

| APPELLANT | | | ATTORNEY FOR APPELLANT | | |
|-------------------------|------------------------|---------------------------------|---|-------------------|---------------------------------|
| NAME Suquamish Tribe | | | NAME Geoffrey D. Strommer | | |
| TITLE | | | FIRM Hobbs, Straus, Dean & Walker, LLP | | |
| STREET P.O. Box 498 | | | STREET 806 SW Broadway, Suite 900 | | |
| CITY Suquamish | | | CITY Portland | | |
| STATE WA | ZIP CODE 98392-0498 | TELEPHONE NO. (360) 598-3311 | STATE OR | ZIP CODE 97205 | TELEPHONE NO. (503) 242-1745 |
| APPELLANT'S SIGNATURE | | | ATTORNEY'S SIGNATURE | | |

Civilian Board of Contract Appeals
1800 F Street, N.W.
Washington, D.C. 20405

Contractor: Suquamish Tribe
P.O. Box 498
Suquamish, WA 98392-0498

Contracts: Contract No. 248-96-0029 for Calendar Year ("CY") 1997; Compact No. 64G980047 and Annual Funding Agreements Between The Suquamish Tribe and the Secretary of Health and Human Services for CYs 1998 and 1999.

Appeal from: Martha R. Young, Senior Contracting Officer (CY 1997 Claim)
Portland Area
Indian Health Service
1220 SW 3rd Ave., Room 476
Portland, OR 97204

Dr. Charles W. Grim, Director (CY 1998 and 1999 Claims)
Indian Health Service (HQ)
The Reyes Building
801 Thompson Avenue, Ste. 400
Rockville, MD 20852-1627

NOTICE OF APPEAL

The Suquamish Tribe ("Suquamish") appeals to the Civilian Board of Contract Appeals ("CBCA") from the decisions of Martha R. Young, Senior Contracting Officer, Portland Area Indian Health Service, and Charles W. Grim, Director, of the Indian Health Service ("IHS") in the Department of Health and Human Services. During the years at issue, CYs 1997-1999, Suquamish provided health care programs and services pursuant to the above-referenced agreements under the Indian Self-Determination and Education Assistance Act ("ISDEAA"), Pub. L. 93-638 as amended, 25 U.S.C. § 450 *et seq.* Post-award disputes arising from ISDEAA agreements are heard pursuant to the Contract Disputes Act ("CDA"),

and all administrative appeals relating to such contracts are to be heard by the CBCA. 25 U.S.C. § 450m-1(d); Pub. L. No. 109-163 § 847(c), 119 Stat. 3136, 3392 (Jan. 6, 2006) (providing that references to former agency boards of appeal, such as that to the Interior Board of Contract Appeals in the ISDEAA, "shall be treated as referring to the Civilian Board of Contract Appeals").

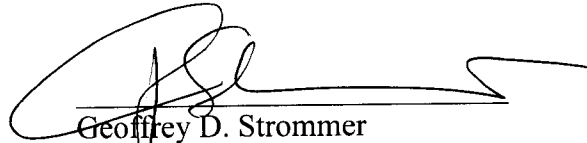
In letters dated September 28, 2005, Suquamish requested a contracting officer's decision pursuant to the CDA, 41 U.S.C. § 605, on claims for unpaid contract support costs ("CSC") under its ISDEAA agreements for CYs 1997-1999. *See* Complaint, Exhibit 1 (containing the Tribe's requests for a contracting officer's decision). The letter for each year presented two distinct CSC claims: (1) a "shortfall" claim alleging that the IHS had failed to pay Suquamish its full CSC need, as required by law, even by the IHS's own calculations; and (2) a "miscalculation" claim alleging that the IHS miscalculated the Tribe's indirect cost rate, further exacerbating the CSC shortfall.

In a letter dated January 31, 2007, the IHS contracting officer denied the Tribe's claims for CY 1997.¹ *See* Complaint, Exhibit 2 (containing the IHS denial letters). In letters dated March 16, 2007, Dr. Charles Grim, the IHS Director, denied the Tribe's claims for CYs 1998 and 1999. *Id.* The Tribe now appeals the IHS decisions to this Board within 90 days of receiving them. Therefore this Board has jurisdiction over the appeals under the CDA and Section 110 of the ISDEAA. 41 U.S.C. § 606; 25 U.S.C. § 450m-1(d). At issue in this appeal are the "shortfall" claims for CY 1997-1999, not the "miscalculation" claims.

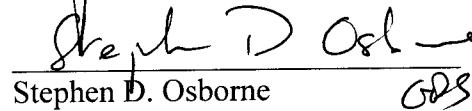
¹ In a second, virtually identical, letter dated February 21, 2007, the IHS contracting officer again denied the CY 1997 claim.

Suquamish hereby appeals the IHS's denial of its claims for underpayment of contract support costs in CYs 1997-1999. The factual and legal basis of these claims is set forth more fully in the Complaint submitted along with this notice.

Respectfully Submitted,



Geoffrey D. Strommer



Stephen D. Osborne

GDS

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April 30, 2007