

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

SOUTHCENTRAL FOUNDATION, an
Alaskan corporation,

Plaintiff,

vs.

YVETTE ROUBIDEAUX, DIRECTOR,
U.S. INDIAN HEALTH SERVICE,

Defendant.

Case No. 3:13-cv-00164-SLG

ORDER

Before the Court at Docket 71 is Plaintiff Southcentral Foundation's ("SCF") Second Motion for Preliminary Injunction, supported by a memorandum of law at Docket 72. At Docket 75, Defendant, Yvette Roubideaux, Director of the Indian Health Service ("IHS" or "Defendant") responded. The Court will deny SCF's motion for the reasons discussed herein.

The parties are familiar with the facts of this dispute, which concerns IHS funding of the Methamphetamine and Suicide Prevention Initiative (MSPI) and the Domestic Violence Prevention Initiative (DVPI), insofar as those programs are administered by SCF. The Court has under advisement the parties' cross-motions for summary judgment concerning MSPI and DVPI program funding in the fiscal year at issue in the complaint. SCF now requests that this Court order, pursuant to either 25 U.S.C. § 450m-1(a) or common law injunction, IHS to "preserve the funds currently promised to SCF to be made available under the 2014 award for the IHS" MSPI and DVPI program

funds.¹ The Court understands that the parties' negotiations concerning the 2014 funding cycle have stalled because SCF has declined to include all contract support costs in its MSPI and DVPI budgets for 2014, while IHS has indicated that SCF must either include the costs or submit an acknowledgement essentially waiving recovery of those costs from IHS.²

SCF asserts that it was "recently notified that it must complete its application for these funds by August 1, 2014, so the necessary amendments to SCF's funding agreement can be signed by August 15, 2014," and that "if SCF does not sign by that date, presumably the funds will be awarded to other entities and thus become unavailable to SCF."³ SCF explains that it is not seeking a mandatory injunction nor mandamus relief, but only to preserve the status quo of the parties pending completion of this litigation.⁴

IHS responds that "IHS has neither promised nor approved an allocation of funds to SCF for this funding cycle," and "[i]t is ludicrous for an award recipient to argue, as SCF does, that a federal agency contemplating an award of funds does not have the discretion to require the recipient submit a budget inclusive of all of the costs the recipient intends to ask the agency to fund."⁵

¹ Docket 71 at 1 (Mot.).

² See Docket 64-1 (7/16/14 Olson Decl.); Docket 64-2 (7/8/14 IHS email to SCF).

³ Docket 72 at 3-4 (Memo.).

⁴ Docket 72 at 6 (Memo.).

⁵ Docket 75 at 2 (Opp'n).

The Court intends to hold in its order on summary judgment, for reasons that will be explained in that order, that the ISDA applies to the MSPI and DVPI funds.⁶ However, as indicated by IHS, the issue raised in SCF's Second Motion for Preliminary Injunction is different from the issue raised in SCF's complaint.⁷ SCF's Second Motion for Preliminary Injunction addresses a completely separate fiscal year, which is still under negotiation, and which is distinct from the fiscal year addressed in the complaint. Accordingly, the current funding cycle dispute is not properly before the Court at this juncture.

IT IS ORDERED that SCF's Second Motion for Preliminary Injunction at Docket 71 is **DENIED**.

DATED this 1st day of August 2014.

/s/ Sharon L. Gleason
United States District Judge

⁶ See 25 U.S.C. § 458aaa-4(b)(2)(F). To what extent IHS may seek inclusion of related contract support costs in the fiscal year at issue in the complaint will be addressed in the Court's order on summary judgment, as well. See *Salazar v. Ramah Navajo Chapter*, 132 S.Ct. 2181, 2195 (2012).

⁷ Docket 75 at 9 (Opp'n).