

Alexander B. Ritchie, Attorney General
Arizona Bar No. 019579
SAN CARLOS APACHE TRIBE
P.O. Box 40
San Carlos, AZ 85550
(928) 475-3344
Fax: (928) 475-3348
Alex.Ritchie@scat-nsn.gov

Lloyd B. Miller
Alaska Bar No. 7906040
Rebecca A. Patterson
Alaska Bar No. 1305028
SONOSKY, CHAMBERS, SACHSE,
MILLER & MONKMAN, LLP
725 East Fireweed Lane, Suite 420
Anchorage, AK 99503
(907) 258-6377
Fax: (907) 272-8332
lloyd@sonosky.net
rebecca@sonosky.net

Attorney for Plaintiffs San Carlos Apache Tribe

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

San Carlos Apache Tribe,)
)
 Plaintiff,)
)
 v.)
)
 Alex Azar, Secretary, U.S. Department of)
 Health and Human Services,)
 Michael Weahkee, Principal Deputy Director,)
 Indian Health Service,)
)
 and)
)
 United States of America,)
)
 Defendants.)

Civil Action No.
COMPLAINT

I. INTRODUCTION

1. This action seeks damages for the failure of the United States Indian Health Service (IHS) to pay the San Carlos Apache Tribe (the Tribe) certain “contract support costs” that were due under the Tribe’s contracts with IHS in Fiscal Years (FY) 2011, 2012, and 2013. The Tribe’s rights arise under its contracts and the statute under which the contracts were awarded, the Indian Self-Determination and Education Assistance Act, 25 U.S.C. §§ 5301–5423 (ISDEAA).

2. This action follows several Supreme Court decisions finding the federal government’s failure to pay full contract support costs to contractors like the San Carlos Apache Tribe to be contrary to law and a breach of contract. *See Salazar v. Ramah Navajo Chapter*, 567 U.S. 182, 192-94 (2012); *Arctic Slope Native Ass’n v. Sebelius*, 133 S. Ct. 22 (2012), *on remand* 501 Fed. App’x 957, 959 (Fed. Cir. 2012) (*Arctic Slope II*); *Cherokee Nation v. Leavitt*, 543 U.S. 631, 636–38 (2005) (consolidated cases).

3. The San Carlos Apache Tribe seeks as damages the unpaid funds which the Secretary should have paid and the associated lost third-party collections which the Tribe would have collected had each year’s unpaid contract support costs been paid in full. These are the sums necessary to put the Tribe back in the position it would have been in had IHS not breached its obligations under the ISDEAA and the Tribe’s contracts.

II. JURISDICTION

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1362; 25 U.S.C. §§ 5331(a), 5531(d); and 41 U.S.C. § 7104 of the Contract Disputes Act.

III. PARTIES

5. San Carlos Apache Tribe is a federally recognized Indian Tribe with its tribal headquarters in San Carlos, Arizona. San Carlos Apache Tribe is an “Indian Tribe” as that term is defined by the ISDEAA at 25 U.S.C. § 5304(e), and it is referred to hereinafter as “the Tribe.” At all relevant times, the Tribe carried out contracts with IHS pursuant to Title I of the ISDEAA, 25 U.S.C. §§ 5301–5332.

6. Alex Azar is the Secretary of the U.S. Department of Health and Human Services (HHS). Secretary Azar exercises limited responsibilities designated to him by Congress pursuant to the ISDEAA and other applicable law. Michael Weahkee is the Principal Deputy Director of the Indian Health Service (IHS). Acting Director Weahkee exercises authority delegated to him by the Secretary to carry out the Secretary’s responsibilities under the ISDEAA and other applicable law. As used throughout this Complaint (and unless context commands otherwise), the terms “Secretary,” “HHS,” “Acting Director,” and “IHS” are used interchangeably.

IV. FACTS AND GENERAL ALLEGATIONS

A. The Contract Documents.

7. The San Carlos Apache Tribe operates various Federal health care programs, functions, services, and activities of the IHS (specifically the San Carlos Service Unit, an administrative component of the IHS Phoenix Area Office). The health services provided by the Tribe during the fiscal years at issue, 2011–2013, included community health representatives, emergency medical services, an alcohol and substance abuse program,

behavioral health services, a teen wellness program, and general health and human services.

8. These programs are operated pursuant to contracts that IHS awarded to the Tribe under the ISDEAA. During the specific years at issue, the Tribe operated these federal IHS programs pursuant to Contract No. HHSI-2472011100002C and funding agreements awarded pursuant to the Contract. Together, these contract documents are termed the “contracts” throughout this Complaint.

9. The Contract is the basic contract document at issue in this case. The terms of the Contract are required by and inextricably intertwined with the ISDEAA. The Contract states that it “shall be liberally construed for the benefit of the contractor[.]” Contract, § 1(a)(2).

10. The foregoing Contract was awarded by IHS to the Tribe pursuant to Title I of the ISDEAA (25 U.S.C. §§ 5301–5332), and it expressly incorporates Title I into its terms. It is a “Self-Determination Contract” intended to “transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractible under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor[.]” Contract, § 1(a)(2).

11. The contract documents also include the Tribe’s Funding Agreements. Funding Agreements for Title I funds are to be issued annually. 25 U.S.C. § 5329(c). Funding Agreements are often amended throughout a given year to take account of appropriations changes and new funds that IHS makes available to the Tribe. The Tribe’s FY 2011 through 2013 Funding Agreements were amended in this manner multiple times.

At all times the Tribe's Funding Agreements were governed by and incorporated into the Contract. Contract, § 1(f)(2)(B).

12. The contract documents that are controlling for the claims asserted here are the Title I Contract, the Funding Agreements, modifications to those documents, and the various statutory provisions incorporated by law into the contract documents, including the ISDEAA.

B. The Contract Agreement.

13. The Tribe's obligation under the contracts was to administer designated health care programs and provide certain health care services and functions for the benefit of the Tribe's citizens and others served by those programs. These services were previously provided by IHS. IHS's contractual obligation to the Tribe was to make certain specified payments to the Tribe, including payments required for the Tribe to carry out its administrative duties, as well as other costs of carrying out the contracts.

14. The Tribe's contracts were authorized by Title I of the ISDEAA, 25 U.S.C. §§ 5301–5332. At all relevant times, 25 U.S.C. § 5325 and related funding provisions of Title I of the ISDEAA controlled the Secretary's funding obligations under the contracts. These are the same provisions that the Supreme Court analyzed in *Cherokee Nation* and *Ramah*, and that the Federal Circuit construed in *Arctic Slope II*.

15. Section 5325(a)(1) provides for the direct program funding, also called the "Secretarial amount," representing "the amount the Secretary would have expended had the government itself [continued to] run the program." *Arctic Slope Native Ass'n, v. Sebelius*, 629 F.3d 1296, 1298–99 (Fed. Cir. 2010), *vacated on other grounds* 133 S. Ct.

22 (2012). The Secretarial amount was subject to being increased or decreased during the contract year to the extent the appropriation supporting the contracted program increased or decreased. This would be done by a mid-year contract modification. The Tribe's contracts had mid-year amendments and modifications of this kind.

16. In addition to paying the "Secretarial amount," the ISDEAA and Funding Agreements also require that IHS pay contract support costs. Section 5325 provides that "[t]here shall be added to the amount required by paragraph (1) [*i.e.* to the Secretarial amount] contract support costs which shall consist of an amount for the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract and prudent management" 25 U.S.C. § 5325(b).

C. Contract Support Costs.

17. Contract support costs are mostly "administrative expenses," *Cherokee Nation*, 543 U.S. at 634, although as the Supreme Court has noted, they more precisely fall into one of two subcategories: (a) indirect administrative (or overhead) contract support costs, "such as special auditing or other financial management costs," *id.* at 635 (citing § 5325(a)(3)(A)(ii)), and (b) direct contract support costs for certain annually recurring costs attributable directly to the personnel and facilities employed to carry out the contracted IHS programs, "such as workers' compensation insurance," *id.* (citing § 5325(a)(3)(A)(i)).

18. The ISDEAA defines these costs with particularity:

[t]he contract support costs that are eligible costs for the purposes of

receiving funding under this chapter shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

(i) direct program expenses for the operation of the Federal program that is the subject of the contract, and

(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract,

except that such funding shall not duplicate any funding provided under subsection (a)(1) of this section. § 5325(a)(3)(A).

19. Thus, this provision of the ISDEAA obligates IHS to pay (a) all of the “reasonable and allowable costs” associated with additional “direct program expenses” incurred in operating the contract, plus (b) all of the “reasonable and allowable costs” for “any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the [contracted] Federal program.” The only limitation on this payment obligation is that a CSC payment may not duplicate a program payment already made to the contractor as part of the Secretarial amount (*i.e.*, the amount “provided under subsection (a)(1) of [§ 5325]”).

20. The ISDEAA directs that “[u]pon the approval of a . . . contract, the Secretary shall add to the contract the full amount of funds to which the contractor is entitled under [§ 5325(a)], subject to adjustments for each subsequent year that such tribe . . . administers a Federal program, function, service, or activity under such contract.”

21. Title I of the ISDEAA delegates to the Secretary limited regulatory authority. 25 U.S.C. § 5328(a)(1). The Secretary “may not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts” except in relation

to 16 subjects specified in the Act. *Id.* Those subjects do *not* include contract support costs. *Ramah Navajo School Bd. v. Babbitt*, 87 F.3d 1338, 1344 (D.C. Cir. 1996) (“Congress has clearly expressed in the ISDEAA . . . its intent to circumscribe as tightly as possible the discretion of the Secretary;” “[t]he statute itself reveals that not only did Congress *not* intend to commit allocation decisions to agency discretion, it intended quite the opposite; Congress left the Secretary with as little discretion as feasible in the allocation of [contract support costs]” (emphasis in original) (citations omitted)).

22. Echoing these provisions, the model contract embedded in the ISDEAA provides that, “[e]xcept as specifically provided in the [ISDEAA] . . . the Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.” 25 U.S.C. § 5329(c) (model agreement § 1(b)(11)). This provision was expressly incorporated into the Tribe’s Contract. *See, e.g.*, 2011 Contract, § 1(b)(11).

23. During the fiscal years at issue here, IHS calculated and paid contract support costs pursuant to Chapter 6-3 of the Indian Health Manual (“IHS Manual” or “IHM”). *See* Indian Health Serv., *Indian Health Manual*, pt. 6, ch. 3 (2007), Ex. 1. This chapter of the IHS Manual explains how IHS determines CSC requirements, but it is not binding on tribal contractors. *Id.* § 6-3.1; *see also* 25 C.F. R. § 900.5.

24. The IHS Manual recognizes the statutory CSC provisions and provides additional “guidance to both Tribal and Agency personnel,” in the negotiation of contract support costs. IHM § 6-3.1(A). The version of the IHS Manual in effect during the relevant time period acknowledged that:

Throughout the operation of the program by the awardee, *total contract costs, including CSC, are eligible to be paid* as either direct or indirect costs. Since Tribes often operate more than one program, many of the costs incurred by the awardee are paid through an indirect cost allocation process, usually negotiated by the “Federal Agency” as identified under the applicable [OMB] Circular. . . . [The ISDEAA] authorizes awardees to [b]e paid CSC costs whether they are “indirect” in nature (benefitting multiple programs) or additional costs associated with operating a single program, except that such funding shall not duplicate any funding provided [under the Secretarial amount].

§ 6-3.2(B) (emphasis added).

i. Indirect Contract Support Costs

25. Administrative and overhead costs, also known as indirect contract support costs, are typically calculated by reference to an indirect cost rate. An indirect cost rate is a common accounting tool that recipients of federal funds employ to allocate administrative and overhead costs across multiple programs supported by pooled administrative activities. *Rumsfeld v. United Techs. Corp.*, 315 F.3d 1361, 1363 (Fed. Cir. 2003). Such pooled activities typically include financial management and accounting systems, information technology systems, insurance, facilities, procurement activities, and personnel management systems.

26. An indirect cost rate is calculated by pooling these administrative costs into an overarching “indirect cost pool,” and then dividing that pool by the total amount of direct program costs that are supported, served, or benefited by the pool. This calculation results in a ratio known as an indirect cost rate, which is then applied to the direct cost base of each program supported by the pool.

27. In the case of IHS, the direct cost base is comprised of the funds spent under the IHS contract (“the IHS direct cost base”). This method permits a contractor to allocate its pooled indirect costs to each of the supported programs based on the one indirect cost rate.

28. When IHS runs a health care program, it bills Medicare, Medicaid, and private insurance programs; it collects revenues from those programs; and it then uses those revenues to operate additional and larger programs. *See* 42 U.S.C. §§ 1395–1395lll, 1396–1396w-5, 1397aa–1397mm. Revenue from these programs is generally called “third-party revenues,” and the generation and expenditure of these revenues is an integral part of IHS operations. Thus, IHS’s comprehensive health care programs include, and are funded by, both appropriated funds and third-party revenues.

29. IHS applied the Tribe’s indirect cost rate to determine the amount of indirect contract support costs due the San Carlos Apache Tribe each year. But IHS failed to apply the rate to the full IHS direct cost base associated with the Tribe’s contracted operations carried out under the Tribe’s contract with IHS. Instead, IHS applied the indirect cost rate only to the portion of the Tribe’s IHS direct cost base that was funded with IHS-appropriated dollars. IHS excluded from the IHS direct cost base the portion of that base that was funded from third-party revenues the Tribe generated and spent under the contracts.

30. In the current version of the IHS Manual, IHS acknowledges that the portion of a Tribe’s health care programs funded by third-party revenues may be considered when calculating the amount of contract support costs owed to a Tribe. IHM §§ 6-3.2(E)(1)(a)(i),

(E)(1)(b) (calculating indirect CSC based in part upon “the total direct costs of the total health care program”); *see id.* § 6-3.1(G)(34) (defining “Total Health Care Program” to include “collections from Medicare, Medicaid, and private insurance” in addition to IHS funding), *available at* <https://www.ihs.gov/ihm/pc/part-6/p6c3/>.

ii. Direct Contract Support Costs

31. The ISDEAA also required IHS to fully reimburse the Tribe’s direct contract support costs. 25 U.S.C. § 5325(a)(3)(A)(i). Direct contract support costs are for services that support one particular program and therefore are not properly allocated across other programs.

32. IHS failed to reimburse the Tribe for its full direct contract support costs incurred in FY 2011 through 2013.

D. Damages due to Lost Third-Party Revenue.

33. Expectancy damages for breach of the Secretary’s contracts with the San Carlos Apache Tribe are measured by the amounts required to place the Tribe in the position it would have been in had there not been a breach. Thus, “an award of damages will often include an amount representing the profits that were lost as a result of the defendant’s breach of contract, because *only by awarding lost profits will the plaintiff be made fully whole.*” WILLISTON ON CONTRACTS § 64:2 (4th ed.) (emphasis added); *see also* RESTATEMENT § 347(b) (recoverable damages may include “incidental or consequential loss, caused by the breach”).

34. As noted, the Tribe generates third-party revenues while administering programs under its contract with IHS, and then spends those funds on additional health

care services and purposes. IHS's CSC underpayments from FY 2011 through 2013 compelled the Tribe to divert program funds to cover the fixed administrative and overhead expenses, and direct contract support costs, that IHS failed to pay. This directly reduced the funds the Tribe had available to provide health care services, inflicting on the Tribe a direct loss in third-party revenues that would have been generated from those services.

35. Diversion of program money and the resulting loss of third-party revenues were foreseeable consequences of the CSC underpayments. *See* U.S. Gov't Accountability Office, GAO-99-150, *Indian Self-Determination Act: Shortfalls in Indian Contract Support Costs Need to be Addressed* 40-41 (1999) (describing use of medical program resources to cover unpaid CSC).

36. Since at least 1987, the federal government has been aware that when Tribes face contract support cost shortfalls, they are forced to use program money to cover the shortfall, which "results in decreased amounts of funds for services," *see* S. REP. NO. 100-274, at 12 (1987), and that reduced program services meant there would be less billing to and collections from third-party payers. It was thus reasonably foreseeable that, if IHS underpaid San Carlos Apache Tribe on the amounts due under its contracts for contract support costs, the Tribe would receive fewer collections from third-party payers.

37. IHS's breaches of the FY 2011 through 2013 contracts directly caused the Tribe to suffer foreseeable damages in the form of lost third-party revenues.

38. The Government is liable to the Tribe in damages for the amounts required to place the Tribe back in the position it would have been in had there been no breach of

the Secretary's duty to pay the Tribe's contract support costs in full, including not only the unpaid contract support costs but also the associated lost third-party collections.

E. Interpretation of the Contracts.

39. In interpreting IHS's obligations, the Supreme Court has directed that "[c]ontracts made under [ISDEAA] specify that '[e]ach provision of the [ISDEAA] and each provision of this Contract shall be liberally construed for the benefit of the Contractor" *Ramah*, 567 U.S. at 194 (quoting 25 U.S.C. § 5329(c) (model agreement § 1(a)(2)) (citation updated)). The Supreme Court has interpreted this language to mean that the government "must demonstrate that its reading [of the ISDEAA] is clearly required by the statutory language." *Id.*

F. Claims History.

40. On September 28, 2017, the San Carlos Apache Tribe timely filed claims for reimbursement of its unpaid contract support costs incurred in FY 2011 through 2013. Ex. 2.

41. The claims were denied by IHS on July 10, 2019. On that date IHS also asserted a counterclaim for an alleged overpayment in 2012. Ex. 3. The Tribe now appeals IHS's decision.

COUNT I – BREACH OF CONTRACT (UNDERPAYMENT OF DIRECT AND INDIRECT CONTRACT SUPPORT COSTS)

42. The San Carlos Apache Tribe incorporates all previous allegations of fact and law into this Cause of Action.

43. The San Carlos Apache Tribe’s contract required the Secretary to pay in full the Tribe’s contract support cost requirements. In doing so, the contracts incorporated the statutory provisions of the ISDEAA requiring full payment of contract support costs. In the *Cherokee*, *Ramah*, and *Arctic Slope* decisions, the Supreme Court and the Federal Circuit affirmed the federal government’s duty to fully pay ISDEAA contracts in the years at issue here.

44. General contract principles control the calculation of damages in government contract litigation. This is so because “[w]hen the United States enters into contract relations, its rights and duties therein are governed generally by the law applicable to contracts between private individuals.” *United States v. Winstar Corp.*, 518 U.S. 839, 895 (1996) (quoting *Lynch v. United States*, 292 U.S. 571, 579 (1934)); see also *Mobil Oil Expl. & Producing Se., Inc. v. United States*, 530 U.S. 604, 607-08 (2000) (quoting *Winstar*, 518 U.S. at 895, and relying on the Restatement (Second) of Contracts (1981) (“Restatement”)); *Franconia Assocs. v. United States*, 536 U.S. 129, 141 (2002) (quoting *Mobil Oil*, 530 U.S. at 607, and applying principles of general contract law).

45. General contract law on the issue of damages is clear that a contractor is entitled to damages which will protect “his ‘expectation interest,’ which is his interest in having the benefit of his bargain *by being put in as good a position as he would have been in had the contract been performed . . .*” Restatement § 344(a) (emphasis added).

46. In order to fulfill the Tribe’s “expectation interest” arising from the Secretary’s breach of contract for failing to pay the contract amount owed, the Tribe is

entitled to damages for the underpayment of its contract support costs, together with accrued interest and attorney's fees and costs, as specifically prayed below.

47. IHS failed to pay the full amount due even under its own deficient calculations. IHS failed to reimburse the Tribe for its full administrative and overhead costs in FY 2011 through 2013 associated with the administration of health care programs carried out under the Tribe's contracts and funded solely with IHS-appropriated dollars.

48. The Tribe incurred no less than \$463,990 in direct contract support costs in carrying out its FY 2011 through 2013 contracts with IHS based on IHS-appropriated dollars. After accounting for IHS's payments and appropriate credits, IHS failed to pay the Tribe \$86,837 over this three-year period. *See* Ex. 2. In failing to pay the Tribe this amount, the government breached its contracts with the San Carlos Apache Tribe.

49. The Tribe incurred no less than \$1,738,381 in indirect contract support costs in carrying out its FY 2011 through 2013 contracts with IHS based on IHS-appropriated dollars. After accounting for IHS's payments and appropriate credits, IHS failed to pay the Tribe \$364,165 over this three-year period. *See* Ex. 2.

COUNT II – BREACH OF CONTRACT (FAILURE TO PAY INDIRECT CONTRACT SUPPORT COSTS ASSOCIATED WITH THIRD-PARTY REVENUES-FUNDED PORTION OF THE PROGRAM)

50. The San Carlos Apache Tribe incorporates all previous allegations of fact and law into this Cause of Action.

51. When the Tribe took over operation of IHS's comprehensive health care programs serving the Tribe's citizens and other eligible individuals, controlling law authorized the Tribe to continue to bill, collect, and spend third-party revenues. 25 U.S.C.

§§ 1621f, 1641(d), § 5325(m)(2); 42 U.S.C. §§ 1395–1395*lll*, 1396–1396w-5, 1397aa–1397mm.

52. The Tribe was entitled to have contract support costs added to support the entirety of the IHS health programs it operated, regardless of the extent to which those programs were funded by appropriated dollars or third-party revenue dollars.

53. IHS failed to calculate and pay the administrative costs of operating the third-party revenue-funded portion of the IHS contracts, even though generating those revenues and spending them on health care was expressly contemplated by the contracts and was an integral and essential part of the contracts.

54. IHS's failure to pay the Tribe indirect contract support costs associated with the Tribe's third-party revenue supported health care operations—that is, the failure to include these third-party revenues in the IHS direct program base against which the Tribe's indirect cost rate was applied—resulted in significant underpayments to the Tribe of indirect contract support costs. It was also contrary to law.

55. The Tribe incurred no less than \$2,951,714 in indirect contract support costs associated with the expenditure of third-party revenue that was generated as a result of the IHS award. The IHS did not pay any indirect costs associated with these expenditures. In failing to pay the Tribe this amount, the government breached its contracts with the San Carlos Apache Tribe.

COUNT III – BREACH OF CONTRACT (LOST THIRD-PARTY REVENUES)

56. The San Carlos Apache Tribe incorporates all previous allegations of fact and law into this Cause of Action.

57. IHS's breaches of the FY 2011 through 2013 contracts also caused the Tribe damages in the form of lost third-party revenues. These damages were caused by IHS, were a foreseeable result of underpaying contract support costs, and are quantifiable. Specifically, the Tribe has lost an additional \$5,231,679 due to the government's breaches from FY 2011 to 2013.

COUNT IV—BREACH OF CONTRACT (LOST INDIRECT CSC FUNDING ON UNPAID DIRECT CSC FUNDING)

58. The San Carlos Apache Tribe incorporates all previous allegations of fact and law into this Cause of Action.

59. Had IHS fully funded the direct contract support costs from FY 2011 to 2013, the Tribe would have been entitled to an additional \$15,607 in indirect contract support cost funding. The Tribe lost this amount due to the government's breaches from FY 2011 to 2013.

60. The loss of this funding was foreseeable, directly caused by the government's breaches, and is quantifiable with reasonable certainty.

COUNT V—BREACH OF STATUTORY RIGHT

61. The San Carlos Apache Tribe incorporates all previous allegations of fact and law into this Cause of Action.

62. The ISDEAA creates a right of action for money damages to remedy the Secretary's breach of his obligations under the ISDEAA. 25 U.S.C. § 5331.

63. Under 25 U.S.C. §§ 5325(a)(2)-(3), the Secretary in FY 2011 through 2013 had a statutory duty to pay the San Carlos Apache Tribe full contract support costs.

64. The Secretary failed to pay the Tribe no less than \$3,402,716 in contract support costs due in FY 2011 through 2013.

65. The Tribe also lost an additional \$5,247,286 as a result of this statutory violation.

66. In order to remedy the Secretary's breach of his statutory obligations, the Tribe is entitled to damages of no less than \$8,650,002, plus applicable interest and attorneys' fees and costs, all as specifically prayed below.

V. PRAYER FOR RELIEF

WHEREFORE, the San Carlos Apache Tribe prays that this Court grant the following relief:

- (a) A declaratory judgment that in FY 2011 through 2013 the Secretary acted in violation of the ISDEAA by failing to pay the San Carlos Apache Tribe the full amount of contract support costs that the Tribe was due under its contract with the Secretary;
- (b) A declaratory judgment that in FY 2011 through 2013 the Secretary breached his contracts with the Tribe by failing to pay the Tribe's full contract support cost requirement;
- (c) A money judgment of \$8,650,002;
- (d) Interest for one year from the date each unpaid amount comprising the \$8,650,002 was due, as provided for under the Prompt Payment Act, 31 U.S.C. §§ 3901–3907;

- (e) Interest under the Contract Disputes Act, 41 U.S.C. §§ 7101–7109, from the date each claim was filed to the date of final payment made pursuant to a judgment of this Court;
- (f) Costs and attorneys’ fees incurred in pursuing this claim, as provided for under the Equal Access to Justice Act, 5 U.S.C. § 504; 28 U.S.C. § 2412; the ISDEAA, 25 U.S.C. § 5331(c), and other applicable law; and
- (g) Such other monetary, declaratory, and equitable relief as this Court may find to be just.

Respectfully submitted this 14th day of November 2019.

SAN CARLOS APACHE TRIBE
Attorney General

By: /s/ Alexander B. Ritchie
Alexander B. Ritchie
Arizona Bar No. 019579
P.O. Box 40
San Carlos, AZ 85550
Telephone: (928) 475-3344
Alex.Ritchie@scat -nsn.gov

SONOSKY, CHAMBERS, SACHSE,
MILLER & MONKMAN, LLP

By: /s/ Lloyd B. Miller
Lloyd B. Miller
Alaska Bar No. 7906040
Rebecca Patterson
Alaska Bar No. 1305028
725 East Fireweed Lane, Suite 420
Anchorage, AK 99503
Telephone: (907) 258-6377
Lloyd@sonosky.net
Rebecca@sonosky.net

Attorneys for Plaintiff San Carlos Apache Tribe