

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Appeal of IHS' Declination of the Tohono O'odham Psychological
Services Contract)

RES. NO. 266-89

1 WHEREAS, the Tohono O'Odham Nation requested a Hearing protesting
2 the Indian Health Service's August 12, 1988 decision to
3 rescind the Tohono O'Odham Psychological Services (TOPS)
4 contract; and

5 WHEREAS, the Administrative Law Judge of the Department of Health
6 and Human Services Departmental Appeals Board has
7 concluded and has submitted a recommended decision in
8 this case (Docket No. C-84 of 30 June 1989), ruling that
9 the Indian Health Service "... improperly rescinded the
10 psychological service component of its behavioral health
11 services contract with Appellant" (Nation); and

12 WHEREAS, the Appeals Board of the Department of Health & Human
13 Services has accepted the decision as final; and

14 WHEREAS, the Administrative law Judge further finds that the
15 Indian Health Service declined to renew the fiscal year
16 1988-1989 psychological services component on many of
17 the same grounds for which the rescission was based; and

18 WHEREAS, the conclusion of the Administrative Law Judge that the
19 contract was improperly rescinded provides the Nation
20 the support to assert that the declination was also
21 improper; and

22 WHEREAS, the Nation has been financially damaged by virtue of
23 having to pay expenses related to the continued
24 operation and provision of psychological services to its
25 members, without benefit of a contract; and

26 WHEREAS, additional expenses were incurred by the Nation in its
27 defense of the rescission; and

28 WHEREAS, the Nation does wish to be reimbursed for all legal and
29 related expenses under the Equal Access of Justice Act;
30 and

31 WHEREAS, the Nation does desire Legal Counsel.

32 NOW, THEREFORE, BE IT RESOLVED that the Tohono O'Odham Legis-
lative Council does hereby accept the decision of the

Appeals Board to be final; that the Nation does retain the services of HOBBS, STRAUS, DEAN and WILDER in its appeal of the IHS' declination of the fiscal year 1988-89 Tohono O'odham Psychological Services Program.

BE IT FURTHER RESOLVED that the Domestic Affairs Committee of the Legislative Council amend and negotiate and otherwise modify the contract with Strickland and Altaffer, General Counsel, to provide for a subcontract with the law firm of Hobbs, Straus, Dean and Wilder.

BE IT FINALLY RESOLVED that the Tohono O'Odham Nation does request reimbursement for legal costs incurred in its defense of this rescission as provided for in the Equal Access of Justice Act. That Legal Counsel will submit required documents within the timeframes allowed.

The foregoing Resolution was passed by the Tohono O'odham Council on the 19th. day of July, 1989 at a meeting at which a quorum was present with a vote of 1,287.5 for; 110.5 against; 220.0 not voting; and 106.0 (05) absent, pursuant to the powers vested in the Council by Section 1 (c) (2) & Section 2 (a) of Article VI of the Constitution of the Tohono O'odham Nation, adopted by the Tohono O'odham Nation on January 18, 1986, and approved by the Acting Deputy Assistant Secretary -Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

[Signature]
for Edward D. Manuel, Legislative Chairman
20th day of July, 1989.

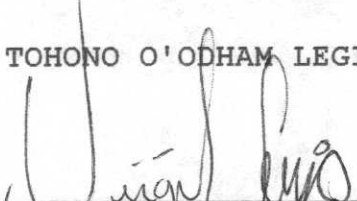
ATTEST:

[Signature]
Teresa M. Choyguha, Legislative Secretary
20th day of July, 1989.

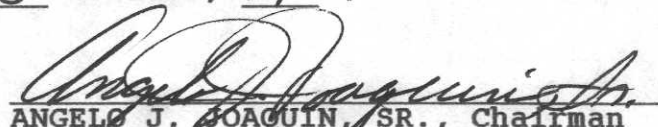
Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 20th day of July, 1989, at 5:14 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

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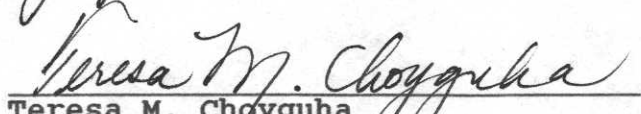
TOHONO O'ODHAM LEGISLATIVE COUNCIL


Edward D. Mannel, Legislative Chairman

APPROVED) on the 21 day of July, 19 89,
 DISAPPROVED) at 1:05 o'clock, P. .M.


ANGELO J. SOAGUIN, SR., Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 21st day of
July, 19 89, at 1:25 o'clock, P. .M.


Teresa M. Choyguha
Legislative Secretary

MOVED: Joanne Preston

SUBJECT: Appeal of IHS' Declination of

SECOND: Percy Lopez

the Tohono O'odham Psychological

DATE: July 19, 1989

Services Contract

RESOLUTION NO. 266-89

DISTRICTS	REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
CHUKUT KUK 163.0	1. Rosita Ruiz (Rosemary Lopez)	81.5			X	
	2. Kenneth G. Williams (Harriet Toro)	81.5			X	X
HICKIWAN 125.0	1. Lloyd Francisco (Billy C. Manuel)	62.5	X			
	2. Henry Ramon ()	62.5	X			
GU VO 114.0	1. Cross Antone (Juan Joe Cipriano)	57.0			X	
	2. Virgil Lewis (Michael Flores)	57.0		X		
SAN LUCY 106.0	1. John Reno ()	53.0				X
	2. Albert Manuel, Jr. (Max P. Jose)	53.0				X
PISINEMO 119.0	1. Edward Manuel (Alex Antone)	59.5	X			
	2. Johnson Jose ()	59.5	X			
GU ACHI 166.0	1. Alex J. Ramon (Fernando Joaquin)	83.0	X			
	2. Percy Lopez ()	83.0	X			
BABOQUIVARI 229.0	1. Joann Garcia (Frances Miguel)	114.5	X			
	2. Earl A. Francisco (Kenneth Chico, Sr.)	114.5	X			
SAN XAVIER 127.0	1. Joanne C. Preston (Carmelita Mattias)	63.5	X			
	2. Eugene Enis, Sr. (Michael Rios)	63.5	X			
SCHUK TOAK 107.0	1. Joseph Juan (Frances Francisco)	53.5	X			
	2. JoAnn Francisco (David Valenzuela Sr.)	53.5		X		
SELLS 310.0	1. Joseph T. Joaquin (Larry Garcia)	155.0	X			
	2. Andrew Patricio (Daniel Lopez)	155.0	X			X
SIF OIDAK 158.0	1. Willard Juan, Sr. (Melissa Gregorio)	79.0	X			
	2. Mary Ann Antone (Nina Jose)	79.0	X			X
TOTAL		1,724.0	1,287.5	110.5	222.0	106.0