

AWARD/CONTRACT		1. THIS CONTRACT IS A RATION ORDER UNDER DPAS (15 CFR 350)		RATING		PAGE 1 OF 62	
2. CONTRACT (Proc. Inst. Ident.) NO. 145OCTH54T61071		3. EFFECTIVE DATE FEB 04 1997		4. REQUISITION/PURCHASE REQUEST/PROJECT NO.			
5. ISSUED BY Bureau of Indian Affairs Papago Agency P. O. Box 578 Sells, Arizona 85634		6. ADMINISTERED BY (If other than Item 5) Rebecca Smith, Awarding Official Ph: 602/379-6760		CODE		CODE	
7. NAME AND ADDRESS OF CONTRACTOR (No., street, city, county, State and ZIP Code) Tohono O'odham Nation P.O. Box 837 Sells, Arizona 85634				8. DELIVERY <input type="checkbox"/> FOB ORIGIN <input type="checkbox"/> OTHER (See below)			
				9. DISCOUNT FOR PROMPT PAYMENT			
10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN: Block 5							
CODE		FACILITY CODE					
11. SHIP TO/MARK FOR CODE		12. PAYMENT WILL BE MADE BY CODE					
13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: P.L. 93-638 & P.L. 100-472 <input type="checkbox"/> 10 U.S.C. 2304(c)(1) <input type="checkbox"/> 41 U.S.C. 253(c)(1)				14. ACCOUNTING AND APPROPRIATION DATA See Page 2 for breakdown of Accounting & Appropriation Data			
15A. ITEM NO	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D. UNIT	15E. UNIT PRICE	15F. AMOUNT		
	CONTRACT FOR: P.L. 93-638 Master Contract for Certain Bureau Programs (See Page 2 for Listing of Programs)						
	CONTRACT TYPE: NEGOTIATED COST REIMBURSEMENT						
	CONTRACT TERM: DATE OF AWARD THROUGH SEPTEMBER 30, 1997						
15G. TOTAL AMOUNT OF CONTRACT					\$7,378,385.00		
16. TABLE OF CONTENTS							
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CONTRACTING OFFICER WILL COMPLETE ITEM 17 OR 18 AS APPLICABLE							
17. <input type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)				18. <input checked="" type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.			
19A. NAME AND TITLE OF SIGNER (Type or print) EDWARD D. MANUEL, CHAIRMAN TOHONO O'ODHAM NATION				20A. NAME OF CONTRACTING OFFICER Rebecca Smith, Awarding Official			
19B. NAME OF CONTRACTOR BY <i>[Signature]</i> (Signature of person authorized to sign)		19C. DATE SIGNED 2-4-97		20B. UNITED STATES OF AMERICA BY <i>[Signature]</i> (Signature of Contracting Officer)		20C. DATE SIGNED 2/04/97	

Contract No.: 1450CTH54T61071
 Contractor: Tohono O'odham Nation
 Effective Date: FEB 04 1997

Continued - Block 14, Accounting and Appropriation Data

Program	Description	Acct and Appro Data	Award Amount
(A)	Economic Development	H54610/97/39510/254I	\$203,200.00 ?
(B)	IDEAS	H54E01/96/97410/GY960001/254I	\$13,259.00
		H54E01/96/97410/GY960002/254I	\$49,986.00
(C)	High Educ Scholarships	H54610/9798/39110/254I	\$678,600.00
(D)	Johnson O'Malley	H54610/9798/39140/254I	\$138,100.00
(E)	Law Enforcement	H54610/97/39420/254I	\$2,436,600.00
(F)	Judicial Services	H54610/97/39410/254I	\$247,800.00
(G)	Career Center	H54610/9798/39540/254I	\$153,280.00
(H)	Employment Assistance	H54610/9798/39530/254I	70,000.00
		H54610/9798/39540/254I	\$229,920.00
(I)	Water Resources	H54610/97/39640/254I	\$107,300.00
(J)	Agriculture Extension	H54610/97/39610/254I	\$23,200.00
		H54610/97/39620/254I	\$50,200.00
(K)	Social Svcs/Family Assist	H54610/97/39310/254I	\$722,800.00
		H54610/97/39330/254I	\$2,254,140.00
(L)	Children's Home		\$0.00
(M)	Adult Group		\$0.00
(N)	Minerec		\$0.00
(O)	Gila River Adjudication		\$0.00
			=====
	Total		\$7,378,385.00

AGREEMENT BETWEEN
THE SECRETARY OF THE DEPARTMENT OF THE INTERIOR
AND
THE TOHONO O'ODHAM NATION

PREAMBLE

WHEREAS, the Tohono O'Odham Nation Legislative Council is the governing body of the Tohono O'Odham Nation ("the Nation"), Sells, Arizona, by the authority of the Constitution and By-Laws of the Tohono O'Odham Nation approved on March 6, 1986 by the Secretary of the Interior; and

WHEREAS, the Tohono O'Odham Nation is an American Indian Tribe organized pursuant to the provisions of Section 16 of the Federal Indian Reorganization Act, 25 U.S.C. Section 476; and

WHEREAS, it is the policy of the Bureau of Indian Affairs to support tribal self-determination to achieve self-sufficiency and it is the desire and intent of the Tohono O'Odham Nation to administer the resources and programs provided by the Bureau of Indian Affairs as authorized by P.L. 93-638, as amended, and other federal laws and regulations; and

NOW, THEREFORE, the BIA acting for the Secretary of the Department of the Interior (the "Secretary") and the Tohono O'Odham Nation (the "Nation") hereby mutually agree to enter into a government-to-government Agreement for the conduct and delivery of services.

ARTICLE I

AUTHORITY AND PURPOSE

1. AUTHORITY

This agreement, denoted a Self-Determination Contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior (referred to in this agreement as the "Secretary"), for and on behalf of the United States pursuant to Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the Tohono O'Odham Nation Legislative Council for and on behalf of the Tohono O'Odham

Nation (referred to in this agreement as the ("Nation" or "Contractor"). The provisions of Title I of the Indian Self-Determination and Education Assistance Act (the "Act") (25 U.S.C. 450 et seq.) are incorporated in this agreement.

2. PURPOSE

The Nation desires to exercise its right as a sovereign government to achieve full tribal self-determination and self-sufficiency. The Bureau will support and assist the Nation in carrying out services and in developing its capacities in any manner appropriate to this Agreement. It is the intent of the parties to this contract to convey to the Nation all authorities and responsibilities associated with the programs, functions, services and activities transferred pursuant to this contract. Further, the BIA supports the exercising maximum discretion in the design, conduct and administration of program and budget in accordance with policies of the Nation and section 105(j) and 106(o) of the Indian Self-Determination Act.

Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this contract shall be liberally construed for the benefit of the Contractor 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:

- (A) ECONOMIC DEVELOPMENT (CREDIT AND FINANCE) which provides assistance to members of the Tohono O'Odham Nation in starting or expanding independent businesses. The Program activities include: preparing financial plans; assist in preparing and processing of loan and grant applications; providing technical assistance; providing other services in the fields of finance, management, or accounting.
- (B) INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) which provides preschool education services for disabilities children.
- (C) HIGHER EDUCATION SCHOLARSHIPS which provides post secondary, educational counseling and financial aid services to O'odham students.
- (D) JOHNSON O'MALLEY which provides services to all eligible students, age 3 through grade 12, which would include all students in Gila Bend Unified School District; Early Childhood; Headstart Program; and Indian Oasis/Baboquivari Unified School District which includes Baboquivari High School; Jr. High School; Topawa Middle School and Sells Primary School.

- (E) LAW ENFORCEMENT services which presently include both detention and police service. The Nation reserves the right to sever these two functions at any time during the term of this contract and the BIA hereby consents to such severance should the Nation choose to exercise this right. The severed function shall be contracted for in a separate contract document containing terms and conditions specific to the served function.
- (F) JUDICIAL SERVICES is a program function to strengthen and assist in the effective operation of the Judicial Branch. Includes legal assistance and guidance to judges; provision of professionals to serve as appellate judges, and professional probation and parole services provided directly through tribal courts.
- (G) CAREER CENTER which provides vocational skills training to O'odham members.
- (H) EMPLOYMENT ASSISTANCE which provides vocational and financial assistance to eligible O'odham for Adult Vocational and Direct Employment Assistance.
- (I) WATER RESOURCES which provides for the continued preparation of a comprehensive water inventory and the USGS Border Study, to determine the quantity and quality of the Nation's water resources. The work activity includes drilling test wells, pump testing of wells, geophysical soundings and collecting and analyzing related water data.
- (J) AGRICULTURE EXTENSION which provides personal services and other cost to provide technical and education services in agriculturally related activities or in an agricultural environment to the Tohono O'odham Indian farmer and rancher, includes services for Indian Community farms (gardens) and animal husbandry and veterinary practices and management including demonstration units, and homemaking and family and youth development work.
- (K) SOCIAL SERVICES/FAMILY ASSISTANCE which includes Tribal Work Experience, General Assistance, Miscellaneous Assistance, Family & Community Services, Child Welfare Assistance and Adult Custodial Care.
- (L) CHILDREN'S HOME which provides residential care for children ages 0-21, in a group care facility setting.

- (M) ADULT GROUP which provides residential group care for Adults in need of non-medical care and protection.
- (N) MINEREC PLAN DECOMMISSIONING AND REMEDIATION which is the monitoring of the court ordered decommissioning and environmental remediation of the Minerec Chemical Company, a RCRA site, located in the San Xavier District.
- (O) GILA RIVER ADJUDICATION funding enables the Nation to enter into a subcontract with Natural Resources Consulting Engineers ("NRCE") to quantify the Sik Oidak Claims and assess damages caused by groundwater withdrawals and other factors.
- (P) Such other programs, functions, activities and services funded by BIA and identified in the Annual Funding Agreement referred to in Attachment No. 2, that the Nation and BIA may agree upon.

ARTICLE II

TERMS, PROVISIONS, AND CONDITIONS

1.. TERM

Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be for three years, subject to the annual appropriation of funds by the Congress. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the funding period of this contract shall be from October 1st to September 30th.

2. EFFECTIVE DATE

This contract shall become effective on October 1, 1996, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

3. PROGRAM STANDARD

- (A) The Contractor agrees to administer the program, services, functions and activities listed in Article I, Section 2 of the Contract in conformity with the following standards:

- (i) All programs and services shall conform to the appropriate policies and procedures of the Tohono O'odham Nation regarding program execution and management. The standards are on file with the Secretary's designee, the Awarding Official. The standards may, from time to time, be amended by the Nation subject to evaluation of the amendments by the Secretary. The Nation shall provide copies of any and all amended standards to the Awarding Official. The standards, and any amendments, are incorporated herein by reference.
- (ii) Activity (N) listed in Article I, Section 2 shall conform to or exceed standards issued by the Environmental protection Agency for chemical plant decommissioning and enironmental remediation.

4. FUNDING AMOUNT

Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the Annual Funding Agreement incorporated by reference in Attachment 2. Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j-1).

5. LIMITATION OF COSTS

The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this contract or a specific activity conducted under this contract would be greater than the amount of funds awarded under this contract, the Contractor shall provide reasonable notice to the Secretary. If the Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

6. PAYMENT

- (A) IN GENERAL-- Payments to the Contractor under this contract shall:
 - (i) be made as expeditiously as practicable; and

- (ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

(B) LUMP-SUM PAYMENT.

- (i) IN GENERAL. Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the Annual Funding Agreement incorporated by reference pursuant to Attachment No. 2, by paying to the Contractor, in a lump-sum payment as specified in the Annual Funding Agreement. The Contractor shall not be held accountable for interest earned on such funds pending disbursement, as provided in section 105(b) of the Act. (25 U.S.C. 450j(b)).
- (ii) METHOD OF LUMP-SUM PAYMENT. Payment shall be lump sum as specified in the Annual Funding Agreement incorporated by reference pursuant to Attachment No. 2, the lump-sum payment made pursuant to clause (i) shall be made on the first day of each fiscal year, the lump-sum payment shall be made not later than the date that is 15 calendar days after the date on which the Office of Management and Budget apportions the appropriation for the fiscal year for the programs, services, functions, and activities subject to this Contract.
- (iii) APPLICABILITY. Chapter 39 of Title 31, United States Code, shall apply to the payment of funds due under this Contract and the Annual Funding Agreement referred to in clause (i).

- (C) WITHHOLDING OF PAYMENT. Payments under this Contract may only be suspended, delayed or withheld in compliance with section 106(l) of the Act.

7. RECORDS AND MONITORING

- (A) IN GENERAL. Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the record keeping system of the Department of the Interior, records

[REDACTED]

of the Contractor shall not be considered Federal records for purposes of Chapter 5 of title 5, United States Code.

- (B) RECORDKEEPING SYSTEM. The Contractor shall maintain a record keeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.
- (C) RESPONSIBILITIES OF CONTRACTOR. The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the Contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the routine monitoring visits shall be limited to not more than one performance visit for this Contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless:
 - (i) the Contractor agrees to one or more additional visits; or
 - (ii) the appropriate official determines that there is reasonable cause to believe that grounds for reassumption of the Contract, suspension of Contract payments, or other serious Contract performance deficiency may exist.

No additional visit referred to in clause (ii) shall be made until such time as reasonable advance notice that includes a description of the nature of the problem that requires the additional visit has been given to the Contractor.

8. PROPERTY

- (A) IN GENERAL. As provided in section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor, all reasonably divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. Within 180 days of the execution of this contract, a mutually agreed upon list specifying the property, facilities, and equipment available for acquisition by the Contractor shall also be prepared by the Secretary and periodically revised by the Secretary.

- (B) RECORDS. The Contractor shall maintain a record of all property referred to in subparagraph (A) or other property acquired by the Contractor under section 105(f)(2)(A) of such Act for purposes of replacement.
- (C) JOINT USE AGREEMENTS. Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.
- (D) ACQUISITION OF PROPERTY. The Contractor is granted the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, services, functions, and activities operated pursuant to this Contract.
- (E) CONFISCATED OR EXCESS PROPERTY. The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.
- (F) SCREENER IDENTIFICATION CARD. A screener identification card (General Services Administration Form Numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.
- (G) CAPITAL EQUIPMENT. The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Contractor.

9. AVAILABILITY OF FUNDS

Notwithstanding any other provision of law, any funds provided under this contract:

- (A) shall remain available until expended; and
- (B) with respect to such funds, no further:
 - (i) approval by the Secretary, or

- (ii) justifying documentation from the Contractor, shall be required prior to the expenditure of such funds.

10. TRANSPORTATION AND OTHER FEDERAL SUPPLY SOURCES

Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services and other federal supply sources (including lodging, airlines and other transportation services) for performance of any activities carried out under this Contract as provided in section 105(k) of the Act. When the Nation's employees are carrying out the terms of this Contract they are eligible to have access to sources of supply on the same basis as employees of the Federal Government.

11. FEDERAL PROGRAM GUIDELINES, MANUALS OR POLICY DIRECTIVES

Except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 405 et seq.) 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.

12. DISPUTES

- (A) THIRD-PARTY MEDIATION DEFINED. For the purposes of this Contract, the term "Third-Party Mediation" means a form of mediation whereby the Secretary and the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as a third-party mediator to mediate disputes under this contract.
- (B) ALTERNATIVE PROCEDURES. In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1), the parties to this Contract may jointly:
 - (i) submit disputes under this Contract to third-party mediation;
 - (ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;

- (iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or
 - (iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.
- (C) The Nation reserves the right to exercise and utilize all legal remedies that may be available under the Act.
- (D) EFFECT OF DECISIONS. The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States.

13. ADMINISTRATIVE PROCEDURES OF CONTRACTOR

Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

14. SUCCESSOR ANNUAL FUNDING AGREEMENT

- (A) IN GENERAL. Negotiations for a successor Annual Funding Agreement shall begin not later than 120 days prior to the conclusion of the preceding Annual Funding Agreement. Except as provided in section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(2)) the funding for each such successor Annual Funding Agreement shall only be reduced pursuant to section 106(b) of such Act (25 U.S.C. 450j-1(b)).
- (B) INFORMATION. The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor Annual Funding Agreement, as provided for in Attachment No. 2, of this Contract. The BIA shall provide to the Nation, a list of all programs, services, functions and activities retained by BIA, identifying available dollar amounts no later than 180 days prior to the end of the first contract year, or no later than April 1, 1997 and each year thereafter on April 1st for the term of this contract.

15. CONTRACT REQUIREMENTS; APPROVAL BY SECRETARY

- (A) IN GENERAL. Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), shall not apply to any contract entered into in connection with this Contract.
- (B) REQUIREMENTS. Each contract entered into by the Contractor with a third party in connection with performing the obligation of the Contractor under this Contract shall:
 - (i) be in writing;
 - (ii) identify the interested parties, the authorities of such parties, and purposes of the Contract;
 - (iii) state the work to be performed under the Contract; and
 - (iv) state the process for making any claim, the payments to be made, and the terms of the Contract shall be fixed.

ARTICLE III

OBLIGATION OF THE CONTRACTOR

1. CONTRACT PERFORMANCE

Except as provided in Article IV, Section 2 of this contract, the Contractor shall perform the programs, services, functions, and activities as provided in the Annual Funding Agreement pursuant to Attachment No. 2 of this Contract.

2. AMOUNT OF FUNDS.

The total amount of funds to be paid under this Contract pursuant to section 106(a) shall be determined in an Annual Funding Agreement entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

3. CONTRACTED PROGRAMS

Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified in Article 1, Section

2 of this Contract and funded through the Annual Funding Agreement pursuant to Attachment No. 2 of this Contract.

4. TRUST SERVICES FOR INDIVIDUAL INDIANS

(A) IN GENERAL. To the extent that the Annual Funding Agreement provides funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

(B) TRUST SERVICES TO INDIVIDUAL INDIANS - For the purposes of this paragraph only, the term "trust services for individual Indians" means only those services that pertain to land or financial management connected to individually held allotments.

5. FAIR AND UNIFORM SERVICES

The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

ARTICLE IV

OBLIGATION OF THE UNITED STATES

1. TRUST RESPONSIBILITY

(A) IN GENERAL. The United States reaffirms the trust responsibility of the United States to the Tohono O'Odham Nation to protect and conserve the trust resources of the Nation and the trust resources of individual Indians.

(B) CONSTRUCTION OF CONTRACT. Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the Nation or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

2. GOOD FAITH. To the extent that health programs are included in this Contract, and within available funds, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

3. PROGRAMS RETAINED

(A) As specified in the Annual Funding Agreement, the United States hereby retains the programs with respect to the Nation that are not specifically assumed by the Contractor in the Annual Funding Agreement, at Attachment No. 2 of this Contract and which will be provided as an addendum to this contract, annually, no later than April 1, which are in effect as of that date. The level of program and financial detail provided by BIA shall be deemed to be sufficient, to meet BIA requirements for any and all functions, activities, services and programs the Nation may seek to acquire in the future.

(i) Programs, Activities, Functions and Services Retained by the Bureau of Indian Affairs. The Secretary or an authorized representative shall retain responsibility for programs the Tohono O'Odham Nation has left unnegotiated.

The Tohono O'odham Nation retains the rights to negotiate and amend this contract at any time for inclusion of programs, elements, components and/or tribal shares. Any program, activity, function or service not specifically contracted by the Tohono O'Odham Nation, due to; (1) a decision by the Tohono O'Odham Nation to leave the program with BIA; (2) an omission on the part of the BIA resulting in the program not being made available for the Tohono O'Odham Nation to contract; (3) a determination that the program is made available on the basis of competition or another basis, or (4) the program is considered a part of the Bureau of Indian Affairs inherent federal functions, shall be assumed to be the responsibility of the Bureau of Indian Affairs (to the extent the Nation is eligible to receive the programs, functions, services and activities at issue) unless additional funds are provided to the Tohono O'Odham Nation by amendment to this agreement.

(ii) The Tohono O'Odham Nation retains the right, to identify other BIA program services during the effective period of this Annual Funding Agreement (hereinafter referred to as AFA) which it desires to provide, including Headquarters programs. If the Nation

identifies other programs, functions, services and activities it wishes to contract for, it will submit a contract proposal and the BIA will review it pursuant to Section 102 of the Indian Self Determination Act. If approved, the programs, functions, services and activities, will be added to the AFA.

- (iii) BIA Responsibilities. BIA retains all programs, services, functions and activities not included within the AFA. Subject to existing eligibility rules, the Nation will not be denied access to programs, services, functions and activities retained by the BIA.

ARTICLE V

OTHER PROVISIONS

1. DESIGNATED OFFICIALS

Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official(s) to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

2. CONTRACT MODIFICATIONS OR AMENDMENTS

- (A) IN GENERAL. Except as provided as subparagraph (B), no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.
- (B) EXCEPTION. The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the Annual Funding Agreement pursuant to Attachment No. 2 and the reduction of funds pursuant to section 106(b)(2), shall not be subject to subparagraph (A).

3. OFFICIALS NOT TO BENEFIT

No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

4. COVENANT AGAINST CONTINGENT FEES

The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

ANNUAL FUNDING AGREEMENT

Agreement No. 1

1. Fiscal Year 1997: Date of Award through September 30, 1997
2. Services to be Performed or Acquired: P.L. 93-638 Master Contract for Certain Bureau Programs (Operation of Fifteen (15) programs).
3. General Budgetary Category Assigned: See Page 2 (Attachment to SF-26).
4. Funds to be Provided: \$7,378,385.00.
5. Time of Payment: Within 3-5 days from date of award.
6. Method of Payment: One lump sum.


MASTER CONTRACT
BETWEEN
THE TOHONO O'ODHAM NATION
AND THE
UNITED STATES OF AMERICA
SECRETARY OF THE
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

2/4/97
DATE


EDWARD D. MANUEL, CHAIRMAN
TOHONO O'ODHAM NATION

As to Form:

2/4/97
Date


DAVID P. FRANK, ATTORNEY GENERAL
TOHONO O'ODHAM NATION

UNITED STATES OF AMERICA
SECRETARY OF THE
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

2/4/97
DATE


REBECCA SMITH, AWARDING OFFICIAL