



Michael R. Smith
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August 15, 2018

The Hon. Mae A. D'Agostino
United States District Judge
U.S. District Court for the Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207

Re: *Oneida Indian Nation v. U.S. Dep't of Interior*, No. 17-cv-0913 (MAD/TWD)

Dear Judge D'Agostino:

I write on behalf of plaintiff Oneida Indian Nation (the Nation).

At the April 12, 2018 hearing on the Department of the Interior's motion to dismiss claims challenging its decision to federally recognize "Oneida Nation" as the new name of the Oneida Tribe of Indians of Wisconsin, the Court addressed questions concerning the confusion and injury that the decision would cause. *See, e.g.*, ECF 29, at 15-16 & 27.

Attached is recent correspondence between the federal Indian Health Service (IHS) and the Nation, which shows that IHS confused the Oneida Nation with the Nation and mistakenly demanded that the Nation formulate a "corrective application plan." *See* Exhibit A (letters and emails). Relatedly, attached is a Purpora Engineering invoice that recently came to my attention. Purpora mistakenly emailed the invoice to the Nation even though the Oneida Nation is the company's customer. *See* Exhibit B (invoice and emails).

Respectfully submitted,

/s/ Michael R. Smith

Michael R. Smith

Enclosures

cc: All Counsel

EXHIBIT A



DEPARTMENT OF HEALTH & HUMAN SERVICES

PUBLIC HEALTH SERVICE

Indian Health Service
Nashville Area Office
711 Stewarts Ferry Pike
Nashville, TN 37214

July 20, 2018

Kim Jacobs, Commissioner
Oneida Indian Nation of New York
2037 Dream Catcher Plaza
Oneida, NY 13421

SUBJECT: Request for Corrective Action Plan (CAP) – Audit for Fiscal Year Ending September 30, 2017 (CIN # A-05-18-33181)

Dear Commissioner Jacobs:

We have received a copy of your audit for the period ended September 30, 2017. We have also received a copy of the audit findings and recommendations from the National External Audit Review Center (NEAR). The following states the finding and recommendation.

2017-001 Vendor verification

- | | |
|-----------------------|---|
| Criteria | The Nation has established procedures designed to ensure vendors are properly verified and approved prior to the awarding of a contract or purchase order. This is a shared responsibility between various departments including the business units and purchasing department. |
| Condition | Our audit procedures revealed that there was a breakdown in vendor verification process based on the shared responsibilities between the business units and the purchasing department. The Nation's established procedures were not consistently performed prior to the awarding of a contract or purchase order. |
| Cause | Some contracts and purchase orders were awarded to vendors who had not been properly verified through the Nation's established procedures. |
| Effect | During fiscal year 2017, the Nation had not consistently followed procedures designed to ensure all contractors were properly verified prior to the contract or purchase order. However during the audit, we were able to verify that the contracts or purchase orders tested met the purchasing guidelines for the Nation. |
| Recommendation | The Nation should continue to implement procedures to ensure that all vendors are properly verified prior to the awarding of contracts or purchase orders. It is also recommended that evidence related to the procedures performed to verify vendors is maintained with the individual contracts and purchase orders. |

Audit for Fiscal Year Ending September 30, 2017 (A-05-18-33181)
Oneida Indian Nation of New York

Corrective Action Plan (CAP): A corrective action plan must be submitted to me by your organization within 30 days from the date of this letter regarding the audit findings. Your written response may consist of (1) any comments or additional information that you believe may have a bearing on the final determination of actions to be taken with respect to the recommendations, or (2) an update of your comments submitted with the audit report. Thank you for your cooperation in this matter.

Sincerely,



Michelle E. Nahlee
Contracting Specialist

Enclosure(s)

cc: Seelan Newton, Tribal Health Director
Contract File

Smith, Michael R.

From: Nahlee, Michelle E (IHS/NAS/AO) <Michelle.Nahlee@ihs.gov>
Sent: Tuesday, July 24, 2018 4:28 PM
To: Kim Jacobs
Cc: Bryan Mignone; Seelan Newton
Subject: RESCINDED RE: Request for Corrective Action Plan Letter
Attachments: Rescinded CAP Letter.pdf

Dear Commissioner Jacobs:

This letter is to rescind the previous CAP letter dated July 20, 2018, which identified 1 finding. It was brought to my attention by Mr. Bryan Mignone that the single audit that was being referenced was not the Oneida Indian Nation, but was instead the Oneida Nation's audit, which is a difference entity. No further action is required.

Thank you for your time on this matter.

Thank you,
Michelle Nahlee
Contracting Officer
711 Stewarts Ferry Pike
Nashville TN 37214
Ph – (615) 467-1510
Fax – (615) 467-1572



From: Bryan Mignone <bmignone@oneida-nation.org>
Sent: Tuesday, July 24, 2018 9:14 AM
To: Nahlee, Michelle E (IHS/NAS/AO) <Michelle.Nahlee@ihs.gov>
Subject: Request for Corrective Action Plan Letter

Michelle- per our conversation, we received the attached request for corrective action plan letter yesterday. As I explained, I believe this was sent to the Nation in error and that there is some confusion between the FY17 audit for our tribe (the Oneida Indian Nation) and the Oneida Nation (the Wisconsin who recently changed their name). We did not have any findings in our FY17 audit. Attached is a copy of the single audit from 2017. Once you have reviewed and sorted out, can you please send a follow-up letter that essentially makes the correction and withdraws the corrective action plan request? Thanks.

Bryan Mignone | Associate General Counsel
Oneida Indian Nation | 5218 Patrick Road, Verona, New York 13478
bmignone@oneida-nation.org | www.oneidaindiannation.com
315.361.8037 Office | 315.361.8009 Fax



DEPARTMENT OF HEALTH & HUMAN SERVICES

PUBLIC HEALTH SERVICE

Indian Health Service
Nashville Area Office
711 Stewarts Ferry Pike
Nashville, TN 37214

July 24, 2018

Kim Jacobs, Commissioner
Oneida Indian Nation of New York
2037 Dream Catcher Plaza
Oneida, NY 13421

RE: RESCINDING – Request for Corrective Action Plan (CAP) – Audit for Fiscal
Year Ending September 30, 2017 (CIN # A-05-18-33181)

Dear Commissioner Jacobs:

This letter is to rescind the previous CAP letter dated July 20, 2018, which identified 1 finding. It was brought to my attention by Mr. Bryan Mignone that the single audit that was being referenced was not the Oneida Indian Nation, but was instead the Oneida Nation's audit, which is a different entity. No further action is required.

Thank you for your time on this matter.

Sincerely,

A handwritten signature in blue ink that reads "Michelle E. Nahlee".

Michelle E. Nahlee
Contracting Specialist

Enclosure(s)

cc: Seelan Newton, Tribal Health Director
Contract File

EXHIBIT B

Purpora Engineering Inc.

P.O. Box 80265
Saukville, WI 53080



Date	Invoice #
11/9/2017	PS13528

Bill To
Oneida Nation Attn: Accounts Payable P.O. Box 365 Oneida, WI 54155

Ship To
Oneida Nation Environ, Health & Safety Div. N7332 Water Circle Place Oneida, WI 54155

P.O. Number	Terms	Due Date	Ship	Via	State	Sales Rep
PDM-13439-...	Due on receipt	11/9/2017	11/9/2017			
Quantity	Item Code	Description				Amount
1	PET-UST	UST Boot Camp				5,050.00
1	Sub-Boot Camp ...	Beth Erdman Training				1,500.00

Please Remit To:

Purpora Engineering Inc.
PO Box 80265
Saukville, WI 53080

Total	\$6,550.00
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Payments/Credits	\$0.00
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Balance Due	\$6,550.00
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Phone #	Fax #
262-536-4081	262-268-1170

Web Site
purporaengineering.com

Smith, Michael R.

From: Michael Massena <mmassena@oneida-nation.org>
Sent: Wednesday, August 15, 2018 8:59 AM
To: Smith, Michael R.
Subject: FW: Invoice PS13528 from Purpora Engineering Inc.
Attachments: Inv_PS13528_from_Purpora_Engineering_Inc._10628.pdf

Michael J. Massena P.E. | Environmental Manager
Oneida Indian Nation | 5218 Patrick Road, Verona, NY 13478
mmassena@oneida-nation.org | www.oneidaindiannation.com
315.366.9647 Office | 315.366.9261 Fax | 315.225.2444 Mobile

From: Diana Wilson
Sent: Thursday, January 18, 2018 1:30 PM
To: Michael Massena
Cc: Tom Donley; Paul Gwilt
Subject: RE: Invoice PS13528 from Purpora Engineering Inc.

Hi Mike

Is the attached invoice for your department? It was sent to Tom at Nation Retail and we're not sure what it's for.

Let me know?

Thank you

Diana Wilson | Administrative Assistant
SavOn, LLC | Maple Leaf Markets
579 Main Street, Oneida NY 13421
Diana.wilson@onenterprises.com
315.829.8859 Office | 315-829-8395 Fax

From: Tom Donley
Sent: Thursday, January 18, 2018 11:30 AM
To: Diana Wilson; Paul Gwilt
Subject: FW: Invoice PS13528 from Purpora Engineering Inc.

From: Michelle Purpora [<mailto:michellep@protaninc.com>]
Sent: Wednesday, January 17, 2018 11:18 AM
To: Tom Donley
Subject: Invoice PS13528 from Purpora Engineering Inc.

Purpora Engineering Inc.

Invoice Due: 11/09/2017
PS13528

Amount Due: **\$6,550.00**

Dear Tom Donley:

Your invoice-PS13528 for 6,550.00 is attached. Please remit payment at your earliest convenience.

Thank you for your business - we appreciate it very much.

Sincerely,
Purpora Engineering Inc.

262-536-4081
purporaengineering.com