

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

WHEREAS, the Tribal Council of the White Mountain Apache Tribe is advised by the Head Start Program, that funding is available through the State of Arizona for Child Abuse and Neglect Prevention and Treatment on Indian Reservations and that the Head Start Program has been approved for funding, and it is required that a written contract between the Tribe and the State Department of Economic Security be entered into setting forth the respective rights and responsibilities of each party thereto, and

WHEREAS, the Tribal Council has reviewed the proposed contract, as presented, a copy of which is attached hereto, and by reference incorporated herein, and

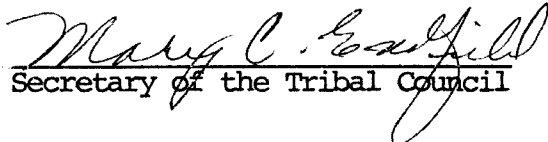
WHEREAS, the Tribal Council approves of said contract, for the purpose of meeting social services needs of Head Start children and families and to receive other benefits authorized thereunder.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs the Tribal Chairman, and in his absence, the Vice-Chairman to execute the Tribal Government Intergovernmental Agreement, hereinabove referenced and attached hereto, between the Tribe and the Arizona Department of Economic Security for the contract term of October 01, 1985 to June 30, 1986.

BE IT FURTHER RESOLVED by the Tribal Council that the execution of this Agreement shall not constitute a waiver of the Sovereign Immunity of the White Mountain Apache Tribe for any purpose.

The foregoing resolution was on September 25, 1985 duly adopted by a vote of 9 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).


Chairman of the Tribal Council


Secretary of the Tribal Council

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FORT APACHE INDIAN
AGENCY
WHITERIVER, ARIZ.

Resolution No. 85-252



ARIZONA DEPARTMENT OF ECONOMIC SECURITY

1717 WEST JEFFERSON • PHOENIX, ARIZONA • P.O. BOX 8122 88008

Bruce Babbitt
GOVERNOR

Douglas X. Patiño
DIRECTOR

September 10, 1985



Mr. Ronnie Lupe, Chairman
White Mountain Apache Tribe
P.O. Box 1150
Whiteriver, Arizona 85941

Dear Mr. Lupe:

This is to notify you officially that The White Mountain Apache Tribe has been selected as one of the eight tribes to develop a child abuse and neglect prevention program on its reservation. The concept paper for a Headstart Social Worker was well written and received a high rating when evaluated by the Review Committee. A sum of \$30,000 has been accorded for the purpose of developing the program.

A member of the Contracts Administration Unit will be contacting you or a member of your staff for the purpose of developing an intergovernmental agreement for the sum of \$30,000 for the purpose of implementing your proposal.

If there are any questions, please contact Mr. Zigmund D. Maciekowich (602) 255-3981.

Best wishes for the successful implementation of this project.

Sincerely,

Darwin J. Cox
Program Administrator
Administration for Children,
Youth and Families

DJC:ZM:ms

C:

Ms. Claude Endfield
Ms. Beth Rosenberg 940A
Mr. Herb Stokoe 940A
Mr. Zigmund Maciekowich 940A
Ms. Kathy Waite 060A
Ms. Polly Sharp, I.T.C.A., Inc.

FUNDING PROPOSAL ABSTRACT

PROJECT DESCRIPTION: CHILD ABUSE AND NEGLECT TREATMENT PROGRAM

PURPOSE (EXPECTED BENEFIT): The specific purpose of this project will be to provide direct services to children and families who have been identified, suspected, or at risk of abuse or neglect. The Tribe proposes to hire a trained social worker to work with Head Start children and families to provide intervention, education, and follow-up.

AREA OR COMMUNITY OF IMPACT:

All major communities served by Head Start program.

FUNDING SOURCE AND AMOUNT: ARIZONA DEPARTMENT OF ECONOMIC SECURITY, A.C.Y.F.

| | |
|-----------------|----------|
| Personnel Costs | \$21,330 |
| Travel | \$ 2,700 |
| Supplies | 360 |
| Indirect Costs | 5,610 |

\$30,000

REQUIRED TRIBAL MATCHING FUNDS (SOURCE AND AMOUNT):

None other than office space

LONG-TERM TRIBAL COMMITMENT:

None

GENERAL PROVISIONS

I. DEFINITIONS

Annex A is the annex to this Contract which contains a description of the services to be delivered pursuant to this Contract.

Annex B is the annex to this Contract which contains the approved budget, level of service, fee or rate for the delivery of services pursuant to this Contract.

Contract Expenditures means expenditures made by the Provider for the purposes of and during the term of the Contract and in accordance with the approved Annex B and applicable cost principles.

Contract Services means the services to be delivered by the Provider which are so designated in Annex A.

Days means calendar days.

Eligible Persons means the persons determined eligible for Contract Services in accordance with the criteria and procedures set forth herein.

Reimbursement Ceiling means the amount so designated in Annex B and is the maximum amount payable by the Department to the Provider under this Contract.

Special Provisions means the section of this Contract which contains specific program-related terms and conditions. If General Provisions and Special Provisions contradict, Special Provisions shall govern.

State means the State of Arizona.

II. BASIC RIGHTS AND OBLIGATIONS OF THE DEPARTMENT

Section 2.01 Monitoring. For all Contracts or Subcontracts, the Department will monitor Contract Services delivered and facilities maintained by the Provider or Subcontractor to this Contract and all provisions of *Section 2.03 Visitation and Inspection* shall apply.

Section 2.02 Program Evaluation. The Department will be entitled during the term of this Contract to evaluate Contract Services. Evaluation will assess the quality and impact of Contract Services, either in isolation or in comparison with other similar services, and will assess the Provider's progress and/or success in achieving the goals and objectives set forth in Annex A. All provisions of *Section 2.03 Visitation and Inspection* shall apply. At the request of the Provider, any evaluation report(s) prepared pursuant to this Section will be made available to the Provider.

Section 2.03 Visitation and Inspection. Provider's or Subcontractor's books and records directly related to this Contract shall be available for visitation and/or inspection by the Department and any other appropriate agent of State or Federal Government upon ten (10) days written notice. At the discretion of the Department, visitation and inspection of the facilities and services directly related to this Contract may be made at any time during regular business hours announced or unannounced. Any report(s) prepared pursuant to this Section shall be made available to the Provider.

Section 2.04 Technical Assistance. The Department, upon request, will provide technical assistance to the Provider relative to the terms and conditions, policies and procedures governing this Contract. The Department may, but shall not be obligated to provide technical assistance to the Provider in the administration of Contract Services. Failure of the Department to provide technical assistance shall not relieve the Provider of full responsibility and accountability for the provision of Contract Services in accordance with the terms and conditions set forth herein.

Section 2.05 Payment for Contract Services. The Department shall reimburse the Provider for Contract Expenditures in accordance with *Section 4.04 Payment* of this Contract.

Section 2.06 Financial Audit. At any time upon ten (10) days written notice during the term of this Contract, the Provider's financial operations directly related to this Contract are subject to audit by the Department and by any other appropriate agent of State or Federal Government. At the discretion of the Department's Office of Internal Audit, a final audit will be performed by that Office, Department agents, or by a private firm retained for such purposes by the State or the Provider. Final financial settlement of this Contract shall be contingent upon the final audit.

III. BASIC RIGHTS AND OBLIGATIONS OF THE PROVIDER

Section 3.01 Contract Services. The Provider shall provide Contract Services to Eligible Persons in accordance with all terms and conditions of this Contract.

Section 3.02 Compliance With Laws, Rules and Regulations. The Provider shall comply with applicable State or Federal standards as specified in any Special Provisions, and shall comply with all other applicable Federal, State, local and tribal laws, rules, regulations, standards and Executive Orders.

The laws and regulations of the State shall govern the rights of the parties, the performance of this Contract provided, however, that nothing in this Contract shall be construed as a waiver of sovereign immunity by the Provider, consent to be sued or consent to jurisdiction of any Federal or State Court. If any provision of this Contract is held invalid or unenforceable, the remaining provisions shall continue valid and enforceable to the full extent permitted by law and equity. Any changes in the governing laws, rules and regulations during the term of this Contract shall apply but do not require an amendment pursuant to *Section 4.03 Amendments*. The Department shall notify Provider in writing, of any changes in the governing laws, rules and regulations affecting any terms or conditions of this Contract which become effective during the term of this Contract.

Section 3.03 Client Fees and Program Income. Unless specified within Special Provisions, the Provider shall impose no fees or charges of any kind upon recipients of Contract Services. Any program income generated and received by the Provider as a result of Contract Services shall be disposed of and reported in accordance with applicable Department policies and procedures.

Section 3.04 Assignments and Subcontracts. No rights or obligations of the Provider under this Contract shall be assigned. No rights or obligations of the Provider under this Contract shall be subcontracted by the Provider without prior written approval of the Department. All subcontracts will incorporate the laws, rules and regulations governing this Contract. The Provider shall bear full responsibility for performance under all approved subcontracts, shall, upon request, forward copies of such to the Department and shall bear all costs for defense of any litigation.

Section 3.05 Indemnification and Insurance. The parties hereto shall each indemnify and hold the other harmless from any and all liability for their own negligence arising from this Contract and each shall bear all costs for their own defense of any litigation.

Provider shall maintain at all times during the term of this Contract reasonable coverage, as agreed by the parties, by comprehensive general liability and property insurance naming the Department as an additional insured. Prior to execution of this Contract, Provider shall furnish the Department with a Certificate of Insurance. The Department reserves the right to continue payments of premium for which reimbursement will be deducted from amounts due or subsequently due Provider.

Section 3.06 Contract Personnel. Unless otherwise provided for pursuant to *Section 3.04 Assignments and Subcontracts*, the personnel delivering Contract Services shall be employees or volunteers of the Provider, shall satisfy any qualifications and carry out any duties set forth in Annex A, and shall work the hours and receive the compensation set forth in this Contract. Personnel policies and practices shall be uniform for all employees of Provider. Provider's employees shall not be considered officers, employees or agents of the State. Provider certifies that no individual or agent has been employed or retained to solicit or secure this Contract for commission, percentage, brokerage or contingent fee except a bona fide employee maintained by the Provider to secure business.

Section 3.07 Compliance with Non-Discrimination Laws. Provider shall comply with the Indian Civil Rights Act of 1968. It shall be permissible for Provider to engage in Indian preference in hiring.

Section 3.08 Professional Standards and Levels of Service. The Provider shall deliver Contract Services in a humane and respectful manner, and in accordance with any and all applicable professional accreditation standards. The Provider shall obtain and maintain all applicable licenses, permits and authority required to provide Contract Services.

The Provider shall make every reasonable effort to obtain and maintain during the term of this Contract the units of service forth in Annex B.

Section 3.09 Confidentiality. Provider shall observe and abide by all applicable State and Federal statutes and regulations regarding use or disclosure of information, including, but not limited to, information concerning applicants for and recipients of Contract Services.

Section 3.10 Fair Hearings and Service Recipient Grievances. The Provider shall advise all applicants for and recipients of Contract Services of their right, at any time and for any reason, to present to the Department any grievances arising from the delivery of Contract Services, including but not limited to ineligibility determination, service reduction, suspension or termination, or quality of service.

Section 3.11 Budget Certification. Provider certifies that the Contract budget set forth in Annex B was prepared in accordance with applicable Department guidelines and procedures. The Provider further certifies that: (a) the information which was provided to the Department by the Provider for use as a basis in approving the Annex B is accurate; (b) similar types of costs were accorded consistent accounting treatment in the development of Annex B; and (c) no costs are included as both direct and indirect costs.

Section 3.12 Competitive Bidding. Provider is authorized to purchase the supplies and equipment itemized in Annex B for utilization in the delivery of Contract Services. Provider shall procure all such supplies and equipment at the lowest practicable cost, and shall purchase all non-expendable items, having a useful life of more than one year and an acquisition cost of more than \$300, through generally accepted competitive bidding processes.

Section 3.13 Contract Equipment. The Provider is authorized to purchase equipment itemized in Annex B for utilization in the delivery of Contract Services. The Provider shall maintain complete and up-to-date inventory records for all equipment purchased hereunder.

The Department shall retain an equitable interest, equal to a fair estimate or appraisal of current market value, in all equipment purchased under this Contract. The Department shall be included as a coinsured on any insurance policy which covers equipment purchased under this Contract.

The Provider shall not dispose of any equipment purchased under this Contract without the prior written consent of the Department. Such consent, if given, may include direction as to means of disposition and utilization of proceeds including any necessary adjustments to Annex B.

Section 3.14 Books and Records. The Provider shall keep adequate books and records relating to Contract Services and Contract Expenditures. Contract Service records will be maintained in accordance with prescribed Department policies and procedures, which policies and procedures are attached and made a part hereof as within Annex B. Financial records shall meet the following standards at minimum: (1) adequately identify the service and application for Contract and Subcontract activities; (2) include personnel records which contain applications for employment, job titles and descriptions, hire and termination dates, wage rates, and effective dates of personnel actions affecting any of these times; (3) include time and attendance records for individual employees to support all salaries and wages paid; (4) include records of the source of all receipts and the deposit of all funds received by the Provider; (5) include original copies of invoices, statements, sales tickets, billings for services, etc., and a cash disbursement journal with cancelled checks to reflect all disbursements applicable to the Contract; (6) include a complete general ledger with accounts for the collection of all costs applicable to the Contract; (7) include a copy of a written, approved cost allocation plan to reflect the manner in which indirect costs were to be charged to the Contract; and (8) include copies of lease/rental agreements, mortgages or any other agreements which in any way may affect Contract Expenditures.

Provider shall retain all such records and supporting documents for four years following termination of the Contract or until after resolution of the final audit pursuant to *Section 2.06 Financial Audit*, whichever is later.

Section 3.15 Reporting Requirements. No later than the 15th Day following each month during the Contract term, the Provider shall submit to the Department programmatic and financial reports in the form set forth in this Contract. Such reports shall cover Contract Services and Contract Expenditures for the preceding month and shall be certified as to their truth and accuracy by the Provider. Failure to submit such reports by the 15th Day following the end of a month may result, at the option of the Department, in detention of payment until receipt of the report. Failure to provide such report within 45 days following the end of a month may result, at the option of the Department, in a forfeiture of the right to final payment.

No later than the 45th Day following the termination of this Contract, Provider shall submit to the Department a final program and fiscal report. Failure to submit the final program and fiscal report within the above time period may result, at the option of the Department, in forfeiture of right to final payment.

Section 3.16 Supporting Documents and Information. In addition to any documents, reports or information required by any other Section of this Contract, Provider shall furnish the Department with any further documents and information directly related to this Contract deemed necessary by the Department.

Section 3.17 Identification of Funding and Copyrights. All advertisements, publications and related materials which are produced by the Provider and refer to Contract Services shall state that such services are funded under contract with the Department, and where Federal funds are involved, state by reference the specific funding source.

The Provider shall not copyright any materials or products developed through Contract Services or Contract Expenditures without prior written approval by the Department. Upon approval, the Department shall have a non-exclusive and irrevocable license to reproduce, publish or otherwise use or authorize the use of any copyrighted material.

Section 3.18 Conflict of Interest. Any lease or rental agreement or purchase of real property shall be subject to the approval of the Department which may require an independent commercial appraisal of fair market rental or lease value.

IV. BASIC RIGHTS AND OBLIGATIONS OF THE DEPARTMENT AND THE PROVIDER

Section 4.01 Notices. All notices under this Contract shall be in writing, shall be delivered in person or by certified mail, return receipt requested, and shall be directed to the persons and addresses specified for such purpose in Annex A or to such other persons and/or addresses as either party may designate to the other by notice.

Section 4.02 Exercise of Rights. Failure to exercise any right, power or privilege under this Contract shall not operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of that or any other right, power or privilege.

Section 4.03 Amendments. No part of this Contract shall be waived or altered except by a written amendment signed by both parties to this Contract. All amendments shall be carried out in accordance with policies and procedures promulgated by the Department, including the following:

A. An amendment to the contract shall be required:

1. Whenever there is any change in the Reimbursement Ceiling.
2. Whenever there is a change in the Contract Services or the service delivery methodology as defined in Annex A.
3. In Cost Reimbursement or Unit Fee type contracts, whenever there is a change in the Annex B budget categories of Personnel, Employee Related Expenses, Equipment or Space, or whenever any other budget category is increased by an amount equal to or greater than 10%.

B. Paragraph A above notwithstanding, Provider shall notify the Department of any change that significantly affects either programmatic or financial provisions of this Contract as set forth in Annexes A and B.

Section 4.04 Payment. The Provider shall report Contract Expenditures to the Department in the manner prescribed pursuant to *Section 3.15 Reporting Requirements*. Upon receipt of applicable, accurate and complete reports, the Department will authorize payment in accordance with the reimbursement method contained within Annex B no later than 20 working days after receipt.

If the Provider is in any manner in default in the performance of any obligation under this Contract, or if a certified audit identifies exceptions, the Department may, at its option and in addition to other available remedies, reasonably adjust the amount of payment until satisfactory resolution of the default or exception. The Department shall take no action to adjust the amount of payment without ten (10) days prior written notice of such intention to the Provider with a written explanation and detailed justification for such adjustment. The Provider shall have the right to submit to the Department a written explanation of its position on the proposed payment adjustment.

Under no circumstances will the Department authorize payment to the Provider that exceeds the Reimbursement Ceiling contained within Annex B without an amendment to this Contract in accordance with *Section 4.03 Amendments*, nor will Department authorize final payment to the Provider until after receipt of final reports in accordance with *Section 3.15 Reporting Requirements*.

Section 4.05 Payment Recoupment. Provider must reimburse the Department upon demand or the Department may deduct from future payments for the same fiscal year the following:

- A. Any amounts received by Provider from the Department for Contract Services which have been inaccurately reported or are found to be unsubstantiated.
- B. Any amounts paid by the Provider to a subcontractor not authorized in writing by the Department.
- C. Any amount paid by the Department for services which either duplicate services covered by other specific grants and contracts, or amounts determined by the Department as non-allowable as defined within Annex B.
- D. Any amounts paid by the Department for which the Provider's books, records, and other documents are not sufficient to clearly substantiate that those amounts were used by the Provider to perform Contract Services as described in Annex A.
- E. Any amount identified as a financial audit exception.

Section 4.06 Default. If Provider fails to comply with one or more provisions of this Contract, the Department may by written notice indicate that it is the Department's position that the Provider is in default and specify a period of time, not less than 14 and not more than 60 Days from receipt of notification, by which such alleged default must be rectified. Provider shall be notified that should such alleged default fail to be rectified within the specified period, or should Provider fail to produce proof that would demonstrate the lack of default, the Department may terminate the Contract. Such failure shall be grounds sufficient to justify termination, provided, however, that it shall be no indication, evidence or acknowledgement of the validity of the Department's position concerning default.

Section 4.07 Termination. This Contract may be terminated upon 30 days' notice by either party during the term of this Contract. The Department has the right to terminate this Contract upon 24-hour notice when the Department deems the health or welfare of the service recipients is endangered or Provider non-compliance jeopardizes Federal Financial Participation. The State may cancel this Contract as provided in A.R.S. §38-511. If not terminated by one of the above methods, this Contract will terminate upon the expiration of the term of this Contract as stated in Annex A.

Section 4.08 Predecessor and Successor Contracts. The execution or termination of this Contract shall not be considered a waiver by the parties of any and all rights they may have for damages suffered through a breach of this or a prior contract between the parties. The Department has no obligation to renew this Contract.

Section 4.09 Effective Date. This Contract shall become effective on the date provided in Annex A, but in no event prior to the date it is filed with the Secretary of State pursuant to A.R.S. §11-952(E).

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

SPECIAL PROVISIONS

DIVISION OF AGING, FAMILY AND CHILDREN SERVICES
ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES

I. DEFINITION

Division means the Division of Aging, Family and Children Services/Administration for Children, Youth and Families (ACYF) within the Department of Economic Security.

II. BASIC RIGHTS AND OBLIGATIONS OF THE DEPARTMENT

Section 2.05 Payment for Contract Services. All children in Residential, Group Care or Shelter Care services on behalf of whom payments are made may be removed or relocated by the Department at any time.

Section 2.06 Financial Audit. The Provider shall submit to the Department a financial audit of the results of operations and balance sheets in a format acceptable to the Department. The required audit must be performed by an independent CPA or any individual otherwise licensed or certified to perform such services. Audits shall be forwarded to the Division within four (4) months after the end of the State fiscal year.

III. BASIC RIGHTS AND OBLIGATIONS OF THE PROVIDER

Section 3.01 Contract Services. The Division shall determine service recipient eligibility.

Section 3.02 Compliance with Laws, Rules and Regulations. The Provider shall comply with the requirements related to reporting incidents of child abuse or neglect as specified in A.R.S. §8-546.

Section 3.05 Indemnification and Insurance. The Provider shall at all times during the term of this Contract have and keep in force:

1. A general liability insurance policy in an amount of not less than \$20,000 for property damage sustained by any one person, \$100,000 for injury and damage to any one person, and \$500,000 for total injuries and damages arising from any one accident.
2. An automobile liability insurance policy, if applicable, in an amount of not less than \$50,000 property damage, \$100,000 for injury and damages to any person, and \$500,000 for total injuries and damages arising from any one accident.

Section 3.08 Professional Standards and Levels of Service. Providers of Residential, Group Care or Shelter Care services must be licensed by the Division as a child-caring/child-placing agency pursuant to A.R.S. §§8-501 through 8-520.

Section 3.09 Confidentiality. With the exception of the Department, the Attorney General's Office and the Juvenile Court, the contract provider shall not release any information generated as a result of this Contract, including, but not limited to, information concerning applicants for and recipients of Contract Services. The contract provider agrees that all information shall be maintained as confidential and shall be safeguarded in a secure environment in order to prevent unauthorized disclosure of such information. Any unauthorized disclosure of confidential information shall constitute a breach of this contract.

Section 3.14 Books and Records. All books and records relating to Contract Services and Contract Expenditures will be available for inspection by the Department and any other appropriate agent of State or Federal Government at the Provider's facility(ies) in the State of Arizona. Whenever such books and records are maintained at Provider's administrative offices, located outside the State of Arizona, such books and records must be available for inspection within 30 days of receipt of notice by the Provider that such inspection will occur.

Books and records maintained by the Provider will include a separate accounting of any Children's Allowances paid by the Department. Such records will adequately identify receipts and disbursements of Children's Allowances and will include substantiating documentation for all disbursements. Upon termination of an individual's placement, disposition of any unexpended Children's Allowances will be as follows:

1. If the child will remain in foster care, allowances will be forwarded under the supervision of the ACYF Case Manager/Juvenile Probation Officer to the next Provider.
2. If the child will be returned to the natural home, allowances will be returned to the Department.
3. If the child is in runaway status and the placement is terminated, allowances will be returned to the Department.

IV. BASIC RIGHTS AND OBLIGATIONS OF THE DEPARTMENT AND THE PROVIDER

Section 4.06 Default. Exception is made to clause regarding arbitration. The parties agree to use arbitration to the extent required by A.R.S. § 12-1518.