

**MEMORANDUM OF AGREEMENT
BETWEEN THE
INTER TRIBAL COUNCIL OF ARIZONA, INC.
AND
<TRIBE NAME>
FOR THE
SPECIAL SUPPLEMENTAL NUTRITION PROGRAM
FOR WOMEN, INFANTS AND CHILDREN**

October 1, 20xx through September 30, 20xx

THIS MEMORANDUM OF AGREEMENT (Agreement) is made and entered into by THE INTER TRIBAL COUNCIL OF ARIZONA, INC. (ITCA) and <TRIBE NAME> (Tribe). In consideration of the mutual promises and representations set forth in this Agreement, ITCA and the Tribe agree as follows:

WHEREAS, Funding for Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program) is authorized by Congress through Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. § 1786, *et seq.*), as amended, and funds for such programs to state agencies are made available through the United States Department of Agriculture's (USDA) Food and Nutrition Service (FNS); and

WHEREAS, The Secretary of Agriculture is authorized to make grants to "State Agencies" for the purpose of administering a WIC Program; and

WHEREAS, The definition of the law, under 7 CFR Part 246.2, for state agency includes "an Indian tribe, band or group recognized by the Department of the Interior; an intertribal council or group which is the authorized representative of Indian tribes, bands or groups recognized by the Department of the Interior and which has an ongoing relationship with such tribes, bands or groups for other purposes and has contracted with them to administer the programs"; and

WHEREAS, ITCA as a State Agency, and in accordance with 7 CFR Part 246.6(a), is required to enter into a signed written agreement with each local agency that sets forth the local agency's responsibilities for program operations as prescribed in 7 CFR Part 246.6(b).

NOW THEREFORE, the Parties to this Agreement mutually agree upon the following:

I. RESPONSIBILITIES OF THE TRIBE

A. Services Overview

1. The Tribe agrees to administer a WIC Program within the service area identified and approved in the application packet, as shown in Attachment A to this Agreement (hereinafter "Tribal WIC Program"). The Tribal WIC Program shall be administered in accordance with the requirements of section 17 of the Child Nutrition Act of 1966, (42 U.S.C. § 1786 *et seq.*), 7 CFR Part

246, the ITCA WIC Program Policy and Procedure Manual and all other applicable provisions of law and any revisions thereto that may occur during the contract period, which are hereby expressly adopted by reference as if fully set forth in this Agreement.

2. The Tribe shall submit an updated application and budget annually. Failure to submit an application or to provide a timely response to requests for revisions to the application and budget may result in termination of this Agreement as provided for in Section II(E) of this Agreement.
3. The Tribal WIC Program shall be conducted in accordance with the fiscal and operational requirements contained in the most recent version of the ITCA WIC Program Policy and Procedure Manual, which may be revised during this grant period. This document is available on the ITCA website at www.itcaonline.com/wic. The Tribal WIC Program shall carefully review and ensure compliance with the ITCA WIC Program Policy and Procedure Manual. The Tribe will ensure that every member of its WIC staff has reviewed and has access to the most recent version of the ITCA WIC Policy and Procedure Manual and that they are fully informed of any updates to the ITCA WIC Policy and Procedure Manual and other applicable guidance documents as may be issued or updated by ITCA, FNS or other relevant agencies.
4. WIC services shall be provided using Participant Centered Services and documented using the Shared Tribal Automated Reporting System (STARS) and other applicable forms or software programs provided by ITCA. The Tribal WIC Program shall maintain the required files and have such files available for review, audit and evaluation as provided for in conformance with this Agreement and applicable law, including but not limited to those files showing all criteria used for certification, information on the area served, as well as the income standards and specific criteria used to determine nutritional risk.

B. Service Location and Hours and Target Population

1. The Tribe must secure adequate clinic and other space within the Tribe's service area as defined in the Tribe's written application to ITCA as shown in Attachment A to this Agreement. The Tribe must provide at least sixty (60) days' advanced written notice to ITCA when opening, relocating, or closing a clinic site, satellite facility or hospital certification site.
2. The Tribal WIC Program may not provide services to applicants living outside of the service area shown in Attachment A. Any changes to the service area must be approved by ITCA and will require an amendment to this Agreement. Tribes must target and provide services to primarily American Indian populations.
3. The WIC Clinic shall be maintained in good repair and shall be safe, clean

and tidy. Clean restrooms shall be available for clients. The Tribe shall establish and maintain an environment that supports and encourages women to initiate and continue breastfeeding.

4. The WIC Clinic shall be secured when the WIC Clinic is closed. Locked storage will be available for securing check stock, Identification Folders, e-WIC cards and other instruments that require secured storage pursuant to this Agreement, the ITCA WIC Policy and Procedure Manual and applicable law.
5. The WIC Clinic shall be constructed, arranged and operated to preserve the confidentiality of WIC client information as required by Section I(L) and Section II of this Agreement and applicable law.
6. Except as provided herein, the Tribal WIC Program shall provide services during normal business hours as well as during extended hours to accommodate working families.

C. Designated Persons with Primary Responsibility

1. The Tribe shall designate a Primary Contact who is responsible for the day-to-day operations of the Tribal WIC Program and who serves as the principle liaison to ITCA during the term of this Agreement. The Primary Contact shall be identified in the Contact List set forth in Attachment B to this Agreement.
2. The Primary Contact shall be qualified to manage the WIC operations and to ensure work under this Agreement is performed by the Tribal WIC Program in accordance with the terms of this Agreement and as required by applicable law, including, but not limited to, ensuring that the Tribal WIC Program meets all fiscal, administrative and operational requirements as outlined in this Agreement, 7 CFR Part 246, and 7 CFR 3016. Among other duties, the Primary Contact shall have the capabilities and responsibility to perform the certification procedures required by law.
3. The Tribe shall designate a Fiscal Contact who is responsible for financial reporting and audits and continued compliance with 7 CFR 246.6(b)(1) and applicable law. The Fiscal Contact shall be identified in the Contact List set forth in Attachment B to this Agreement. The Fiscal Contact shall be ITCA's primary contact for the financial aspects of this Agreement including, but not limited to, all financial reports/invoices, payments, audits, supporting documentation of expenditures and other finance related information. The Fiscal Contact shall ensure that the Tribe and its Tribal WIC Program maintains complete, accurate, documented and current accounts of WIC Program funds received and expended. The Fiscal Contact shall work with the Primary Contact and other Tribal staff to ensure that the financial and accounting requirements required by this Agreement and applicable law are met.
4. The Tribe shall designate an Administrative Contact who directly supervises

the Primary Contact. The Administrative Contact shall be identified in the Contact List set forth in Attachment B to this Agreement. ITCA shall communicate with the Administrative Contact regarding monitoring visit results, follow-up on corrective action plans, and in cases where the Tribal WIC Program is not performing or a timely response is not received from the Primary Contact.

5. The Tribe shall immediately provide ITCA with written notice if there is a change in the Primary, Fiscal or Administrative Contacts.

D. Caseload Assignment

1. The Tribal WIC Program shall serve the assigned caseload identified through the WIC local agency award letter.
2. Caseload is used to calculate base grant funding. If the authorized caseload is increased or decreased, the Tribe will receive a revised WIC local agency award letter specifying the new caseload and the adjusted funding level. An amendment to this Agreement shall not be required for adjustments in caseload or funding.
3. If the Tribe does not meet the caseload performance standards as outlined in the ITCA WIC Program Policy and Procedure Manual, the caseload may be reduced to reflect the caseload being served for the fiscal year to date. Funding for the entire fiscal year will be reduced according to the funding formula for the new caseload level. ITCA will provide thirty (30) days written notice to the Tribe prior to a reduction in caseload for underservice and reduction in funding.
4. The Tribe shall not establish a waiting list or deny services to clients for any reason including when serving more than 100% of the caseload unless instructed to do so by ITCA.

E. Information Systems Technical Support Services and Communications

1. The Tribe shall be solely responsible to ensure that its Tribal WIC Program and WIC Clinic have access to a minimum 1.5 Mbps Internet connection or connections sufficient to provide reliable access to the WIC Clinic computers for communications with the ITCA central office server using STARS. The cost of providing the minimum 1.5 Mbps Internet connection required by this subsection, whether through a third party provider or otherwise, shall be the exclusive obligation of the Tribe.
2. The Tribe shall provide directly, or through a third party, information systems support to the Tribal WIC Program and WIC staff including set-up, support and maintenance of all computers, printers and other related equipment used for the Tribal WIC Program, including all equipment provided by ITCA. The information system support required by this subsection shall included, but not be limited to:

- a) Adding, changing or deleting user accounts and passwords.
 - b) Maintaining the overall security and integrity of the Tribal WIC Program's computer systems, including through regular updates to the system's virus or malware protection.
 - c) Assistance with forgotten computer or operating systems passwords.
 - d) Support and maintenance of the Internet connection required by this subsection.
 - e) Upgrades to all non-STARS software.
 - f) Troubleshooting and fixing software, hardware or printer issues.
3. The Tribe shall allow ITCA or its authorized Contractor remote access and administrative privileges to all Tribal WIC Program's WIC Clinic computers (regardless of whether such computers or related equipment are owned by ITCA or the Tribe) for the purpose of performing updates and providing Help Desk assistance as necessary to maintain STARS. The administrative privileges shall include having a designated local profile with administrative rights for the ITCA IT Manager or contracted Help Desk support, as determined by ITCA.
 4. The Tribe shall have current anti-virus and anti-spyware software installed and operating on every computer used for WIC business. In the event ITCA provides software for ITCA computers to be used by the Tribal WIC Program, the Tribal WIC Program shall be responsible to promptly install such software upon receipt.
 5. Nothing in this subsection precludes ITCA from taking any other action it may deem appropriate to repair ITCA owned computers, printers or related equipment or to require their prompt return to ITCA to facilitate such repair.
 6. Computers purchased by the Tribe to operate STARS must meet the minimum specifications established by ITCA.
 7. The Tribe shall respond to ITCA requests for inventory verification of all ITCA computers, printers and related equipment provided to the Tribal WIC Program within seven (7) calendar days of the request.

F. Staffing Requirements

1. The Tribe shall maintain an appropriate staffing pattern for its Tribal WIC Program sufficient to provide services to clients while maintaining a positive customer service environment. In all cases, the Tribe shall ensure that the Tribal WIC Program, at a minimum, meets the position requirements set forth in the ITCA WIC Program Policy and Procedure Manual and that it maintains written job descriptions outlining the responsibilities of each position as required by the ITCA WIC Program Policy and Procedure Manual.
2. The Tribe shall ensure that the Tribal WIC Program staff are trained, coached,

and evaluated at the local agency level; that they attend all training required by ITCA; and that they are competent to provide services as described in the ITCA WIC Program Policy and Procedure Manual.

3. The Tribe shall ensure that at least two individuals are trained to provide WIC services in case of staff illness, resignation or emergency.
4. The Tribe shall ensure that the Tribal WIC Program has a Registered Dietitian to provide direct services to high-risk clients; oversee the development, implementation, and evaluation of the nutrition services plan; ensure quality assurance of nutrition-related education services, including breast feeding promotion and support; oversee nutrition assessment; and encourage and support other activities related to nutrition as outlined in 7 CFR 246.11, this Agreement and applicable law.
5. The Tribe shall designate a Breastfeeding Lead and at least one Certified Professional Authority or Community Nutrition Worker (CPA/CNW) for its Tribal WIC Program in order to carry out the duties and responsibilities of those positions as designated in the ITCA WIC Program Policy and Procedure Manual. The Breastfeeding Lead and the CPA/CNW may be the same individual. The Breastfeeding Lead must be a Certified Lactation Educator, International Board Certified Lactation Consultant or have another similar credential approved by ITCA.

G. Health Services Outreach and Certification in Hospitals

1. The Tribe shall make available appropriate health services to participants in the Tribal WIC Program and shall inform WIC applicants of available health services. The Tribe shall develop and maintain a plan to ensure that it is using its best efforts to make health services available to participants at the WIC Clinic or shall secure written agreements with health care providers when health services are provided through referral.
2. If the Tribe is operating the Tribal WIC Program within a hospital and/or if the Tribe has a cooperative agreement with a hospital, they shall advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services or that accompany a child under that age of five who receives well-child services, of the availability of WIC Program services.

H. Staff Training

1. The Tribe shall require Tribal WIC Program staff providing WIC services, including those paid from other funding sources unrelated to this Agreement, to attend mandatory training required by ITCA, USDA or FNS. The Tribe shall ensure that all new staff receive training on WIC civil rights requirements as part of their orientation and annually, provide all staff with training on civil rights using the Knowledge Module or other training materials provided by ITCA.

2. The Tribe shall ensure that the Tribal WIC Program staff, including volunteers, are competent to perform their duties and that they meet all applicable training requirements and have completed all necessary Knowledge Modules and nutrition courses and all continuing education requirements for nutrition and breastfeeding as outlined in the ITCA WIC Program Policy and Procedure Manual.
3. The Tribe will provide travel advances and reimbursement to Tribal WIC Program staff and will ensure attendance at statewide staff trainings, required Central Arizona College Dietetic Education Program Courses or other approved college-level nutrition or breastfeeding courses, Directors' Meetings and other trainings/meetings that have been deemed mandatory by ITCA for Tribal WIC staff using the funds designated in the annual grant award for travel.

I. Vendor Management

1. The Tribal WIC Program shall be responsible to complete all routine on-site monitoring reviews and follow-up reviews of its vendors as may be directed by ITCA in writing and subject to such reasonable timelines and completion dates established by ITCA, which shall generally require the Tribal WIC Program to ensure that its vendors are subject to at least one onsite monitoring review once every three (3) years.
2. All Tribal WIC staff completing vendor site reviews must be trained and approved by the ITCA Vendor Specialist prior to conducting on-site vendor monitoring or reviews.
3. The Tribal WIC Program shall fully document all client complaints pertaining to vendors in STARS.

J. Fraud and Abuse

1. The Tribe shall take appropriate steps to prevent fraud and abuse by vendors, clients, and employees of its Tribal WIC Program and shall report any fraud and abuse or suspected fraud or abuse to ITCA immediately.
2. The Tribal WIC Program shall investigate any alleged or suspected cases of WIC participant violations, including but not limited to, any intentional action of a participant, parent or caretaker of an infant or child participant, or proxy that violates Federal or State statutes, regulations, policies, or procedures governing the WIC.

K. Emergencies

1. The Tribe shall notify ITCA within twenty-four (24) hours if an emergency or incident occurs that prevents the Tribal WIC Program from providing services.

2. The Tribe shall consider and include provisions in its local Emergency Response/Disaster Preparedness Plan designed to assure a continuity of WIC services in the event of an emergency incident or disaster.

L. Confidentiality

1. The Tribe shall maintain strict confidentiality of all applicant, participant and client information or records supplied by ITCA. The contents of such records shall not be disclosed to anyone other than ITCA, applicant, client, parent or legal guardian of applicant or client, except as permitted under Section III of this Agreement.
2. The Tribe shall ensure that all WIC staff understand their duties of confidentiality required by this Agreement and applicable law and that they have completed the ITCA WIC Confidentiality Form in the most updated version of the ITCA WIC Policy and Procedure Manual.

M. Non-Discrimination

The Tribe must comply with applicable non-discrimination requirements of the USDA, FNS as per FNS Instruction 113-1 and 7 CFR Part 246.6(10), and shall not discriminate against persons on the grounds of race, color, national origin, age, sex or disability or any other protected class required by law; and shall compile data, maintain records and submit reports as required to permit effective enforcement of the applicable non-discrimination laws.

N. Voter Registration

The Tribe must provide voter registration and assistance in compliance with the National Voter Registration Act and ITCA policy and procedures.

O. Nutrition and Breastfeeding Goals

1. The Tribal WIC Program shall annually establish nutrition and breastfeeding goals and objectives in conformance with the ITCA WIC Program Policy and Procedure Manual and applicable law. The goals and objectives must be prepared in consultation with a Registered Dietitian and shall be submitted annually for approval by ITCA with the application.
2. The Tribe shall, at least annually, evaluate their Tribal WIC Program status and progress and describe its achievements in meeting its goals and objectives in the Annual Progress Report as outlined in the ITCA WIC Program Policy and Procedure Manual.

P. Public Notification and Outreach

1. The Tribal WIC Program shall inform the public of the services provided under this Agreement, including a description of WIC benefits, the eligibility criteria, the locations and the contact information at least one time per year.
2. The Tribe shall establish community partnerships with, at a minimum, the mandatory referral agencies, local hospitals, Indian Health Service (if

applicable), pediatrician offices and provide regular contacts according to the outreach plan submitted with the application.

3. The Tribe shall establish partnerships with Tribal and community organizations such as food banks, social service agencies and programs, Head Start, schools, child care and other similar agencies according to the outreach plan submitted with the application.
4. The Tribe shall establish a referral system with breastfeeding specialists, including but not limited to International Board Certified Lactation Consultants (IBCLC), Certified Lactation Counselors (CLC), Certified Breastfeeding Counselors (CBC), Certified Lactation Educators (CLE) according to the plan submitted with the application.

Q. WIC Benefit Check and Equipment Security and Inventory

1. The Tribal WIC Program shall secure all check stock, Identification Folders, e-WIC cards and other items that require secure storage. The Tribal WIC Program shall complete a monthly inventory of such check stock, e-WIC cards or related instruments as outlined in the ITCA WIC Program Policy and Procedure Manual and as may be required by applicable law.
2. The Tribal WIC Program shall track breast pump issuance through STARS and will complete monthly inventory of all breast pumps.
3. The Tribal WIC Program shall tag with a unique identifier and track all equipment purchased with WIC funds according to the WIC Policy and Procedure Manual. The Tribal WIC Program shall complete a physical inventory annually and send it to ITCA by the due date specified in the WIC Policy and Procedure Manual.
4. The Tribe shall be responsible for assuring equipment, resources and software purchased with WIC funds including that placed for use in the Tribe's facility, are available to conduct WIC Program services as required in this Agreement. All equipment shall be properly secured and protected from theft or vandalism.

R. Insurance Requirement

The Tribe is required to maintain adequate insurance to replace or repair any item identified as WIC equipment that has been broken, lost, stolen, or damaged beyond repair.

S. Commercial General Liability Insurance and Commercial Automobile Liability Insurance

1. The Tribe shall maintain throughout the life of this Agreement such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as may be necessary to insure from those claims for

damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this Agreement.

2. The Tribe shall include ITCA as an additional insured on its Commercial General Liability Insurance for purposes of all Tribal WIC program activities conducted under this Agreement.

T. Evidence of Coverage

Upon request, the Tribe will furnish ITCA with a certificate of insurance coverage complying with the above requirements. These certificates shall include the name of the company, policy numbers, and effective dates, as well as dates of expiration and amounts and types of coverage afforded.

U. Automobile Registration

The Tribe is responsible for maintaining current registration on all automobiles purchased or used by the Tribal WIC Program of BFPC (if applicable) and for all associated costs and insurance.

V. Eligibility Determination and Use of the STARS System

1. The Tribe shall determine eligibility for Tribal WIC Program services as set forth in the WIC Regulations, ITCA WIC Program Policy and Procedure Manual and Knowledge Modules using STARS.
2. A nutrition assessment of all applicants shall be made by the Tribal WIC Program prior to an applicant's enrollment in the WIC program in accordance with WIC Regulations and the ITCA WIC Program Policy and Procedure Manual, and all applicable nutritional risks will be assigned.
3. The Tribal WIC Program shall target and serve primarily American Indian populations.
4. The Tribe shall ensure that data entered into the STARS system is accurate to ensure quality of data. The Tribe shall correct and resolve inappropriate or missing information, improbable values or other quality assurance issues identified by the Tribe or ITCA within the timeframes specified by ITCA. The Tribe shall provide appropriate explanations of checks that were void and redeemed to ITCA within ten (10) days of the request in order to reconcile checks.

W. Referral Services

1. The Tribal WIC Program shall provide WIC program applicants and clients with information on health-related and public assistance programs, and when appropriate, shall refer applicants and participants to such programs, including Medicaid, Supplemental Nutrition Assistance Program (SNAP), Child Support Enforcement and Temporary Assistance for Needy Families (TANF).
2. The Tribal WIC Program shall provide WIC clients with information on

health, social service, educational and similar programs and services designed to assist the WIC client.

X. Issuance of Food Benefits and Food Delivery

The Tribe shall provide food benefits to Tribal WIC Program clients using STARS on check stock, e-WIC cards or otherwise as may be provided by ITCA or applicable law and shall instruct all WIC clients on how to use the food delivery system provided by ITCA and approved by FNS.

Y. Nutrition and Breastfeeding Counseling

1. The Tribal WIC Program shall provide nutrition education to adult clients/caregivers and/or age-appropriate education to child clients at least quarterly during the certification period.
2. The Tribal WIC Program shall schedule and provide a Fit WIC class following the requirements in the ITCA Fit WIC Curriculum, to child clients at least one time per month and shall purchase food and other required items as part of the food demonstration nutrition education component of this activity. Funds will be provided in the budget for this purpose.
3. The Tribal WIC Program shall promote breastfeeding and provide breastfeeding education and support, including issuance of breast pumps as outlined in the ITCA WIC Program Policy and Procedure Manual.

Z. Drug and Harmful Substance Abuse

1. The Tribal WIC Program shall provide drug and other harmful substance abuse information to all pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children participating in the Tribal WIC Program.
2. The Tribe shall promote and enforce a drug free work environment.

AA. Reporting

The Tribe shall maintain complete, accurate, and current records of program administration as required in the ITCA WIC Program Policy and Procedure Manual, 7 CFR Part 246 and applicable law. The following reports and records as well as other program information and reports requested by ITCA during the Agreement period must be submitted by the applicable due date:

1. The WIC Quarterly Program Status Report must be submitted via email to the WIC Director by the 20th day of the month for the previous three month period in the months of January, April, July and October.
2. The Tribe shall complete a time study each fiscal year according to the requirements in the ITCA WIC Program Policy and Procedure Manual. Each time study shall cover a minimum of one week each month or one full month per quarter of the fiscal year. The time study must accurately document time

spent on the four Federal WIC cost categories: (a) general administration; (b) client services; (c) nutrition education; and (d) breastfeeding. The Time Study Summary must be emailed to the WIC Director by November 30 of each year for the prior fiscal year.

BB. Self-Evaluation

The Tribe shall complete a program self-assessment biennially in the year that ITCA does not complete a comprehensive monitoring review of the program as described in the ITCA WIC Program Policy and Procedure Manual. The summary of the self-assessment shall be submitted to ITCA prior to the ITCA annual visit or by July 15, whichever is earlier and documentation of the self-assessment shall be maintained on file for review.

CC. Monitoring, Audits, Records and Budget

1. The Tribe shall allow ITCA, USDA or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this Agreement and to allow interviews of any employees who might reasonably have information related to such records.
2. The Tribe shall maintain complete, accurate, documented program and all program related files and funds received and expended by federal fiscal year for a period of three years after the end of the fiscal year pertaining to the files and shall provide this information to ITCA upon request. All files shall be destroyed only as permitted by applicable law.
3. The Tribe shall maintain for review and audit adequate documentation of all expenses claimed pursuant to this Agreement to permit a determination of expense allowability and shall supply this information to ITCA upon request.
4. The Tribe shall comply with all applicable requirements of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (45 CFR Part 92).
5. The Tribe shall comply with the Office of Management and Budget's Uniform Guidance on Administrative Requirements Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200) and must submit a copy of the most recent independent audit report to ITCA annually.
6. The Tribe must submit a budget to ITCA for approval annually. Only funds expended for approved budget line items will be paid by ITCA. The Tribe may shift the amount of budgeted line items up to 10% of the total budget without approval by ITCA so long as the total budget does not increase or decrease. A budget modification approval must be requested if a line item shifts by more than 10% of the total budget.
7. The Tribe must obtain written permission from ITCA prior to: (a) purchasing any equipment or undertaking any capital expenditures or subcontract with a

value of \$5,000 or more; (b) expending funds for the purchase of any non-disposable computer equipment, regardless of costs; or (c) transferring or disposing of any equipment purchased with WIC funds exceeding \$5,000.

DD. Compliance with Other Federal Requirements

1. The Tribe shall comply with all fiscal and operational requirements pursuant to 7 CFR Part 3016 and FNS guidelines and instructions.
2. The Tribe certifies that it is in compliance with the debarment and suspension requirements of 7 CFR Part 3017 and has not been debarred or suspended. The Tribe further agrees that ITCA will be notified promptly if the Tribe is debarred or suspended in the future.
3. If applicable, the Tribe shall comply with the lobbying restrictions of 7 CFR Part 3018.
4. The Tribe shall prohibit smoking in the space used to carry out the WIC services and shall post a no-smoking sign at the entrance of the WIC clinic.
5. The Tribe certifies that it is a drug free workplace.
6. The Tribe shall comply with all federal codes and regulations regarding the WIC Program, including but not limited to 42 U.S.C. § 1786 *et seq.* and 7 CFR Part 246, and those relevant **obligations of law found in the attached Warranties and Guarantees.**

II. INVOICES, PAYMENTS AND NON-PERFORMANCE

A. Invoicing and Payments

1. The WIC Monthly Expenditure Report and Invoice and the BFPC Monthly Expenditure Report and Invoice (if applicable) shall be submitted for payment no more than thirty (30) days following the close of each month. Reports are to be submitted to:

Inter Tribal Council of Arizona.
WIC Program
Attn: WIC Director
2214 N. Central Ave.
Phoenix, AZ 85004

2. The Tribe shall complete and submit the WIC Annual Expenditure Report and Time Study by November 30 for the previous fiscal year as per requirements in the ITCA WIC Program Policy and Procedure Manual. The Annual Expenditure Report must match the total and line item amounts on the final September invoice submitted. There shall be no further payment obligations under this Agreement once the expenditures on this report have been paid.

3. ITCA may, at its discretion, choose not to pay any delinquent WIC Annual Expenditure Report or WIC or BFPC Monthly Reports and Invoices submitted after November 30.
4. Monthly Reports and Invoices received and accepted and/or submitted for payment by ITCA shall not be deemed evidence of allowable costs under the Agreement. ITCA reserves the right to deny payment for any expenditure or cost incurred by the Tribe for WIC or BFPC (if applicable) or to seek reimbursement for prior invoices paid to the Tribe under this Agreement in the event ITCA determines that the expenditure or cost was not the best use of the WIC or BFPC or in furtherance of FNS's Loving Support Model.
5. If the allowability or appropriateness of an expense cannot be determined by ITCA due to insufficient invoice detail, fiscal records or backup documentation, according to generally accepted accounting principles or practices, all questionable costs may be disallowed and payment may be withheld by ITCA. Upon receipt of adequate documentation supporting a disallowed or questionable expense, reimbursement may resume for the amount substantiated and deemed allowable.
6. Receipts for travel must be maintained to support the claimed expenditures within the appropriate fiscal year.
7. Costs and/or expenses deemed unallowable are subject to recovery by ITCA and/or USDA.
8. The Tribe may request up to one twelfth of the annual grant award in advance. The request must be made in writing to the ITCA WIC Director. The amount of the advance will be reconciled at the end of the fiscal year.
9. Subject to the foregoing, ITCA shall reimburse the Tribe, upon receipt and approval of the Monthly Expenditure Report and Invoice, for actual allowable expenditures incurred in accordance with the authorized budgets. Reimbursement shall be made within thirty (30) days of receipt of the Monthly Expenditure Report and Invoice.
10. The Tribe may not subcontract or assign its duties or obligations under this Agreement without the advanced written consent of ITCA. Subcontractors shall comply with all requirements of this Agreement, 42 U.S.C. § 1786, *et seq.*, USDA/FNS regulations and instructions and other requirements of applicable law and ITCA policy. All subcontracts under this Agreement must be reviewed and approved by ITCA.

B. Budget Contingency Clause

1. The Tribe and ITCA mutually agree that if funds are not appropriated by Congress for any budget year or such funds are not allocated to ITCA for WIC or the BFPC (if applicable), this Agreement shall be of no further force and

effect. In this event, ITCA shall have no liability to pay any funds whatsoever to the Tribe or to furnish any other considerations under this Agreement and the Tribe shall not be obligated to perform any of the WIC services or activities under this Agreement after receiving notice of the termination of this Agreement under this subsection.

2. If funding for any budget year is reduced or if there is a lapse of anticipated funding for any portion of a budget year, the parties agree that the ITCA may, in its sole discretion, choose to: (a) immediately terminate this Agreement with no liability to ITCA; (b) reduce the maximum payable to the Tribe for WIC services, BFPC services or both; or (c) require that the Tribe temporarily suspend certain WIC and/or BFPC operations (in whole or in part at ITCA's election) for a given period of time until the necessary funds become available.
3. Except as expressly provided for herein, ITCA shall have no liability to pay any expenses incurred by the Tribe or to furnish any other considerations under this Agreement after providing written notice to the Tribe of ITCA's decision to exercise its rights under this subsection, and the Tribe shall not be obligated to provide any WIC or BFPC services or perform any activities under this Agreement after receiving said notice or during any period of temporary suspension permitted by subsection, except that the Tribe shall be obligated to provide continued WIC and/or BFPC services, up to the maximum amount payable, should ITCA exercise its rights under subsection II(B)(2)(b) of this subsection.
4. Notwithstanding the foregoing provisions of this subsection, ITCA shall have no obligation to pay or reimburse the Tribe when (a) the Tribe submits allowable costs in excess of any authorized budget amount; or (b) due to a government "shutdown" or any other action or inaction of the United States, funding is no longer available to ITCA WIC as originally contemplated by this Agreement.

C. Recovery of Overpayments

The Tribe agrees that claims based upon a contractual agreement, an audit finding, or an audit finding that is appealed and upheld, will be recovered by ITCA or USDA by one of the following options:

1. The Tribe's remittance to ITCA or USDA of the full amount of the exception within thirty (30) days following ITCA's request for payment.
2. A repayment schedule agreed on by ITCA and the Tribe.
3. ITCA and the Tribe agree that ITCA may, within its sole discretion, reduce any outstanding payment due and owing to the Tribe by the amount of any exception that the Tribe may owe under this subsection.

4. ITCA will select the option to be employed and will notify the Tribe in writing of the process for the recovery of overpayment selected by ITCA under this subsection.

D. Hiring Freeze Exemptions

The Tribe shall support the full use of federal funds and agrees that any of the following limitations adopted by the Tribe or its agents shall not apply to this Agreement:

1. Any hiring freeze adopted during the term of this Agreement shall not be applied to the positions funded in whole by this Agreement.
2. Any policy including employee furloughs, which may adversely affect performance or the positions funded in whole by this Agreement.
3. Any travel freeze or travel limitation policy adopted during the term of this Agreement shall not restrict travel funded in whole by this Agreement.
4. Any purchasing freeze or purchase limitation policy adopted during the term of this Agreement shall not restrict or limit purchases funded in whole by this Agreement.

E. ITCA's Remedies for Non-Performance

If ITCA determines at any time that the Tribe has failed, without good cause, to perform the program requirements of this Agreement as outlined in subsection IIE(1)-(2) below, ITCA may disqualify the Tribe in conformance with the requirements of the ITCA Policy and Procedure Manual or may withhold up to 100% of the Tribe's WIC funding, until such time as ITCA reasonably determines that the Tribe's obligations under the Agreement and this subsection have been met. For purposes of this subsection, the Tribe may be determined to have failed to perform the program requirements of this Agreement if, in ITCA's sole judgment, ITCA finds:

1. The Tribe has failed to submit a complete approved application and/or budget for WIC or BPCP for the fiscal year;
2. The Tribe has failed to submit an approved Indirect Cost Agreement for the current fiscal year from the cognizant agency and Indirect Costs are included in the budget and requested for reimbursement;
3. The Tribe has failed to develop, submit or implement an ITCA approved program or financial review corrective action plan in response to an ITCA request for such a plan in the sole judgment of ITCA;
4. The Tribe has significant and/or repeated programmatic or financial findings identified during a review or over a series of reviews;

5. The Tribe has failed to provide required responses, documentation or program or financial reports to ITCA by such dates as may be reasonably specified by ITCA;
6. The Tribe has failed to employ or maintain qualified and competent staff as required by this Agreement and applicable law;
7. The Tribe has failed to demonstrate efficient and effective administration of the WIC Program;
8. The Tribe has failed to meet the needs of the service area; or
9. The Tribe has failed to comply with any other material requirements of this Agreement, the ITCA Policy and Procedure Manual or applicable law.

III. DATA CONFIDENTIALITY AND RESEARCH PARTICIPATION

A. Restrictions on the Use and Disclosure of WIC Data

The Tribe and ITCA shall carefully restrict the use and disclosure of WIC applicant, participant or vendor information (“WIC data”) as required by 7 C.F.R. § 246.26(d) & (h), FNS Instruction 800-1 and other applicable law.

B. Sharing WIC data for a WIC Purpose

Except as provided for in this subsection, the parties shall restrict the use and disclosure of WIC data to those persons who are directly connected with the administration or enforcement of their respective WIC Programs and who have a need to know the information for WIC Program purposes as permitted by 7 C.F.R. § 246.26(d). These persons may include, but are not limited to:

1. Personnel from ITCA WIC, the Tribal WIC Program and other State or local WIC agencies;
2. Persons working for or under contract with ITCA WIC or the USDA to perform research regarding the ITCA WIC Program; and
3. Persons investigating or prosecuting WIC Program violations under Federal, State or local law.

C. Limitations on Sharing WIC Data for a Non-WIC Purpose

In addition to sharing WIC data for the WIC purposes outlined in subsection III(B) of this Agreement, the parties may use WIC data in the administration of other programs that serve persons eligible for the WIC Program or may disclose WIC data to public organizations for use in the administration of their programs that serve persons eligible for the WIC Program, subject to the express requirements of 7 C.F.R. § 246.26(h) and the following:

1. Sharing De-identified WIC Data. Prior to sharing de-identified WIC data with

an outside agency, entity or person, the sharing party must:

- a) Verify that the WIC data has been appropriately de-identified and is devoid of any individual, client or vendor identifying information sufficient to protect as anonymous the identity of WIC participants and applicants; and
 - b) Comply with the notice requirements found in subsection III(D) of the Agreement.
2. Sharing Specific WIC Data. ITCA and the Tribe shall carefully restrict the use and sharing of WIC data for a non-WIC purpose where such data could be used to individually identify a WIC applicant or participant and/or their family members(s). The Tribal WIC Program shall be responsible to provide all WIC applicants with the most current approved version of the ITCA WIC Rights and Responsibilities Form for their review and signature, which shall include a list of all agencies or organizations with whom WIC data may be shared by ITCA or the Tribal WIC Program.
3. Verification Required. Prior to using or sharing specific identifiable WIC data for non-WIC purposes, the using or sharing party must comply with the specific requirements of 7 C.F.R. § 246.26(h)(1)-(3), FNS Instruction 800-1 and applicable law, including, but not limited to, the requirement that the using or sharing party:
- a) Designate in writing the permitted non-WIC uses of the information and the names of the outside organization to which such information may be disclosed;
 - b) Verify that the WIC applicant or participant has received notice that the sharing party may use or disclose WIC data for non-WIC purposes;
 - c) Verify that the sharing party has entered into the appropriate written memorandum of understanding or comparable written agreement with the receiving entity as required by 7 C.F.R. § 246.26(h)(3); and
 - d) Comply with the notice requirements found in subsection III(D) of the Agreement.

D. Notice Provisions for Sharing WIC data

Any party proposing to share WIC data under this Agreement, regardless of whether such data has or has not been de-identified, shall:

1. Provide thirty (30) days advanced written notice to the non-sharing party, which (i) outlines the purpose and need for the sharing of the WIC data; and (ii) lists the name of each department, outside agency, entity, or organization with whom WIC data is proposed to be shared;

2. Provide an opportunity for the non-sharing party, within the thirty (30) day notice period prescribed by this subsection, to review the proposal for the sharing of WIC data; and
3. Upon the request of the non-sharing party, promptly meet and confer prior to the sharing of WIC data, in a good faith effort to resolve any outstanding concerns pertaining to the proposed sharing.
4. ITCA reserves the right to prohibit the use or sharing of WIC data by the Tribal WIC Program if it determines that such use or sharing would violate any applicable law, regulation, FNS Instruction or policy applicable to the ITCA or Tribal WIC program.

E. Research, Studies and Evaluations

The Tribe and ITCA acknowledge and agree that the use of WIC data for research, studies or evaluations shall be separately handled in accordance with this subsection E, as follows:

1. The Tribe shall notify ITCA in writing prior to conducting studies, research or evaluations or when collaborating or contracting with an outside party, including a university or research institution to conduct studies, research or evaluation using WIC data.
2. In no event shall the Tribe or the Tribal WIC Program use or share WIC data for research, study, or evaluations, including, but not limited to, client or vendor information, if the WIC data personally identifies the client or vendor. It is the responsibility of the Tribe to ensure that all WIC Program data that is shared with any other outside party under this subsection is redacted (de-identified) to eliminate any individual, client or vendor identifying information in conformance with 7 C.F.R. § 246.26(d) & (h) and applicable law.
3. Any proposed publication or public report authored by the Tribe or its Tribal WIC Program separately or in collaboration with an outside party that includes or relies upon WIC program data, whether in whole or in part, shall first be submitted to the ITCA for review by the ITCA Executive Director at least thirty (30) days prior to publication. Upon the request of the ITCA Executive Director, the Tribe and the ITCA Executive Director shall promptly meet and confer in a good faith effort to resolve any concerns raised by the ITCA Executive Director about the publication or public report in advance of any publication.
4. ITCA reserves the right to prohibit the publication of WIC data by the Tribal WIC Program if it determines that such use or sharing would violate any applicable law, regulation, FNS Instruction or policy applicable to the ITCA or Tribal WIC program/

5. ITCA's WIC Program is required by federal regulation to cooperate in studies and evaluations conducted by or on behalf of USDA, related to programs authorized under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1786).

IV. CONTRACT PERIOD AND TERMINATION

- A. This Agreement shall be effective October 1, 2015, or the date signed, whichever is later, and shall expire on September 30, 2020, if not terminated sooner by either party.
- B. ITCA may immediately terminate this Agreement if (1) the Tribe is disqualified from participating in WIC as provided for in this Agreement and subject to the requirements of the ITCA Policy and Procedure Manual and applicable law; or (2) funding is no longer available to the ITCA WIC Program as set forth in subsection II(B). Either party may terminate this Agreement, with or without cause, upon providing the other Party with prior written sixty (60) day notice thereof.

V. AMENDMENTS

This Agreement may be amended by mutual agreement of both Parties by completing and signing a written amendment with the same formalities as this Agreement.

IN WITNESS WHEREOF, THE PARTIES HEREBY SUBSCRIBE THEIR NAMES:

Authorized Tribal Official

Executive Director
ITCA

(SIGNATURE)

(SIGNATURE)

(DATE)

(DATE)