

**LIHEAP AGREEMENT
BETWEEN THE**

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILDREN AND FAMILY SERVICES
AND**

UNITED TRIBES OF KANSAS AND SOUTHEAST NEBRASKA, INC

This agreement is entered into by and between the Nebraska Department of Health and Human Services, **DIVISION OF CHILDREN AND FAMILY SERVICES** (hereinafter "DHHS"), and **UNITED TRIBES OF KANSAS AND SOUTHEAST NEBRASKA, INC** (hereinafter "Tribes").

PURPOSE. The purpose of this agreement is to allow for the direct distribution of a portion of Nebraska's Low Income Home Energy Assistance Program (LIHEAP) grant to the Tribes pursuant to 45 CFR 96.48.

I. TERM AND TERMINATION

- A. TERM. This agreement is in effect from October 1, 2013 until September 30, 2014.
- B. TERMINATION. This agreement may be terminated at any time upon mutual written consent or by either party for any reason upon submission of written notice to the other party at least Thirty (30) days prior to the effective date of termination. DHHS may also terminate this contract in accord with the provisions designated "FUNDING AVAILABILITY" and "BREACH OF AGREEMENT." In the event either party terminates this agreement, the Tribe shall provide to DHHS all work in progress, work completed, and materials provided to it by DHHS in connection with this agreement.

II. CONSIDERATION

- A. TOTAL PAYMENT. DHHS shall not pay the Tribes any funds directly for the services specified herein. The Tribes will receive a total of \$18,000 from the State of Nebraska's FY2014 LIHEAP block grant allotment directly from the United States Department of Health and Human Service, the Administration for Children & Families (ACF). The Tribes will be awarded \$18,000 which includes administrative funds, from the DHHS grant allotment. The tribe shall follow the applicable Federal Guidelines for the use of administrative funds.
- B. PAYMENT STRUCTURE. Payment shall be structured as follows: Payment will be made directly from ACF.

III. SCOPE OF SERVICES

A. The Tribes shall do the following:

1. Serve all eligible members of the Native American population residing on the IowA Reservation and the Sac and Fox Reservation in southern Nebraska and those members of said Tribes living in Richardson County in Nebraska.
2. Provide a listing to DHHS of names and addresses of potential households to be served. Before taking action on behalf of any household not previously identified in such listing, obtain written approval from DHHS to ensure no duplication of assistance to households.
3. Use the same guidelines for eligibility and benefits as used by the State of Nebraska in administering the FY 2014 LIHEAP grant, as provided by the State of Nebraska.
4. Provide a report to DHHS on or before June 30, 2014 of the amount of any unexpended funds that will be held over for subsequent periods. Any funds in excess of 10% must be reported to DHHS. This amount must be renegotiated between the parties. The amount shall be subtracted from the tribal allotment. Any unexpended funds must be reawarded to DHHS from ACF before August 31, 2014.
5. Provide a report to DHHS on or before September 15, 2014 of all households assisted with LIHEAP benefits using FY2014 funding.
6. To be bound and abide by any and all federal statutes and regulations governing the dissemination or expenditure of funds pursuant to LIHEAP, and any amendments that may from time to time be made hereto. Specifically the TRIBES agree to abide by the Low Income Energy Assistance Act of 1981 (Title XXVI of Pub. L. 97-35), as amended and applicable cost and audit principles in OMB Circular A-87 and A-133.

B. DHHS shall do the following:

1. Allow a portion of the State's LIHEAP Gross Block Grant Allotment to be released by the U.S. Department of Health and Human Services and granted for use by Tribes to serve the Native American population residing on the IowA Reservation and the Sac and Fox Reservation in southern Nebraska and those members of said Tribes living in Richardson County in Nebraska.
2. Provide advice on the interpretation of benefit guidelines which shall be followed by Tribes in the granting of benefits to the above Native American Populations.
3. To refer all tribal eligible households within the defined area to the Tribes if they apply for assistance from the State. This would include all Native American households residing on the IowA Reservation and the Sac and Fox reservations in southern Nebraska and those members of said Tribes living in Richardson County, when this information is known to DHHS.

IV. GENERAL PROVISIONS

A. ACCESS TO RECORDS AND AUDIT RESPONSIBILITIES.

1. All Tribe books, records, and documents regardless of physical form, including data maintained in computer files or on magnetic, optical or other media, relating to work performed or monies received under this agreement shall be subject to audit at any reasonable time upon the provision of reasonable notice by DHHS. The Tribe shall maintain all records for five (5) years from the date of final payment, except that records that fall under the provisions of the Health Insurance Portability and Accountability Act (HIPAA) shall be maintained for six (6) full years from the date of final payment. In addition to the foregoing retention periods, all records shall be maintained until all issues related to an audit, litigation or other action are resolved to the satisfaction of DHHS. All records shall be maintained in accordance with generally accepted business practices.

2. The above provisions shall survive termination of the agreement.

B. AMENDMENT. This agreement may be modified only by written amendment, executed by both parties. No alteration or variation of the terms and conditions of this agreement shall be valid unless made in writing and signed by the Agencies.

C. ANTI-DISCRIMINATION. The Agencies shall comply with all applicable local, state and federal statutes and regulations regarding civil rights and equal opportunity employment, including Title VI of the Civil Rights Act of 1964; the Rehabilitation Act of 1973, Public Law 93-112; the Americans With Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, NEB. REV. STAT. §§ 48-1101 to 48-1125. Violation of said statutes and regulations will constitute a material breach of agreement. The Agencies shall insert this provision in all subcontracts.

D. ASSIGNMENT. The Tribe shall not assign or transfer any interest, rights, or duties under this agreement to any person, firm, or corporation without prior written consent of DHHS. In the absence of such written consent, any assignment or attempt to assign shall constitute a breach of this agreement.

E. BREACH OF AGREEMENT. DHHS may terminate the agreement, in whole or in part, if the Tribe fails to perform its obligations under the agreement in a timely and proper manner. DHHS may, by providing a written notice of default to the Tribe, allow the Tribe to cure a failure or breach of agreement within a period of thirty (30) days or longer at DHHS's discretion considering the gravity and nature of the default. Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing the Tribe time to cure a failure or breach of agreement does not waive DHHS's right to immediately terminate the agreement for the same or different breach which may occur at a different time. DHHS may, at its discretion, agreement for any services required to complete this agreement and hold the Tribe liable for any excess cost caused by Tribe's default. This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law.

- F. CONFIDENTIALITY. Any and all information gathered in the performance of this agreement, either independently or through DHHS, shall be held in the strictest confidence and shall be released to no one other than DHHS without the prior written authorization of DHHS, provided, that contrary contract provisions set forth herein shall be deemed to be authorized exceptions to this general confidentiality provision. This provision shall survive termination of this agreement.
- G. CONFLICTS OF INTEREST. In the performance of this agreement, the Agencies shall avoid all conflicts of interest and all appearances of conflicts of interest. The Tribe shall immediately notify DHHS of any such instances encountered so that other arrangements can be made to complete the work.
- H. DOCUMENTS INCORPORATED BY REFERENCE. All references in this agreement to laws, rules, regulations, guidelines, directives, and attachments which set forth standards and procedures to be followed by the Tribe in discharging its obligations under this agreement shall be deemed incorporated by reference and made a part of this agreement with the same force and effect as if set forth in full text, herein.
- I. DRUG-FREE WORKPLACE. The tribes certify that they maintain a drug-free workplace environment to ensure worker safety and workplace integrity. A copy of its drug-free workplace policy is available upon request.
- J. FORCE MAJEURE. Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under this agreement due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of this agreement. The party so affected shall immediately give notice to the other party of the Force Majeure Event. Upon such notice, all obligations of the affected party under this agreement which are reasonably related to the Force Majeure Event shall be suspended, and the affected party shall do everything reasonably necessary to resume performance as soon as possible. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under this agreement.
- K. FUNDING AVAILABILITY. DHHS may terminate the agreement, in whole or in part, in the event funding is no longer available. Should funds not be appropriated, DHHS may terminate the agreement with respect to those payments for the fiscal years for which such funds are not appropriated. DHHS shall give the Tribe written notice thirty (30) days prior to the effective date of any termination.
- L. GOVERNING LAW. The agreement shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against DHHS or the State of Nebraska regarding this agreement shall be brought in Nebraska administrative or judicial forums as defined by Nebraska State law. The Parties shall comply with all Nebraska statutory and regulatory law.

M. HOLD HARMLESS.

1. Each Party shall be responsible for its negligent actor or omissions and the negligent acts or emissions of its employees, officers, or directors, to the extent allowed by law.
2. The State's liability is limited to the extent provided by the Nebraska Tort Claims Act, the Nebraska Contract Claims Act, the Nebraska Miscellaneous Claims Act, and any other applicable provisions of law. The Agencies do not assume liability for the action of its Contractors.
3. The above provisions shall survive termination of the agreement.

N. INVOICES. Invoices for payments submitted shall contain sufficient detail to support payment. Any terms and conditions included in an invoice shall be deemed to be solely for the convenience of the parties.

O. NEBRASKA TECHNOLOGY ACCESS STANDARDS.

The Tribe shall review the Nebraska Technology Access Standards, found at <http://www.nitc.state.ne.us/standards/accessibility/tacfinal.html> and ensure that products and/or services provided under the agreement comply with the applicable standards.

P. NEW EMPLOYEE WORK ELIGIBILITY STATUS. The Agencies shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Party is an individual or sole proprietorship, the following applies:

1. The Party must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.
2. If the Party indicates on such attestation form that he or she is a qualified alien, the Party agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Party's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Party understands and agrees that lawful presence in the United States is required and the Party may be disqualified or the agreement terminated if such lawful presence cannot be verified as required by NEB. REV. STAT. § 4-108.

- Q. PUBLIC COUNSEL. In the event Tribe provides health and human services to individuals on behalf of DHHS under the terms of this agreement, Tribe shall submit to the jurisdiction of the Public Counsel under NEB. REV. STAT. §§ 81-8,240 through 81-8,254 with respect to the provision of services under this agreement. This provision shall not apply to agreements between DHHS and long-term care facilities subject to the jurisdiction of the state long-term care ombudsman pursuant to the Long-Term Care Ombudsman Act. This provision shall survive termination of the agreement.
- R. RESEARCH. The Tribe shall not engage in research utilizing the information obtained through the performance of this agreement without the express written consent of DHHS. The term "research" shall mean the investigation, analysis, or review of information, other than aggregate statistical information, which is used for purposes unconnected with this agreement. This provision shall survive termination of the agrmment.
- S. SEVERABILITY. If any term or condition of this agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the Tribe shall be construed and enforced as if this agreement did not contain the particular provision held to be invalid.
- T. SUBCONTRACTORS. The Tribe shall not subcontract any portion of this agreement without prior written consent of DHHS. The Tribe shall ensure that all subcontractors comply with all requirements of this agreement and applicable federal, state, county and municipal laws, ordinances, rules and regulations.

NOTICES. Notices shall be in writing and shall be effective upon receipt. Written notices, including all reports and other written communications required by this agreement shall be sent to the following addresses:

FOR DHHS:

Karma Stockwell
Division of Children and
Family Services
PO Box 95026
Lincoln NE 68509-5026
402-471-9291

FOR TRIBES:

Robbie Craig
United Tribes of Kansas and
Southeast Nebraska
3301 Thrasher Road
White Cloud, KS 66094
785-595-3291

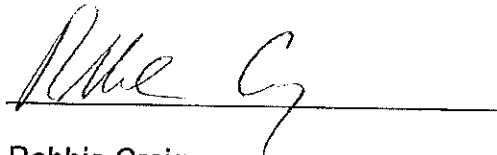
IN WITNESS THEREOF, the parties have duly executed this agreement, and each party acknowledges the receipt of a duly executed copy of this agreement with original signatures.

FOR DHHS:



Jill Schreck
Deputy Director
Department of Health and Human Services
Division of Children and Family Services

FOR TRIBES:



Robbie Craig
Chairman
United Tribes of Kansas and Southeast
Nebraska

DATE: 12/6/2013

DATE: 12/3/13