
TITLE IV-E INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
AND
THE YUOK TRIBE



I. INTRODUCTION

This Title IV-E Intergovernmental Agreement (hereinafter "Agreement") is made and entered into, by and between the California Department of Social Services (hereinafter "CDSS" or "the Department"), an agency of the State of California, and the Yurok Tribe, a federally recognized Indian Tribe located within the State of California (hereinafter alternatively "the Yurok Tribe" or "Tribe"). Together, CDSS and the Tribe may be referred to herein as "the Parties".

II. PURPOSE, AUTHORITY, APPLICABLE LAW AND POLICY

A. Purpose:

The purposes of this Agreement are to:

1. Provide for the pass through of federal funding to the Tribe under Title IV, Part E of the Federal Social Security Act for the Foster Care and Adoption Assistance Programs, and California State General Funds, subject to the Annual Budget Act, for the Tribe's child welfare program;
2. Facilitate intergovernmental communication and collaboration, in a spirit of cooperation and good will;
3. Meet the policy goals of the Indian Child Welfare Act of 1978 (hereinafter "ICWA"),¹
4. To protect the best interests of Indian children and to promote the stability and security of Indian tribes and families; and
5. Delegate to the Tribe the responsibility that would otherwise be the responsibility of the counties for the provision of foster care and adoption assistance payments under the AFDC-FC program, child welfare services, and related functions as more specifically set forth in the Tribal Child Welfare Services Plan (hereinafter "Tribal CWS Plan").

B. Authority:

Authority for the Parties to enter into this Agreement is found in:

1. The Yurok Tribe's Constitution.
2. Section 1919 of the Indian Child Welfare Act, codified as 25 U.S.C. section 1919.
3. Section 472(a)(2) of Title IV-E of the Social Security Act, codified as 42 U.S.C. section 672(a)(2).
4. California Welfare and Institutions Code section 10553.1 which authorizes the Director of the Department, in accordance with federal and state law, to enter into agreements with Indian tribes.

¹ 25 U.S.C. §§ 1901 and 1902

C. Applicable Law:

The Parties understand that law applicable to this Agreement is:

1. Title IV-E of the Federal Social Security Act. The State of California is required to maintain a Title IV-E State Plan that is approved by the United States Department of Health and Human Services, Administration for Children and Families (hereinafter "DHHS") in order for the State to receive Title IV-E funding. The Tribal CWS Plan will meet the standards in the Title IV-E State Plan;
2. The federal regulations applicable to Title IV-E including those set forth at 45 Code of Federal Regulations (C.F.R.) sections 1355 et seq. and 1356 et seq.;
3. Relevant provisions of the ICWA;
4. Welfare and Institutions Code sections 10553.1 and 10553.2 and the requirements and standards referenced therein;
5. The Yurok Tribe's Children's Code to the extent that it does not conflict with Title IV-E, California's Title IV-E State Plan, Welfare and Institutions Code section 10553.1, and the provisions of this Agreement;
6. Relevant California laws that provide authority and standards for activities necessary to carry out the programs specified in this Agreement and its addenda.
7. The Parties acknowledge that as the implementation and operation of the Yurok Tribe's Child Welfare Service program proceeds, questions may arise for which neither this Agreement nor its addenda provide explicit provision or direction. Under those circumstances, the Parties will meet and confer to identify the applicable law and establish an agreed upon course of action. Either party may seek a meet and confer session by noticing the opposing party, and if possible a meet and confer session will be held within 30 days or as soon thereafter as possible.

D. Policy:

1. The ICWA was passed to remedy the problem of disproportionately large numbers of Indian children being placed in foster care. The law recognized “that there is no resource . . . more vital to the continued existence and integrity of Indian Tribes than their children” and that there has been a failure by the states “to recognize the essential tribal relations of Indian people and the culture and social standards prevailing in Indian communities and families.” (25 U.S.C. § 1901)
2. The ICWA codifies a strong preference for Indian children to be placed in Indian homes and for their child welfare cases to be heard in their Tribe’s court.² In passing the ICWA, Congress stated:

“It is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian Tribes in the operations of child and family service programs.”
(25 U.S.C. § 1902)

3. California has adopted laws and policies that acknowledge, support and implement the ICWA and its underlying policies that support the continued existence of Indian tribes, and the value of the connection of children to their tribes.³
6. It is in the interest of Indian children that their family structures, Tribal membership and other ties to their Tribe, extended family and Tribal community, all be preserved, and that disputes regarding their welfare be resolved in a culturally-appropriate, non-adversarial manner, in their Tribe’s court, whenever possible.

² 25 U.S.C. § 1915; *Mississippi Band of Choctaw Indians v Holyfield*, 490 U.S. 30, 32 (1988)

³ E.g. SB 678, Chapter 838, Statutes of 2006.

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7. The Yurok Tribal Court is an integral component of the Tribe's sovereign authority, and is crucial to the effective meeting of the policy goals here articulated.
 8. The Department's mission is to serve, aid, and protect needy and vulnerable children and adults in ways that strengthen and preserve families, encourage personal responsibility and foster independence. The health, safety and best interests of the children served under this Agreement are of paramount concern to the Department and the guiding principle for oversight and operation of this Agreement.

III. DEFINITIONS

[The] ACT “[The] ACT” means the Social Security Act commencing at section 470 and codified at 45 United State Code section 670 et seq.

ADOPTION ASSISTANCE “ADOPTION ASSISTANCE” means assistance approved pursuant to an agreement with prospective adoptive parents of a child with special needs and which meets the requirements of sections 471(a), 473, and 475(3) of the Act⁴ and 45 Code of Federal Regulations sections 1356.40 and 41.

ADOPTION ASSISTANCE BENEFITS “ADOPTION ASSISTANCE BENEFITS” means benefits provided to an adoptive child pursuant to section 473 of the Act.

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS) “CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)” is the single state agency responsible for the oversight of the State Plan for federally-funded Title IV-E foster care maintenance and adoption assistance programs and for the provision of child welfare services. CDSS is responsible for ensuring compliance with applicable state and federal statutes and regulations for these programs, including oversight of the Title IV-E Intergovernmental Agreement between CDSS and the Yurok Tribe.

CHILD ABUSE AND NEGLECT REGISTRY “CHILD ABUSE AND NEGLECT REGISTRY” means either the California Child Abuse Central Index, or a registry maintained by another state on reports of child abuse or neglect.

CHILD ABUSE CENTRAL INDEX (CACI) “CHILD ABUSE CENTRAL INDEX (CACI)” means the statewide, multi-jurisdictional, centralized index of inconclusive or substantiated reports of child abuse and severe neglect maintained by the California Department of Justice.

CACI CLEARANCE “CACI CLEARANCE” means that the California Department of Justice has conducted a name search of the index and the search did not result in a match, or the search resulted in a match but the agency (CDSS/county child welfare agency/Tribe) conducting the CACI review, determined after investigation as set forth in Health and Safety Code section 1522.1, that the allegation of abuse or neglect was not substantiated.

⁴ 42 U.S.C §§ 671, 673 and 675

CHILD WELFARE SERVICES (CWS)

“CHILD WELFARE SERVICES (CWS)” for the purposes of this Agreement shall mean those services designated as meeting the service delivery standards identified in Welfare and Institutions Code section 10553.1(b) integrated into the Tribal CWS Plan, and subject to the Fiscal Addendum. CWS may include, but are not necessarily limited to, the administrative activities and services associated with emergency response, family maintenance, foster care, family reunification, and permanent placement, as funded by Title IV-E, and the State General Fund. Funding for child welfare services from the State General Fund is subject to sufficient funding in the Annual State Budget Act and does not include California State Title IV-B Services funding.

CORI

“CORI” means state or Federal criminal offender record information under the authority of the California Department of Justice as provided for in the California Penal Code.

CRIMINAL RECORD CLEARANCE

“CRIMINAL RECORD CLEARANCE” means that the placing authority (county/Tribe) has conducted or seen to the conduct of, a criminal background check and found that an individual has no felony or misdemeanor conviction(s) reported by the California Department of Justice or the Federal Bureau of Investigation (FBI) (excepting minor traffic violations or juvenile adjudications), or has a conviction(s) but has been granted an exemption pursuant to standards applied to State licensed or county approved foster homes as set forth in Health and Safety Code section 1522.

CWS PROGRAM CONTACT

“CWS PROGRAM CONTACT” means the individual designated by each Party to act as the Tribal or state Title IV-E Agreement Contact for any matter pertaining to this Agreement.

DHHS

“DHHS” means the U.S. Department of Health and Human Services, Administration for Children and Families (ACF). For purposes of this Agreement, the point of contact for DHHS in California is the Region IX, ACF Office in San Francisco.

DOJ

“DOJ” means the California Department of Justice.

FISCAL ADDENDUM

“FISCAL ADDENDUM” means the document unilaterally developed by CDSS and, updated as necessary on an annual basis, that is subject to the Annual State Budget Act. The addendum provides for procedures, forms and standards that meet state and federal fiscal requirements, including those set forth in Welfare and Institutions Code section 10102, and provides for timely reimbursement and appropriate accountability on use and disbursement of funds under this Agreement.

FOSTER CARE

“FOSTER CARE” means 24-hour substitute care for children placed away from their parents or guardians and for whom the Yurok Tribe has placement and care responsibility. This includes, but is not limited to, placements in foster homes approved or licensed by the Tribe for a home on or near its reservation, or a home approved by another tribe on or near its respective reservation⁵, a State/county licensed foster family home or small family home, a family home certified by a State licensed foster family agency, a State/county approved relative or non-related extended family foster home, or a state licensed group home for children.

**FOSTER CARE
ADMINISTRATIVE COSTS**

“FOSTER CARE ADMINISTRATIVE COSTS” means payments made for administration of the Title IV-E foster care program.⁶

**FOSTER CARE
MAINTENANCE
PAYMENTS**

“FOSTER CARE MAINTENANCE PAYMENTS” means payments made on behalf of a child eligible for foster care for the care and supervision of the child including the cost of providing food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to the care of a child, and reasonable travel to the child’s home for visitation.⁷

**FOSTER CARE
TRAINING COSTS**

“FOSTER CARE TRAINING COSTS” means payments made for eligible staff and caregiver training costs for the Title IV-E foster care program.⁸

⁵ 45 C.F.R. § 1355.20

⁶ 45 C.F.R. § 1356.60(c)

⁷ 45 C.F.R. § 1355.20, WIC § 11460(b), WIC § 11461

⁸ 45 C.F.R. § 1356.60(b) and 45 C.F.R. §§ 235.63 through 235.66(a)

FOSTER HOME “FOSTER HOME” means, for the purpose of Title IV-E eligibility, a home on or near the Yurok Tribe’s reservation that is licensed or approved by the Yurok Tribe or by another federally recognized Indian tribe, as meeting the standards established by the Yurok Tribal licensing or approval authority, consistent with 45 C.F.R. section 1355.20 and consistent with the standards applied to all foster homes in California.

ICWA “ICWA” means the Indian Child Welfare Act as codified at 25 United States Code section 1901 et seq.

MATCH PAYMENTS “MATCH PAYMENTS” for purposes of this Agreement, means required payments by the Tribe made in accordance with sections 10553.1 (b)(2) and (3) of the Welfare and Institutions Code.

TITLE IV-E “TITLE IV-E” means Part E of Title IV of the Social Security Act codified at 42 United States Code, section 670 et seq.

**TITLE IV-E
ELIGIBLE CHILD** “TITLE IV-E ELIGIBLE CHILD” for purposes of this Agreement means a child who is under the jurisdiction of the Tribal Court or meets the requirements for voluntary placement pursuant to 45 C.F.R. section 1356.22, and who meets the eligibility requirements either for foster care maintenance payments set forth in section 472 of the Social Security Act, or for adoption assistance payments set forth in section 473 of the Social Security Act, depending on the type of payments sought.

TITLE IV-E STATE PLAN “TITLE IV-E STATE PLAN” means the plan developed by the State of California to comply with the requirements of Part E of Title IV of the Act and approved by the DHHS.

**TRIBAL CHILD WELFARE
SERVICES PLAN**

“TRIBAL CHILD WELFARE SERVICES PLAN” is a plan developed by the Tribe which describes the operation of the Tribal Child Welfare Services program and which is submitted to CDSS for its review and ongoing approval to ensure the plan meets federal and state requirements applicable to this Agreement. The plan includes the Yurok Tribal Court Children’s Code, and the Tribe’s policies and procedures that demonstrate how the Tribe will meet the standards required by Title IV-E and Welfare and Institutions Code section 10553.1. Applicable standards include those set forth in Division 31 of the California Manual of Policies and Procedures, and those set forth in state law that govern family maintenance, out of home care, family reunification, and permanency planning. The plan is incorporated into this Agreement by reference herein.

TRIBAL COURT

“TRIBAL COURT” means the Tribal Court of the Yurok Tribe.

IV. STATEMENT OF BASIC AGREEMENT

- A. The Tribe and CDSS hereby agree that Title IV-E and State General Fund allowable costs shall be passed through from CDSS to the Tribe for the administration and provision of foster care maintenance payments, adoption assistance payments and child welfare services to eligible children under the jurisdiction of the Tribal Court, or for those children who are voluntarily placed out of the home by, or with the participation of, the Tribe. The terms and conditions of such payments are set out in the remainder of this Agreement.

- B. The Tribe and CDSS recognize that state and federal funding for the Tribal programs enumerated in this Agreement are contingent upon:
 - 1. Sufficient funding in the annual State Budget Act for the programs and activities provided for in this Agreement;
 - 2. Submission of a resolution from the Yurok Tribal Council authorizing this Agreement and designation of the Tribal Chairman as the authorized signatory on the Agreement;
 - 3. Submission by the Tribe to CDSS, and subsequent maintenance of, a Tribal CWS Plan, as defined in Part III of this Agreement;
 - 4. Approval by CDSS of the Tribal CWS Plan as being in accordance with the standards set forth in this Agreement;
 - 5. Compliance with procedures for the adjustment of claims against advancements and submission of claims including those as set forth in the Fiscal Addendum, applicable sections of Division 45 of the California Manual of Policies and Procedures, and/or other state or federal claiming requirements that may be identified during the course of the operation of the Tribe's Child Welfare Services Program; and
 - 6. DHHS approval of a Title IV-E State Plan amendment that authorizes the pass-through of federal funds through this Intergovernmental Agreement.

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- C. Designation of Authority of State and Tribe:
1. CDSS is the single state agency designated to administer the California Title IV-E program. CDSS has designated the CDSS Chief of the Child Protection and Family Support Branch to be the State's CWS Program Contact for this Agreement.
 2. The Tribe has designated the Director of the Tribe's Social Services Department, to administer the Tribe's program established pursuant to this Agreement.
- D. Match Payments: match payments shall be made by the Tribe in accordance with section 10553.1 of the Welfare and Institutions Code. Match payments may not be included as a cost or used to meet cost sharing/matching requirements for any other federal program except as specifically provided by Federal law or regulation.
- E. This Agreement in no way precludes the Tribe from seeking additional funding sources for which the Tribe is eligible that may assist in the establishment and operation of the Tribal CWS Plan, including payment of matching costs to the extent specifically permitted by Federal law or regulation.
- F. Additional fiscal provisions applicable to this Agreement are set forth in the Fiscal Addendum, which is intended in part to provide for the processing of claims under this Agreement. In addition, any and all costs are to be consistent with Office of Management and Budget (OMB) Circular A-87, and consistent with the California Title IV-E State Plan and Federal Title IV-E requirements.
- G. The Parties understand that pursuant to Welfare and Institutions Code section 10553.2, cost allocation methodologies shall be developed in consultation with and agreed to by CDSS, the Tribe and the county governments affected by this Agreement: Humboldt and Del Norte.
- H. In accordance with Section II of this Agreement, the Tribe shall be responsible for the administration of the Tribal Child Welfare Services Program, including the determination and re-determination of Title IV-E eligibility, along with the administrative activities associated with making foster care maintenance and adoption assistance payments.

V. STANDARDS FOR FOSTER AND ADOPTIVE HOMES

A. Tribal Standards:

The Tribe shall establish and maintain standards pursuant to and consistent with Section II of this Agreement, for approval or disapproval of foster or adoptive homes on or near Yurok Tribal lands for children under the jurisdiction of the Tribal Court. The standards so established shall be applied by the Tribe to foster or adoptive homes, receiving funds pursuant to this Agreement. In order to receive funding pursuant to Title IV-E, children placed by the Tribe in homes that are not on or near Yurok Tribal lands, shall only be placed in homes that are licensed or approved by the state or county in which the home is located or is a home approved by another federally recognized tribe on or near its respective lands.

B. Provision for Criminal Background and Child Abuse Registry Checks

Title IV-E at section 471(20) requires criminal record clearances for any prospective foster or adoptive parent, as well as a check of the state's child abuse and neglect registry: in California, the Child Abuse Central Index (CACI). Title IV-E also requires checking the child abuse and neglect registry in any other State in which a prospective foster or adoptive parent or other adult residing in the home has resided in the preceding five (5) years.

The Tribe agrees to ensure that all required background checks including criminal record clearances, CACI clearances, and out of state child abuse and neglect registry checks, are conducted in accordance with standards contained within the Title IV-E State Plan. Out of state child abuse and neglect registry checks shall be conducted by the Tribe. Until the Tribe is able to effect direct access to criminal offender record information (CORI) and CACI information through the DOJ, the criminal record clearance and CACI clearance components for the Tribal CWS Plan may be performed as set forth in section V D. In the event the clearances are conducted by CDSS on behalf of the Tribe, the Parties shall develop a process for conducting said clearances, and for the reimbursement of the costs borne by CDSS in its performance of these functions.

C. Criminal Record Clearances and Child Abuse Checks and the California Department of Justice

Notwithstanding any other provisions of this Agreement, the Parties recognize that this Agreement does not automatically grant the Yurok Tribe access to state or federal CORI, to CACI information, or to other California law enforcement databases. Access by the Tribe for the purposes of the program and services provided pursuant to this Agreement is subject to the authority of the Attorney General, through the California Department of Justice (DOJ) and as provided for in the California Penal Code, including but not limited to, sections 11077, 11079, 11105, and 11170. The Tribe understands that arrangements for direct access must be made with the DOJ. It is further recognized by the Parties that the Attorney General is an independent constitutional office and is not bound by this Agreement. Therefore, before access to any background information may be granted, separate discussion and agreement must be made between the Yurok Tribe and the DOJ.

D. Transition Period:

Pending establishment of direct access with the DOJ, the tribe may establish a procedure for the Tribe's CORI and CACI search, to be performed by separate agreement, between the Tribe and a county, or between the Tribe and CDSS as noted in section V B. As such, the respective county's child welfare services agency or CDSS would continue to request CORI or CACI searches from the DOJ to assist in the determination of appropriateness for placement of dependent children and inform the Tribe, without releasing the underlying CORI or CACI data, of the determination pursuant to the standards within the Title IV-E State Plan. Appeals from denials of criminal record or CACI clearances shall be conducted pursuant to existing processes used by the respective entity conducting the review.

VI. EMERGENCY REMOVAL OR PLACEMENT OF CHILD; APPROPRIATE ACTION

- A. Pursuant to ICWA section 1922, and the effect of Public Law 280 on Tribal-State concurrent jurisdiction over child custody proceedings, nothing in this Agreement shall be construed to prevent the emergency removal of an Indian child who is a resident of, or is domiciled on Tribal land, under applicable state law, in order to prevent imminent physical damage or harm to the child. The Parties recognize that state law applicable to children who are not wards of the Tribal Court, specifies the required timeframe for filing a petition in state court when children are removed from their parents or legal custodians (Welfare and Institutions Code section 313).
- B. The Parties agree to work collaboratively with the affected counties, to facilitate local agreements that provide for coordinated local emergency response, which protect Indian children from child abuse or neglect and allow for the efficient exercise of Tribal care and supervision of said children.
- C. The Parties further agree that in the event a tribal social worker takes a child into protective custody, a child shall be returned or child custody petition shall be filed in the Tribal Court within the same timeframe specified in Welfare and Institutions Code section 313. The parties agree to specify this provision in the Tribe's Children's Code.

VII. CONFIDENTIALITY, MAINTENANCE, RETENTION AND RELEASE OF INFORMATION AND RECORDS

A. Confidentiality:

CDSS and the Tribe will continue to maintain safeguards restricting the use or disclosure of confidential information concerning individuals assisted under the Agreement. The safeguards must meet the requirements of section 471 (8) of the Act, and shall be consistent with the California Title IV-E State Plan.⁹ The Parties agree to comply with the confidentiality requirements contained in Welfare and Institutions Code section 10850 related to the provision of public social services. The parties further understand that there are exceptions to disclosure of otherwise confidential information, including information about child death and near death situations. The parties agree to provide for confidentiality and disclosure protocols in the Tribal CWS Plan.

B. Record Retention:

The Tribe will maintain all records pertaining to children receiving foster care assistance, adoption assistance or child welfare services under this Agreement. Records pertaining to Title IV-E eligibility shall be maintained for the entire time period, for which a Title IV-E eligible child is in out-of-home care, and a minimum of three (3) years after the child has left care and the last state expenditure report for that period has been submitted to DHHS. Unless this Agreement or applicable Tribal, state, or federal laws require a longer retention period for certain information, the Tribe and all providers shall maintain all accounting, financial and statistical records, and supporting documents, and all other records related to payments under this Agreement or payment for the delivery of any service. The Tribe agrees to maintain said records for a minimum of thirty nine (39) months following the submission to DHHS of the last state expenditure report for that period. If there are unresolved audit questions or litigation at the end of the thirty nine (39) month period, the records shall be retained until the questions are resolved. The Parties acknowledge that there may be records retention needs not specified herein and that such will be further designated as part of the Tribal CWS Plan.

⁹ See State plan section 6 General provisions, subsection B Safeguarding Information

C. Sharing of Information:

1. CDSS shall have reasonable access to records and information of children served pursuant to this Agreement for purposes of CDSS' oversight duties and administration of this Agreement.
2. To the extent feasible, CDSS shall make every effort to inform the Tribe in advance of the content and format of records, data and information it expects the Tribe to capture, maintain and provide.
3. The Tribe agrees to provide reports and other information in the form requested by CDSS and or DHHS, to ensure the accuracy of claims and to verify that program activities are consistent with the purposes of the Agreement.
4. The Tribe agrees to ensure that all requests for reports and/or information including, but not limited to, data reports on child welfare services program operation, data required by federal laws or regulations, data necessary for state administration of the program, and/or information related to individual children being served pursuant to this Agreement, will be timely provided to CDSS.

VIII. AUDITS AND RECOVERY OF FINANCIAL ASSISTANCE

A. Single Audit Requirement:

As further set forth in the Fiscal Addendum, the Tribe agrees to provide for an independent certified public accountant audit of applicable federal funds in accordance with OMB Circular A-133, and provide a copy of such audit to CDSS.

B. DHHS/CDSS Review:

The Tribe and CDSS acknowledge that the DHHS or CDSS conducts necessary fiscal and programmatic reviews and/or audits of entities that receive and distribute State or Title IV-E funds, and that DHHS or CDSS require, as a part of such reviews and or audits, that case files or other information on children receiving State funds and Title IV-E support, will be made available for inspection.

C. Upon request, the Tribe will make available for review by DHHS or CDSS case files, provider files, and other information as needed pertaining to children assisted under this Agreement. These files shall at all times remain the property of the Tribe. Review or duplication and transmittal of requested information shall be arranged between the Tribe and CDSS or DHHS as the situation arises.

D. Any audit exception(s), deferral(s), disallowance(s), or overpayment(s) resulting from audit of the Tribal Foster Care and CWS program will be repaid by the Tribe in accordance with the procedures set forth in the Fiscal Addendum. The Tribe will be responsible for the federal share of costs of any audit exception(s), deferral(s), disallowance(s) or overpayment(s) for administrative and/or assistance costs claimed during the time period in question. The Tribe will also be responsible for the state share of costs of any audit exception(s), deferral(s), disallowance(s), or overpayment(s) for administrative and/or assistance costs claimed during the time period in question, if applicable.

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- E. The Tribe agrees that CDSS may offset from any funds payable, any reimbursement CDSS is owed including, but not limited to those arising from an audit exception, deferral, disallowance, or overpayment. If CDSS is unable to recover funds payable through offset, CDSS may request the Tribe to repay funds as set forth in the Fiscal Addendum at sections G and H.

IX. CHILD ABUSE REPORTING REQUIREMENTS

It is understood by the Parties that Yurok Tribal social workers, pursuant to Welfare and Institutions Code section 215, are social workers within the coverage of Penal Code section 11165.7 and are thus persons designated as mandated reporters. The Tribe will thus require reporting of suspected child abuse or neglect in a manner that meets the requirements of section 471 (a) (9) of the Social Security Act, is consistent with California's Title IV-E State Plan and complies with the California Child Abuse Neglect and Reporting Act.¹⁰ At the time of execution of this Agreement, this means that a Tribal social worker will report suspected child abuse or neglect to the entities identified in Penal Code section 11165.7.

X. PARENTAL RESPONSIBILITY

Enforcement of Parental Responsibility:

The Parties acknowledge that there are federal requirements related to parental financial responsibility of non-custodial parents of children placed in foster care.¹¹ During the course of development of the Tribe's CWS Plan the Parties will develop procedures to fulfill these requirements.

¹⁰ Penal Code § 11164 et seq.

¹¹ 42 U.S.C. § 654

XI. ADDITIONAL RESPONSIBILITIES

A. CDSS' Responsibilities–Start up:

1. CDSS agrees to work cooperatively with the Tribe to provide the Tribe guidance and information regarding the essential components of the Tribal CWS Plan, in order to ensure the Plan meets the standards in this Agreement. If CDSS and/or DHHS determine that changes to the Plan are needed, the Parties shall meet and confer to reach an accord as to appropriate changes. To this end, the parties agree to meet and confer (either face to face or telephonically) no less than once every sixty day (60) days, (more frequently if desired by the parties), to evaluate status on the development of the CWS Plan, provision of start up technical assistance, and final approval of the Plan.
2. Within thirty days (30) days after approval of the CWS Plan by DHHS, CDSS shall provide technical assistance to the Tribe for the purpose of implementing the Tribal CWS Plan. This technical assistance shall include informing the Tribe regarding the content and format of data and information to capture, maintain and provide to CDSS.

B. CDSS' Responsibilities – Ongoing:

1. CDSS agrees to reimburse the Tribe as set forth in the Fiscal Addendum for the provision of foster care and adoption assistance programs and child welfare services as defined in Section III of this Agreement. CDSS agrees to support the Tribe, as appropriate, in securing future funding to augment the programs implemented pursuant to this Agreement.
2. CDSS agrees to prepare and provide to the Tribe the Fiscal Addendum as defined in Section III, which will describe standards and procedures for the claiming and reimbursement of funding for the Tribe's provision of foster care, adoption assistance and/or child welfare services.

3. CDSS will review and approve any proposed changes to the Tribal CWS Plan according to the standards identified in Section II.
4. Upon request by the Tribe, CDSS will assist in securing the sharing and transfer of information from a county to the Tribe related to a child or children being transferred to Tribal Court jurisdiction.
5. CDSS will give notice to the Tribe, in the same manner as it does to the counties, electronically and also through the CDSS website. Notices may include Department issued All County Letters (ACLs), All County Information Notices (ACINs), County Fiscal Letters (CFLs), or other communications as appropriate, of program and fiscal regulations, guidelines, and procedures required to implement, maintain and claim costs for foster care and adoption assistance payments and child welfare services.
6. CDSS will inform the Tribe of relevant, CDSS-sponsored training opportunities, and will facilitate access to CDSS publications that pertain to services undertaken by the Tribe pursuant to this Agreement. Upon request by the Tribe, CDSS will offer the appropriate Tribal representative(s) training to facilitate compliance with federal regulations related to implementation of the Agreement.
7. The Parties further agree that the Tribe may request from CDSS technical assistance on issues related to implementation and/or operation of this Agreement. CDSS will work in good faith to provide the Tribe with technical assistance.

C. Tribal Responsibilities-Start up:

1. Prior to commencement of funding for provision of child welfare services pursuant to this Agreement, the Tribe shall submit a Tribal CWS Plan to CDSS for approval.
2. The Tribe agrees that the Tribal CWS Plan will meet the applicable laws and standards set forth in this Agreement and thus agrees to modify the Tribal Plan should CDSS request necessary changes.

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3. The Tribal CWS Plan shall describe how the Tribe will comply with State and Federal quality control requirements for funding of child welfare services, including those set forth for section 471(a)(22) of the Act pertaining to health and safety.

D. Mutual Responsibilities:

1. The Parties agree that they will exchange information as permitted under state, federal and Tribal law pertaining to case management as may be necessary for each Party to perform its respective duties, responsibilities and functions under this Agreement.
2. The Parties agree to have at all times an identified Tribal-State CWS contact person or designee for any matter pertaining to this Agreement. The respective CWS contact persons at this time shall be:

A. For CDSS:

Title: Linne Stout, Chief
Child Protection & Family Support Branch
744 P Street, MS 11-83
Sacramento, California 95814
Phone number: (916) 651-6600
Email: linne.stout@dss.ca.gov

B. For the Tribe:

Title: James St. Martin, Director
Yurok Social Services Department
P.O. Box, 1027
Klamath, California 95548
Phone number: 707 482 1350
Email: jstmartin@yuroktribe.nsn.us

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3. The Parties agree to notify each other in writing of changes in federal, state or Tribal statutes, regulations or policies that may affect the provision of services under this Agreement. The Tribe agrees to subscribe to notices issued through the CDSS web site for purposes of receipt of CDSS issued communications regarding provision of foster or adoptive care to children under this Agreement.
 4. Upon notification of such change(s), the Parties agree to confer to determine the applicability of the changes to the Tribe and whether the changes necessitate a modification of the Tribal CWS Plan. Each Party shall make a reasonable effort to timely notify the other of any impending legal or policy change(s) as described in this paragraph, if possible within thirty (30) days of the effective date of the change(s).
 5. Should it become apparent to the Parties during the operation of this Agreement that there are state and federal statutes or policies and practices relevant to the continuation of federal funds, or to the health and safety of the children served under this program, that are not adequately addressed by the Tribal CWS Plan, the Parties shall meet and confer to identify program needs, and to make modifications to the Plan.
 6. Should consensus not be reached, the Department as the Title IV-E oversight entity has final authority to determine the contents of the Plan and changes that may be necessary for the continued operation of the program. Nothing herein precludes the Tribe from consulting with DHHS concerning the applicability of a policy imposed by the Department in exercising its oversight capacity. However if further inquiry is requested by the Tribe, the modification requested will not be deemed stayed (or shall not be delayed) pending response from DHHS. Absent a determination to the contrary from DHHS, the Department has the final authority and the Tribe agrees to comply with the Department's position, unless applicable statutes or regulations afford the Tribe further avenues of appeal.

XII. DISPUTE RESOLUTION

This dispute resolution process seeks to effectively and efficiently streamline and standardize the communication process between the Parties with the goal of working together to seek mutually beneficial solutions to problems arising from implementation. The Parties agree to look for guidance on resolution of disputes to Title IV-E of the Act, the ICWA, the Federal regulations applicable to the programs the subject of this agreement, Yurok Tribal Codes, and the relevant sections of the California Welfare and Institutions Code, in particular section 10553.1. Both Parties will strive to ensure the dispute will not result in a disruption of the services to Indian children and families. Resolution of disputes regarding fiscal claims shall utilize the processes specified in the Fiscal Addendum.

A. Informal Process-Meet and Confer:

If a dispute arises with respect to this Agreement involving the interpretation, implementation or conflict of laws, policies and regulations, the Tribe and CDSS will meet and confer in good faith at the Tribal and Department staff level, commencing with communication between the designated Tribal/State CWS Program Contacts, and attempt to resolve the dispute in a manner consistent with Tribal, federal and state laws and consistent with Section II of this Agreement.

B. Mediation:

If the meet and confer process set forth above does not result in the resolution of the dispute, the Parties agree to attempt in good faith to settle the dispute by mediation administered by Judicial Arbitration and Mediation Services (JAMS) or other mediation service as mutually agreed to by the Parties. The role of the mediator is to aid the Parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, and finding points of agreement. The decision as a result of the mediation process will be that of the Parties, not of the mediator. The Parties agree to equally split the mediator's costs.

1. Matters not subject to Mediation:

Any laws, processes or protocols identified by CDSS and/or the DHHS, as contrary to the laws and/or policies of Title IV-E and that are either substantially likely to subject the Tribe's program to ineligibility for Title IV-E funding or cause serious risk of harm to children served under this Agreement.

2. Commencing Mediation:

The mediation process will be commenced when the CWS Program Contact of one Party outlines an issue in writing to the designated CWS Program Contact of the other and indicates that resolution could not be reached through the meet and confer process. The written communication shall contain a statement describing the issue, a description of the desired solution, a proposed timeline establishing dates and performance indicators that demonstrate resolution is being achieved. Within ten (10) working days of receipt of the communication, the recipient will respond in writing outlining what activity is currently underway to resolve the dispute. If agreement is not reached within twenty (20) working days after the initial response, then the Parties agree to submit the matter expeditiously to mediation.

C. Unresolved disputes:

If the Parties are still unable to resolve the dispute after mediation, or in the case of the occurrence of a matter not subject to mediation, the Parties may consider termination of the Agreement as provided in section XVI, Termination of Agreement.

Prior to the termination of this Agreement, the Parties agree to convene a meeting between the Chairperson (or his or her designee) of the Yurok Tribe and the Director of CDSS (or his or her designee), to determine whether the issue causing the impending termination is in fact one that is so fundamental as to be non-resolvable and constitute cause for termination.

XIII. LIABILITY AND INSURANCE

- A. This Agreement may not be construed to impose liability upon or to require indemnification by a participating county of the State of California or the State of California for any act or omission performed by an officer, agent, or employee of the Tribe pursuant to Welfare and Institutions Code section 10553.1(f).
- B. The Tribe has compacted with the United States pursuant to the Indian Self-determination and Education Assistance Act, Public Law 93-638, (25 U.S. C. § 450) for the Tribe to assume responsibility of social services and Indian Child Welfare programs and/or services formerly provided by the federal government that may be related to the subject of this Agreement. The Yurok Tribe is thus a self-governing Tribe with such a “638 compact” and its employees are thus considered employees of the federal government for purposes of Federal Tort Claims Act coverage, while performing work under the compact.
- C. The Tribe is of the position that due to its 638 compact, tribal employees (including individuals performing personal services contracts with the Tribe to provide health care services) are considered employees of the federal government for purposes of Federal Tort Claims Act coverage, while performing work under this Agreement. It is the intention of the Parties that liability not covered by the Federal Tort Claims Act, will be covered by the Tribe's insurance policy agreed to in Section XIII paragraph D. The Tribe agrees to provide CDSS with thirty (30) days written notice in the event the 638 compact is no longer in place.
- D. The Tribe shall maintain a commercial general liability insurance policy (hereafter “Policy”) underwritten by an insurer admitted by the State of California with an A.M. Best rating of A or higher which provides coverage of no less than one million dollars (\$1,000,000.00) per occurrence for bodily injury, property damage, and personal injury arising out of, connected with, or relating to the operation of this agreement.

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- E. At least thirty (30) days prior to the expiration of any such Policy, a signed and complete certificate of insurance, with all required endorsements showing that such insurance coverage has been renewed or extended or that the Tribe has procured a new Policy with the required endorsements, shall be submitted to the Department. Failure to maintain insurance coverage will be grounds for termination of the Agreement by the State under section XVI.
- F. The Tribe's insurance Policy shall include endorsements providing the following: (1) the State of California, including its counties, and their officers, employees and agents, are additional insureds under the terms of the Policy for injury for claims arising out of, connected with, or relating to the operation of this Agreement, (2) an endorsement that removes any exclusion that removes or limits coverage for sexual abuse and molestation related to claims arising out of, connected with, or relating to the operation of this Agreement, within the Policy limits, and (3) waivers as set forth in paragraph G pertaining to sovereign immunity.
- G. The Tribe's insurance Policy shall acknowledge in writing that it will not assert the Tribe's defense of sovereign immunity for claims for bodily injury, personal injury, and property damage up to the limits of the Policy, provided, however, that nothing herein requires the Tribe to agree to liability for punitive damages or to waive its right to assert sovereign immunity in connection therewith, and shall include an endorsement providing that the insurer shall not invoke tribal sovereign immunity up to the limits of the Policy. However, such endorsement and acknowledgement shall not be deemed to waive or otherwise limit the Tribe's sovereign immunity for the amount of any claim above the Policy limits, or for those claims not covered by the Policy.

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- H. Employees or authorized agents of the Tribe may not invoke, and the Tribe shall not invoke on behalf of any employee or agent, the Tribe's sovereign immunity in connection with any claim for, or any judgment based on any claim for, injury to persons or property committed by the employee or authorized agent who has acted outside the authority either vested in them under Tribal law, or beyond the authority the Tribe is capable of bestowing upon them, without regard to the Tribe's Policy limits. Nothing in this paragraph prevents the Tribe from invoking sovereign immunity on its own behalf or authorizes a claim against the Tribe where an employee or agent has acted outside said authority.
- I. A signed and complete certificate of insurance, with all required endorsements, shall be submitted to the Department prior to provision of services or draw down of federal funding under this Agreement, but no later than seventy-five (75) days after the execution of this Agreement. At least thirty (30) days prior to the expiration of any such Policy, a signed and complete certificate of insurance, with all required endorsements, showing that such insurance coverage has been renewed or extended, or that the Tribe has procured a new Policy, shall be filed with the Department.
- J. The Tribe will submit any claims arising as a result of the operation of/or provision of services under this Agreement, under the Federal Tort Claims Act and under the Policy.

XIV. TERM OF THIS INTERGOVERNMENTAL AGREEMENT

The term of this Agreement shall commence on the effective date of this Agreement, and shall continue until terminated by the Parties as provided herein.

XV. MODIFICATIONS

This Agreement may be modified at any time with the mutual consent of both Parties. This Agreement shall be modified as necessary due to changes in state or federal laws which impact its provisions and that cannot be addressed by the modification of the Tribal CWS Plan. Any modifications to this Agreement must be in writing and signed by authorized representatives of the Parties.

XVI. TERMINATION

- A. Prior to notification of any termination, either Party considering termination shall seek to cooperatively explore with the other Party ways in which to avoid termination.
- B. This Agreement may be terminated by either Party with one hundred eighty (180) days prior written notice.
- C. Notwithstanding any other provision, this Agreement may be terminated for cause, upon sixty (60) days written notice. "For cause" means termination based upon the Tribe or State substantially failing to comply with the terms and policies contained herein including, but not necessarily limited to, Tribal or State conduct that places children at serious risk of harm, jeopardizes the continuation of federal funding, and/or subjects the State and/or the Tribe's program to deferral, penalties or overpayments.
- D. The notice of termination for cause may be stayed for a period of up to four months provided that the Parties have entered into an agreed upon plan that describes how the non-compliance will be addressed. Failure to implement the plan will be cause to lift the stay and resume termination. Successful implementation of the plan will be cause to continue the stay or vacate the termination notice.

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- E. Upon notice of any termination, both parties agree to collaborate with each other and with affected counties to develop a phase-down plan to minimize disruption of the services provided to Indian children and families.
- F. The parties understand the Tribe has the right to retain jurisdiction over cases involving Indian children already under Tribal court jurisdiction. However, Title IV-E and State General Fund monies will no longer be available for costs associated with such children as of the effective date of the termination where the children continue under Tribal court jurisdiction.
- G. For purposes of this section, a termination notice from the Tribe shall be transmitted from the Chair of the Yurok Tribe in writing, delivered by registered mail to:

The Director

California Department of Social Services
744 P Street M.S. 17-11
Sacramento, CA 95814

- H. A termination notice from CDSS shall be a memorandum from the Director of the California Department of Social Services, delivered by registered mail to:

The Chair

Yurok Tribe
P.O. Box 1027
Klamath, California 95548
Phone number: 707-482-1350

Receipt of such notice by either Party shall begin the one hundred eighty (180) day period required for termination, or the required sixty (60) day period, if the termination is for cause.

- I. Upon termination of this Agreement, any unused advances not accounted for by actual expenditures by the Tribe and/or any outstanding invoices for actual expenditures prior to termination shall be submitted to CDSS within forty five (45) days of the termination date.
- J. Upon termination of this Agreement, CDSS will reconcile and remit funds to the Tribe within forty five (45) days from receipt of the invoice(s).

XVII. MISCELLANEOUS PROVISIONS

- A. Nothing in this Agreement shall prevent the Tribe or CDSS from entering into Agreements with the federal government regarding the services incorporated herein.
- B. Nothing in this Agreement shall be construed to prevent either the Tribe from contracting with a county as a service provider, or a county from separately contracting with the Tribe as a service provider for Indian families under Welfare and Institutions Code section 16501.
- C. Nothing in this Agreement affects the application or implementation of the ICWA to any Indian child as defined therein or relieves any public entity, person or party of their obligation to follow and implement the ICWA when applicable.
- D. This Agreement is the product of mutual negotiations between the Parties and should not be interpreted strictly for or against any of the Parties.
- E. Should any provision of this Agreement be declared or be determined, by any court of competent jurisdiction, to be illegal or invalid, the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be part of this Agreement.

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- F. Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the Tribe except as provided for in Section XIII, that the Tribe's insurance company may not raise the defense of sovereign immunity.
- G. This Agreement confers no rights or benefits on any third Parties and shall in no way be binding on any other sovereign Indian Tribe located within the State of California.
- H. This Agreement and its addenda sets forth the entire understanding between the Parties hereto and fully supersedes any and all prior Agreements or understandings between the Parties hereto pertaining to the subject matter hereof.
- I. The undersigned, being duly authorized to enter into this Agreement on behalf of CDSS and the Tribe, respectively, and having consulted with their advisors and counsel, and having read the foregoing, understand its contents and hereby execute this Agreement. This Agreement shall become effective upon submission and approval of all necessary documents, which are listed after the Agreement and incorporated herein by reference.

XVII. EFFECTIVE DATE

The effective date of this Agreement is the date in which all Parties have fully executed this Agreement and in which all addenda have been fully completed and approved as required herein.



[Signature]
DIRECTOR

California Department of Social Services

Executed this 28 day of MAY
in SACRAMENTO, California.

[Signature]
CHAIR

Yurok Tribe

Executed this 19th day of MAY
in KLAMATH, California.

Addenda to the Agreement:

Addendum A

Resolution of the Tribal Council authorizing the Tribal Chair to sign Agreement on behalf of the Tribe

Addendum B

Fiscal Addendum

Addendum C

Tribal Child Welfare Services Plan

BUDGET DETAIL AND PAYMENT PROVISIONS

A. State General Fund Allocation

The California Department of Social Services (CDSS) agrees to: Provide the Tribe annually, pursuant to the Annual Budget Act, an allocation of State General Funds for administrative and services costs associated with the Tribal Child Welfare Services Program. The allocation will be based on an agreed upon cost methodology between CDSS, the Tribe, and the affected counties in accordance with Welfare and Institutions (W&I) Code Section 10553.2.

B. Funding

1. The maximum amount payable under this Agreement shall not exceed:
 - The amount allocated to the Tribe in accordance with W&I Code Section 10101. The Tribe shall be notified at the beginning of each fiscal year of all Child Welfare Services - Administration and Service Costs as approved in their 'Tribal Child Welfare Services Plan.'
 - The amount entitled to the Tribe for foster care assistance payments, based on the rates described in W&I Code Section 11460 and Manual of Policies and Procedures (MPP), Division 11-401, Foster Family Home Rates.
 - The amount authorized with the passage of the Annual Budget Act.
2. An advance payment will be issued to the Tribe by the last business day of the first month of the State Fiscal Year, based on a request from the Tribe for a thirty (30) day advance of estimated expenditures submitted to CDSS. However, the advance payment will be subject to the timely submission of actual monthly and quarterly expenditure reports and could be withdrawn for failure

by the Tribe to comply with timely reporting requirements. If not withdrawn, the advance will be recouped against the last quarter's claims.

3. The Tribe is required to expend their State General Fund allocation within the State Fiscal Year (July 1- June 30) in which it was allocated.

C. Expenditure Claims

Pursuant to MPP 25-200, the Tribe will ensure compliance with general accounting principles and appropriate claiming of costs in the administration of the Tribal Child Welfare Services Program.

1. Claims for Assistance Expenditures

- a) Claims for actual assistance expenditures shall be submitted to CDSS within twenty (20) calendar days after the end of each quarter in the format prescribed in the attached sample (Exhibit A), and shall include Agreement #~~09-6012~~. Claims are to be remitted to:

California Department of Social Services

Financial Services Bureau

744 P Street, MS 20-72

Sacramento, CA 95814

- b) Any adjustments to the assistance claim must be reported in the most current quarterly claim but no later than eighteen (18) months following the end of the quarter in which the costs were paid.

2. Claims for Administrative and Services Expenditures

- a) For administrative activities, a continuous time study must be completed during the middle month of each quarter. Staff time is to be allocated to the appropriate claiming categories to the

closest 15-minute interval. Total hours for the month are entered for each category on the administrative claim. Services costs are to be separately identified.

- b) Invoices for actual administrative and services expenditures shall be submitted to CDSS within thirty (30) calendar days after the end of each quarter in the format prescribed in the attached sample (Exhibit B), and shall include Agreement # 09-6012
Invoices are to be remitted to:

California Department of Social Services

Fiscal Systems Bureau

Accounts Payable Unit

744 P Street, MS 20-72

Sacramento, CA 95814

- c) Any adjustments of these expenditures must be reported no later than nine (9) months following the end of the quarter in which the costs were paid via a supplemental claim/invoice.
- d) The cost allocation methodology must be in accordance with the Office of Management and Budget (OMB) Circular A-87 and certified by the Tribal Chairperson.
3. All Claims
- a) Claims are subject to audit by state and federal oversight government agencies. The amount approved shall be allowed to the Tribe as a credit to apply against advances. No additional advances will be paid until the actual expenditures for the previous quarter's advances have been reported and approved by CDSS. The CDSS shall fully liquidate the previous advances. Any adjustments will be made on subsequent advances.

b) CDSS shall remit payments, inclusive of any adjustments, to:

Thomas O'Rourke, Chair

Yurok Tribe

P.O. Box, 1027

Klamath, California 95548

c) If the tribe does not concur with an audit finding or adjustment taken by CDSS and wishes to pursue an administrative hearing to resolve the matter, the appeal process specified in MPP Section 25-250.4 will apply.

D. State Budget Contingency Clause

1. If state general funds are not appropriated in the Annual Budget Act, the Tribe will be fully responsible for: (1) meeting all nonfederal match requirements including the funding for the State's share of administrative costs; and/or (2) providing funding for the State's share of services costs. If funding for any fiscal year is reduced or deleted by the Annual Budget Act for purposes of this program, CDSS or the Tribe may re-negotiate this Agreement based on a reduced level of program services, or terminate this Agreement in accordance with the timeframes and procedures set forth in the Agreement.
2. State and federal funds will continue to be provided in the absence of a state budget for programs mandated by federal law, which includes the federal foster care program and child welfare services, as determined by the State Controller's Office. No state or federal funds can be provided in the absence of a state budget for programs that are not mandated by federal law, which includes state-only foster care.

E. Federal Funds Contingency Clause

1. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of Congressional appropriation of funds for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
2. This Agreement is valid and enforceable only if the United States Government, for the term of this Agreement, makes sufficient funds available to CDSS for the purposes of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms, or funding of this Agreement in any manner.
3. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program this Agreement shall be amended to reflect any reduction in funds.

F. Title XIX Federal Funds

CDSS will work with the California Department of Health Care Services (DHCS), the Single State Agency for receipt of Title XIX funds, to seek federal approval, if necessary, for the reimbursement of any Title XIX eligible administrative costs for Child Welfare Services health-related activities incurred by the Tribe. Subject to DHCS and federal approval and the subsequent amendment to the Interagency Agreement between CDSS and DHCS to include the Tribe for reimbursement of Title XIX funds, these eligible activities will be claimed to the program codes that CDSS has established for Title XIX reimbursement. CDSS will submit an invoice on a quarterly basis to DHCS for reimbursement. CDSS will reimburse the Tribe once funds are received from DHCS, approximately five to six months after the end of the quarter for which the costs were claimed.

G. Financial Audit Provisions

The Tribe agrees to provide CDSS with a copy of their Single Audit report required by the federal government (Title 25 Code of Federal Regulations (C.F.R.) Part 1000.394) on an annual basis. Financial records and relative case documentation and support for all costs claimed in accordance with this Agreement shall be retained for a period of not less than three years. Any records that are pertinent to a criminal or civil litigation or to open audits must be retained beyond three years until such litigation or audits are completely resolved/closed. For the purpose of audit, examination, excerpts and transcription, the State shall have access to any of the records which are directly pertinent to this Agreement.

- The Annual Single Audit report for the Tribe is due to CDSS ninety (90) days after the Tribe's submission of this report to the federal government per 31 United States Code, Subchapter V, Chapter 75, Section 7502 to ensure compliance with the State's federal data collection and reporting requirements at 45 C.F.R. Part 1355.40(a)(2) and (3).
- The Tribe will be responsible for the federal share of costs of any audit exception(s), deferral(s), or disallowance(s) of funds previously reimbursed to the Tribe resulting from an audit of the Tribal CWS Program for administrative and/or assistance costs claimed during the time period in question. The Tribe will also be responsible for the state share of costs of any audit exception(s), deferral(s), or disallowance(s) of funds previously reimbursed to the Tribe for administrative and/or assistance costs claimed during the time period in question, if applicable.
- For any sustained audit exception(s), deferral(s), or disallowance(s), the CDSS will recoup the federal share of costs (and state share, if applicable) previously reimbursed to the Tribe from payments owed to the Tribe including but not limited to advance payments.

EXAMPLE:

The Tribe is issued a monthly advance payment of \$100,000. Based on a federal audit, it was determined that a total of \$20,000 of federal funds previously reimbursed to the Tribe was deemed unallowable resulting in a disallowance. Therefore, the subsequent \$100,000 monthly advance will redirect \$20,000 to repay the federal government and the remaining \$80,000 will go to the Tribe.

- For any sustained audit exception(s), deferral(s), or disallowance(s), if there are insufficient costs for CDSS to offset against, the CDSS will request the Tribe to remit payment within 30 days of notification from CDSS.

H. Overpayments

The Tribe shall be responsible for making correct payments to eligible recipients pursuant to the MPP, Divisions 25 and 45, under any program funded in whole or in part under Title IV-E, and to make appropriate State/Federal claim adjustments.

- Payments shall only be authorized for the care provided to a child who meets the eligibility criteria specified in MPP 45-200.11.
- An overpayment is any amount of aid paid which a foster care provider received on behalf of a child, but to which the provider was not entitled. A provider is not entitled to aid where the provider did not care for the child in his or her home for the period of time for which he or she was paid (MPP 45-304.11).
- The Tribe shall promptly file claims and reports, report repayments received from or on behalf of recipients or former recipients of assistance, and adjust items found to have been erroneously claimed by the Tribe in accordance with MPP 25-200.4.

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- For any payments under programs funded in whole or part under Title IV-E, that are made to persons who were not eligible to receive those payments, the Tribe shall credit back to the State the federal share of that payment and the state share, if applicable, no later than the end of the month following the month in which the overpayment was determined.
 - The Tribe shall keep such records and accounts as are required to demonstrate that it has made proper expenditures and has filed correct claims and shall maintain and file its records and accounts as to enable representatives of CDSS and the Federal Department of Health and Human Services to verify their correctness readily, as required under MPP 25-200.3.

I. Cost Sharing

The Tribe shall provide the local matching share of costs as required by W&I Code Sections 10553.1(b)(2) and (3), 10100, 10101, and 15200.

Title IV-E administrative costs are discounted (reduced) to account for non-federally eligible cases. The federal/non-federal discount rate is established based on the ratio of federally eligible cases to the total number of cases being served by the Tribe. After the federal discount rate is applied to the total foster care administrative costs, federally eligible costs are shared at 50 percent federal/35 percent SGF/15 percent Tribe. Non-federally eligible costs are shared 70 percent SGF/30 percent Tribe (W&I Code 15204.9). The determination of federal eligibility is based on the child's eligibility for the Aid to Families with Dependent Children Foster Care (AFDC-FC) program as it existed on July 16, 1996 during the month in which the petition was filed with the tribal court which resulted in the child's placement into foster care or the month in which the voluntary placement agreement was signed (MPP 45-202.3). All administrative costs for Title IV-E funding must represent activities eligible for federal funding as stated in 45 C.F.R. Part 1356.60. The provision of services is not eligible for Title IV-E claiming.

FISCAL ADDENDUM

BUDGET DETAIL AND PAYMENT PROVISIONS

A. State General Fund Allocation

The California Department of Social Services (CDSS) agrees to:

Provide the Tribe annually, pursuant to the Annual Budget Act, an allocation of State General Funds for administrative and services costs associated with the Tribal Child Welfare Services Program. The allocation will be based on an agreed upon cost methodology between CDSS, the Tribe, and the affected counties in accordance with Welfare and Institutions (W&I) Code Section 10553.2.

B. Funding

1. The maximum amount payable under this Agreement shall not exceed:
 - ✓ The amount allocated to the Tribe in accordance with W&I Code Section 10101. The Tribe shall be notified at the beginning of each fiscal year of all Child Welfare Services - Administration and Service Costs as approved in their 'Tribal Child Welfare Services Plan'.
 - ✓ The amount entitled to the Tribe for foster care assistance payments, based on the rates described in W&I Code Section 11460 and Manual of Policies and Procedures (MPP), Division 11-401, Foster Family Home Rates.
 - ✓ The amount authorized with the passage of the Annual Budget Act.
2. Advance payments will be issued to the Tribe by the last business day of each month, based on need and/or spending trend. However, advance payment requests will be subject to the timely submission of actual monthly and quarterly expenditure reports.
3. The Tribe is required to expend their State General Fund allocation within the State Fiscal Year (July 1- June 30) in which it was allocated.

C. Expenditure Claims

Pursuant to MPP 25-200, the Tribe will ensure compliance with general accounting principles and appropriate claiming of costs in the administration of the Tribal Child Welfare Services Program.

1. Claims for Assistance Expenditures
 - a) Claims for actual assistance expenditures shall be submitted to CDSS within twenty (20) calendar days after the end of each month in the format prescribed in the attached sample (Exhibit A), and shall include Agreement # **06-6019**. Claims are to be remitted to:

Ashley Franklin
California Department of Social Services
Office of Child Abuse Prevention (OCAP)
744 P Street, MS 8-11-82
Sacramento, CA 95814
 - b) Any adjustments to the assistance claim must be reported in the most current monthly claim but no later than eighteen (18) months following the end of the quarter in which the costs were paid.
2. Claims for Administrative and Services Expenditures
 - a) For administrative activities, a continuous time study must be completed during the middle month of each quarter. Staff time is to be allocated to the appropriate claiming categories to

FISCAL ADDENDUM

the closest 15-minute interval. Total hours for the month are entered for each category on the administrative claim. Services costs are to be separately identified.

- b) Invoices for actual administrative and services expenditures shall be submitted to CDSS within thirty (30) calendar days after the end of each quarter in the format prescribed in the attached sample (Exhibit B), and shall include Agreement # **06-6019**. Invoices are to be remitted to:

Ashley Franklin
California Department of Social Services
Office of Child Abuse Prevention (OCAP)
744 P Street, MS 8-11-82
Sacramento, CA 95814

- c) Any adjustments of these expenditures must be reported no later than nine (9) months following the end of the quarter in which the costs were paid via a supplemental claim/invoice.
- d) The cost allocation methodology must be in accordance with the Office of Management and Budget (OMB) Circular A-87 and certified by the Tribal Chairperson.

3. All Claims

- a) Claims are subject to audit by CDSS. The amount approved shall be allowed to the Tribe as a credit to apply against advances. No additional advances will be paid until the actual expenditures for the previous quarter's advances have been reported and approved by CDSS. The CDSS shall fully liquidate the previous advances. Any adjustments will be made on subsequent advances.
- b) CDSS shall remit payments, inclusive of any adjustments, to:

Arch Super, Chairman
The Karuk Tribe
P.O. Box 1016
Happy Camp, CA 96039

- c) If the Tribe does not concur with an audit finding or adjustment taken by CDSS and wishes to pursue an administrative hearing to resolve the matter, the appeal process specified in MPP Section 25-250.4 will apply.

D. State Budget Contingency Clause

1. If state general funds are not appropriated in the Annual Budget Act, the Tribe will become fully responsible for meeting all nonfederal match requirements including the funding for the State's share of cost, and providing the funding for state general funded services. If funding for any fiscal year is reduced or deleted by the Annual Budget Act for purposes of this program, CDSS or the Tribe may re-negotiate this Agreement based on a reduced level of program services, or terminate this Agreement in accordance with the timeframes and procedures set forth in the Agreement.
2. State and federal funds will continue to be provided in the absence of a state budget for programs mandated by federal law, which includes the federal foster care program and child welfare services, as determined by the State Controller's Office. No state or federal funds can be provided in the absence of a state budget for programs that are not mandated by federal law, which includes state-only foster care.

FISCAL ADDENDUM

E. Federal Funds Contingency Clause

1. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of Congressional appropriation of funds for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the Agreement were executed after that determination was made.
2. This Agreement is valid and enforceable only if the United States Government, for the term of this Agreement, makes sufficient funds available to CDSS for the purposes of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms, or funding of this Agreement in any manner.
3. It is mutually agreed that if the Congress does not appropriate sufficient funds for the program this Agreement shall be amended to reflect any reduction in funds.

F. Title XIX Federal Funds

CDSS will work with the California Department of Health Services (DHS), the Single State Agency for receipt of Title XIX funds, to seek federal approval, if necessary, for the reimbursement of any Title XIX eligible administrative costs for Child Welfare Services health-related activities incurred by the Tribe. Subject to DHS and federal approval and the subsequent amendment to the Interagency Agreement between CDSS and DHS to include the Tribe for reimbursement of Title XIX funds, these eligible activities will be claimed to the program codes that CDSS has established for Title XIX reimbursement. CDSS will submit an invoice on a quarterly basis to DHS for reimbursement. CDSS will reimburse the Tribe once funds are received from DHS, approximately five to six months after the end of the quarter for which the costs were claimed.

G. Financial Audit Provisions

The Tribe agrees to provide CDSS with a copy of their Single Audit report required by the federal government (Title 25 Code of Federal Regulations (CFR) Part 1000.394) on an annual basis. Financial records and relative case documentation and support for all costs claimed in accordance with this Agreement shall be retained for a period of not less than three years. Any records that are pertinent to a criminal or civil litigation or to open audits must be retained beyond three years until such litigation or audits are completely resolved/closed. For the purpose of audit, examination, excerpts and transcription, the State shall have access to any of the records which are directly pertinent to this Agreement.

- ✓ The Annual Single Audit report for the Tribe is due to CDSS ninety (90) days after the Tribe's submission of this report to the federal government per 31 United States Code, Subchapter V, Chapter 75, Section 7502 to ensure compliance with the State's federal data collection and reporting requirements at 45 CFR Part 1355.40(a)(2)(3).
- ✓ The Tribe will be responsible for the federal share of costs of any audit exception(s), deferral(s), or disallowance(s) of funds previously reimbursed to the Tribe resulting from an audit of the Tribal CWS Program for administrative and/or assistance costs claimed during the time period in question. The Tribe will also be responsible for the state share of costs of any audit exception(s), deferral(s), or disallowance(s) of funds previously reimbursed to the Tribe for administrative and/or assistance costs claimed during the time period in question, if applicable.
- ✓ For any sustained audit exception(s), deferral(s), or disallowance(s), the CDSS will recoup the federal share of costs (and state share, if applicable) previously reimbursed to the Tribe from payments owed to the Tribe including but not limited to advance payments.

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EXAMPLE:

The Tribe is issued a monthly advance payment of \$100,000. Based on a federal audit, it was determined that a total of \$20,000 of federal funds previously reimbursed to the Tribe was deemed unallowable resulting in a disallowance. Therefore, the subsequent \$100,000 monthly advance will redirect \$20,000 to repay the federal government and the remaining \$80,000 will go to the Tribe.

- ✓ For any sustained audit exception(s), deferral(s), or disallowance(s), if there are insufficient costs for CDSS to offset against, the CDSS will request the Tribe to remit payment within 30 days of notification from CDSS.

H. Overpayments

The Tribe shall be responsible for making correct payments to eligible recipients pursuant to the MPP, Divisions 25 and 45, under any program funded in whole or in part under Title IV-E, and to make appropriate State/Federal claim adjustments.

- ✓ Payments shall only be authorized for the care provided to a child who meets the eligibility criteria specified in MPP 45-200.11.
- ✓ An overpayment is any amount of aid paid which a foster care provider received on behalf of a child to which the provider was not entitled. A provider is not entitled to aid where the provider did not care for the child in his or her home for the period of time for which he or she was paid (MPP 45-304.11).
- ✓ The Tribe shall promptly file claims and reports, report repayments received from or on behalf of recipients or former recipients of assistance, and adjust items found to have been erroneously claimed by the Tribe in accordance with MPP 25-200.4.
- ✓ For any payments under programs funded in whole or part under title IV-E, that are made to persons who were not eligible to receive those payments, the Tribe shall credit back to the State the federal share of that payment and the state share, if applicable, no later than the end of the month following the month in which the overpayment was determined.
- ✓ The Tribe shall keep such records and accounts as are required to demonstrate that it has made proper expenditures and has filed correct claims and shall maintain and file its records and accounts as to enable representatives of CDSS and the Federal Department of Health and Human Services to verify their correctness readily, as required under MPP 25-200.3.

I. Cost Sharing

The Tribe shall provide the local matching share of costs as required by W&I Code Sections 10553.1(b)(2), 10101, and 16503(d).

Title IV-E administrative costs are discounted (reduced) to account for non-federally eligible cases. The federal/non-federal discount rate is established based on the ratio of federally eligible cases to the total number of cases being served by the Tribe. After the federal discount rate is applied to the total foster care administrative costs, federally eligible costs are shared at 50 percent federal/35 percent SGF/15 percent Tribe (45 CFR 1356.60). Non-federally eligible costs are shared 70 percent SGF/30 percent Tribe (W&I Code 15204.9). The determination of federal eligibility is based on the child's eligibility for the Aid to Families with Dependent Children Foster Care (AFDC-FC) program as it existed on July 16, 1996 during the month in which the petition was filed with the tribal court which resulted in the child's placement into foster care or the month in which the voluntary placement

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agreement was signed (MPP 45-202.3). All administrative costs for Title IV-E funding must represent activities eligible for federal funding as stated in 45 CFR Part 1356.60. The provision of services is not eligible for Title IV-E claiming.