



WHITE MOUNTAIN APACHE TRIBE

*A Sovereign Nation Exercising Self-Governance
Over the Fort Apache Indian Reservation*

Resolution No. 02-2013-43

(Receiving and Accepting Bureau of Indian Affairs Office of Justice Services Technical Assistance to provide Administration, Management and Supervision of the White Mountain Apache Adult Detention Program)

- WHEREAS,** the Tribal Council, acting on behalf of the White Mountain Apache Tribe ("Tribe") previously contracted the Adult Detention Program, Contract No. A11AV00228 (CTH52T607D2) via PL 93-638; and
- WHEREAS,** the Tribal Council is deeply saddened by the horrific account of a reported incident that occurred at the Tribe's Detention Center; and
- WHEREAS,** over the years, the White Mountain Apache Tribe has invested in the community in order to promote the safety of all Tribal members, including inmates detained at the Tribe's Detention Center. The Federal government has been supportive of the Tribe, and the Bureau of Indian Affairs ("Bureau") has attempted to provide adequate funding for law enforcement and the jail despite the gridlock that has crippled the United States' governing bodies in Washington, D.C.; and
- WHEREAS,** in order to maintain and enhance the Detention's suitability for criminal detainees, and to ensure that all necessary requirements and standards pursuant to the PL 93-638 Detention Contract are met, the Tribal leadership sees no alternative but to accept and receive the Bureau's immediate assistance through a formal Technical Assistance Plan which includes the immediate assignment of a Bureau detention supervisor who will provide the administration, management and supervision of the Tribe's Detention program; and
- WHEREAS,** the Tribal Council of the White Mountain Apache Tribe recognizes that the safety and well-being of the Tribe and its members is of the utmost importance and until the Tribe and Bureau deem it appropriate, the Tribe agrees to relinquish control of the Detention program administration, management and supervision; and
- WHEREAS,** the Tribal Council finds it in the best interest of the White Mountain Apache people to request that the Bureau accept a modification to the Detention Center contract that would allow for direct supervision of the program pursuant to a Technical Assistance Plan, which shall be incorporated into the contract.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it accepts and receives the Bureau of Indian Affairs Office of Justice Services technical assistance to include the

administration, management and supervision of the Adult Detention program to the end of Fiscal Year 2013, or until such time the Bureau deems that the Tribe is ready and able to reassume full detention program administration, management and supervision, pursuant to the Technical Assistance Plan, attached hereto and made a part hereof.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby declares that the Technical Assistance Plan shall be incorporated by modification into the Adult Detention Services Contract No. A11AV00228 (CTH52T607D2).

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances or Federal Laws, this Resolution shall be declared null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Acting Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution. In the event that the Chairman fails to delegate signatory authority to an Acting Chairman, the Vice-Chairman may sign.

The foregoing resolution was on **FEBRUARY 21, 2013** duly adopted by a vote of **SEVEN** for and **ZERO** against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (c), (i), (k), (s), (t) and (u) of the Tribal Constitution, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Ronnie Lupe, Chairman

2/25/13
Date



Mariddie J. Craig, Secretary

02/25/2013
Date

**BUREAU OF INDIAN AFFAIRS
OFFICE OF JUSTICE SERVICES**

District III



**TECHNICAL ASSISTANCE PLAN
for
WHITE MOUNTAIN APACHE TRIBE ADULT DETENITON**

White Mountain Apache Tribe Adult Detention Center Technical Assistance Plan

The White Mountain Apache Tribe are federally recognized Indian tribe's which maintains a government-to-government relationship with the United States, said relationship being grounded on Federal treaties and/or statutes; and

The White Mountain Apache Tribe exercises powers of self-government, which have never been extinguished and include the authority to protect the health, safety and welfare of tribal members and all other persons who come within the Tribe's jurisdiction; and

The White Mountain Apache Tribe currently administers adult detention services for the Tribe and shall continue to do so in accordance with provision of the Indian Self Determination and Education Assistance Act of 1975 (Public Law 93-638) as amended and/or Tribal Self-Governance (Public Law 103-435) as amended; and

FACILITY INFORMATION

The New White Mountain Apache Tribe's adult detention was constructed with United States Housing and Urban Development Funds (HUD). The facility was completed in 2010 and became operational in September 2011. The capacity is 76 and houses adult male and female criminal offenders. Presently there are 10 correctional officers (security officers) of which 6 are certified through BIA Indian Police Academy and 4 are non-certified. The BIA Fort Apache Agency provides operations & maintenance. This new facility replaced the old 45 bed facility. There is a juvenile detention section, however the Tribe has not begun to operate that piece nor has it requested for a PL 93-638 Juvenile Contract.

PURPOSE

The purpose of this plan is in response to a serious incident that occurred in the White Mountain Adult (hereinafter the Tribe or Tribal) Detention facility wherein a male inmate sexually assaulted a female inmate. The seriousness of the incident necessitated a BIA OJS site visit during which most notable was the lack of policies and procedures, sound correctional practice, in-sufficient staffing level, and it was highly evident that there was no formal planning or proper transition from the old facility to the new facility, i.e., no standards and no policy and procedure developed for the new facility, no post orders, no increase in staffing levels and the new facility already had critical facility maintenance concerns to include non-working commodes other operational issues. This prompted an emergency Awarding Official's Technical Representative (AOTR) monitoring reviewing on February 7, 2013. The AOTR monitoring visit finding pointed out numerous non-compliance (deficiencies) issues which directly affect the life safety and health of inmates, staff and the public. As a result of the serious nature of the non-compliance (deficiencies), the sexual assault in the facility as well as the Tribe's request for technical assistance in a meeting held with the Tribal Chairman on February 6, 2013; the BIA OJS is to assist the Tribal Detention program operation by: 1) Assisting with getting 4 uncertified correctional officers (COs) into the Indian Police Academy (IPA) basic correctional officer training program (BCOTP), in next available opening; 2) Policy & Procedure development in according to BIA Detention Standards; and 3) Providing manpower assistance until the 4 COs are certified and additional staff come on board; 4) Assisting the Tribe in addressing overcrowding issue; 5) Assist the Tribe with obtaining a safety inspection through the BIA Division of Safety and Risk Management.



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Further, in the February 8, 2013, AOTR monitoring review, exit meeting between the Tribe and BIA (BIA OJS, Fort Apache BIA Awarding Official and the BIA Fort Apache Superintendent) where the Tribe was notified of PL 93-638 Contract Non-Compliance (deficiency) issues, the Tribe agreed to retrocede the "administrative and management" portion of the contract back to BIA OJS; therefore, the BIA OJS will assign a Supervisory Correctional Officer (SCO) to administer and manage the Tribal Detention program until the end of Fiscal Year 2013. This plan will only be in place for the Fiscal Year 2013.

TECHNICAL ASSISTANCE

1. Training:

- a. *Uncertified correctional officers:* BIA OJS will immediately assist the Tribal Detention Supervisor by ensuring the 4 uncertified COs obtain training at IPA and receive their BCOTP certification. BIA OJS will do this by assisting the Tribal Detention Supervisor with submitting and making the 4 CO's application a priority with IPA. All applications have been turned into IPA and are at the highest priority in IPA.
- b. *Supervisory Training:* BIA OJS will assist the Tribal detention program to find and obtain training for the two supervisors through partnership through BIA, National Institute of Corrections, American Jail Association and Indian Police Academy.

2. Policies, Procedures and sound correctional practice:

- a. *Self-Audit:* BIA OJS will provide the detention supervisor with the "Self-Audit" template so the Tribal program can evaluate their compliance of policy, standards, and professional practices. The goals of the Self-Audit process are to:
 - Ensure that the staff of the detention program is in compliance with all high liability areas, i.e. training, personnel requirements, compliance of policy/standards, etc.
 - Reduce the liability of the program and individual staff by ensuring that its practices are safe and effective.
 - Enhance public safety services in Indian Country.
 - Evaluate the efficiency of management at the Agency.

In addition the Self-Audit process assists programs to identify actions that need to be taken to improve their detention program. The Self-Audit process requires 100% compliance with the mandatory standards identified. Each detention program is required to conduct a self-audit on an annual basis. However, it is understood that this program will need to implement the mandatory requirements of the audit. Therefore, the Technical Assistance form BIA will be to provide guidance to the tribe and assist in implementation process.

- b. *Drafting Critical policies & procedures:* BIA OJS will assist the detention supervisor in drafting some critically needed policies for intake, housing and on the Prison Rape Elimination Act (PREA). It should be understood that these are only considered critical policies, whereas the tribe will have to develop mandatory policies based from the seven categories of the standards; which are safety, security, order, care, program activity, Justice and Administration and Management.
- c. *Development of a Comprehensive Policies & Procedures:* BIA OJS will assist the detention supervisory in development of a comprehensive policies and procedures for the program. The Tribe agrees to use its PL 93-638 Contract funds to contract a consultant to develop a comprehensive policy manual for the facility. The policies will be derived from the BIA



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Detention Standards.

- d. *Sound correctional practices according the BIA Correctional Standards:* BIA OJS will temporarily assign correctional staff including a supervisory that will provide guidance and one on-one training to correctional staff on sound correctional judgment and practices. The tribe agrees to allow the BIA OJS Correctional Supervisor to administer and manage, by providing guidance and mentorship to tribal correctional officers and administering day to day operations.
3. Manpower Assistance: To achieve sound correctional management, BIA OJS will assign a supervisory level correctional officer and 2 correctional officers to provided manpower assistance to the tribal detention program day to day operation.
4. Management & Administration of the Tribal detention program: The Tribe agrees to give back the "management and administration" of the detention program, and BIA OJS will assign a Supervisory Correctional Officer (SCO) to manage and administer the program to the end of FY2013. The SCO will also provide the day to day supervision of the tribal adult detention personnel, provide guidance to the tribe and to work with other programs to correct program deficiencies identified in the February 7, 2013 emergency on-sight AOTR monitoring visit.
5. Contracted Detention Services for Overpopulation: BIA OJS will assist the Tribe with guidance in obtaining a detention services contract which will allow the program to move long-term and high-risk/special management inmates to contracted bed facilities, at the tribes financial cost.
6. Safety Inspection on the facility: BIA OJS will assist the Tribe with securing a safety inspection of the facility.

TRIBAL RESPONSIBILITIES

1. Basic Correctional Officer Training & Certification: Current non-certified tribal detention officers will complete minimum basic correctional officer training requirements, in compliance with the PL 93-638 Detention Contract Scope of Work. This is to be completed by April 30, 2013.
2. Supervisory & Jail Management Training: Tribal Facility Administrator & Supervisory Correctional Officer will attend the 40 hour National Institute of Corrections Indian Country Jail Management and the National Jail Command Academy. This is to be completed by the end of FY2013.
3. Policies and Procedures: The Tribe will ensure that a comprehensive policies and procedures is developed through a contract with a consultant that has expertise in Indian country detention policies and procedures. In the meantime, the tribe will implement the temporary draft policies recommended and drafted by BIA OJS. This is to be completed by April 30, 2013.
4. Sound correctional practice in accordance the BIA Detention Standards: Tribal detention personnel will adhere to the recommendations and guidance of BIA OJS Correctional personnel with regards to changes in day to day correctional practice with an understanding that the goal is to enhance the program as well as reduce the liabilities and prevent the re-occurrence of serious incidents, such as sexual assaults, escapes and in-custody deaths. The progress of improvement will be monitored daily.
5. Self-Audits: The Tribe's detention Facility Administrator and Supervisor will conduct *monthly* self-audit using the form provided by BIA OJS beginning with February 2013. This report will be submitted to the District III Corrections Officer to monitor.



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CHAIN OF COMMAND/DISCIPLINARY MATTERS

Tribal detention personnel as well as detailed BIA corrections personnel will remain under the command of the BIA-OJS Supervisory Correctional Officer and will report and respond through the established BIA-OJS chain of command. If problems arise which cannot be resolved through the established chain of command, the Tribal DPS Director will be notified in writing, by the BIA OJS.

Violations and/or alleged violations of the Law, Tribal Law and Order Codes, Tribal Policies, and Codes and Regulations by tribal detention personnel will be brought to the attention of the Tribal DPS Director. When notified of a violation and/or alleged violation the Tribal DPS Director will take appropriate action, in accordance with the guidelines outlined in the Detention Services Contract and Tribal internal policies.

All allegations of misconduct will be reported to the BIA Professional Standards Division for review, investigation and findings.

CONCLUSION

- A. The provisions of this plan are to provide technical assistance to the tribe's detention program by immediately securing training for uncertified officers, securing training for the supervisors, having the tribal program begin and conduct regular self-audits, development of policies and procedures in accordance with BIA standards, manpower assistance and providing guidance on obtaining detention services contracts for overcrowding.
- B. It is also provided that the Tribe will retrocede the administration and management of the Tribal detention program back to BIA OJS, and BIA OJS will assign an SCO who will administer and manage the program to the end of FY2013 (September 30, 2013).
- C. Nothing in this Plan shall be construed to cede any jurisdiction, to waive any immunities, to modify the legal rights of any person, to accomplish any act in violation of federal, state or tribal law so as to subject the parties, jointly or severally, to any liability that they would not be subject to absent this plan.
- D. BIA-OJS SCO and DPS Director will provide the White Mountain Tribal Council, BIA-OJS District III and Headquarters as well as the Fort Apache Awarding Official with a monthly written progress report.
- E. This plan will be in effect immediately upon the signatures of the parties and for a term not to extend beyond September 30, 2013, without approval of both parties.
- F. BIA OJS may terminate this plan when there is evidence that the Tribe successfully administer and manage the adult detention program. This plan shall not be amended except by an instrument in writing executed by the parties to this plan.
- G. All parties agree to support this plan in it's entirely until it is terminated or expires.



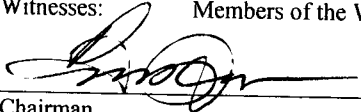
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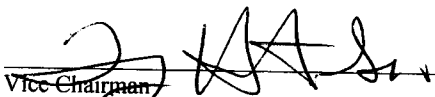



Technical Assistance Plan

IN WITNESS WHEREOF, the parties hereto have caused this plan to be executed and witnessed in their names by proper officials thereof, who are duly authorized on the effective date herein set forth.

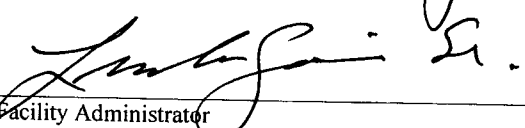
Witnesses: Members of the White Mountain Tribe


Chairman


Vice Chairman


Secretary


Department of Public Safety Director


Facility Administrator

Bureau of Indian Affairs-Office of Justice Services

Associate Director

Chief of Corrections

District Supervisory Correctional Program Officer

Awarding Official, White Mountain Agency

Signed this _____ day of _____, 2013