



INDIAN NATION PROGRAM AGREEMENT

Operational Agreement to Provide Foster Care and Adoption Services under Title IV-E Funding Program

DSHS Agreement Number
0962-68205

This Program Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the Indian Nation identified below, and is issued in conjunction with an Indian Nation and DSHS Agreement Regarding General Terms and Conditions, which is incorporated by reference.

Administration or Division Agreement Number
0905-
Indian Nation Agreement Number

DSHS ADMINISTRATION

DSHS DIVISION

DSHS INDEX NUMBER

CCS CONTRACT CODE

[Childrens Administration](#)

[Finance and Operations Support](#)

[1309](#)

[2000NC-62](#)

DSHS CONTACT NAME AND TITLE

DSHS CONTACT ADDRESS

[Molly Elliott](#)
[Program Supervisor](#)

[P.O. Box 45710](#)
[Olympia, WA 98504-5710](#)

DSHS CONTACT TELEPHONE

DSHS CONTACT FAX

DSHS CONTACT E-MAIL

[\(360\) 902-7849 Ext:](#)

[\(360\) 902-7903](#)

[moll300@dshs.wa.gov](#)

INDIAN NATION NAME

INDIAN NATION ADDRESS

[Lummi Nation](#)

[2530 Kwina Road, Bldg B](#)
[Bellingham, WA 98226](#)

INDIAN NATION FEDERAL EMPLOYER IDENTIFICATION NUMBER

INDIAN NATION CONTACT NAME

[911004074](#)

[Leslye Revey](#)

INDIAN NATION CONTACT TELEPHONE

INDIAN NATION CONTACT FAX

INDIAN NATION CONTACT E-MAIL

[\(360\) 384-2324 Ext:2627](#)

[\(\) -](#)

[Leslyer@Lummi-nsn.gov](#)

IS THE INDIAN NATION A SUBRECIPIENT FOR PURPOSES OF THIS PROGRAM AGREEMENT?

CFDA NUMBERS

No

PROGRAM AGREEMENT START DATE

PROGRAM AGREEMENT END DATE

MAXIMUM PROGRAM AGREEMENT AMOUNT

[7/1/2009](#)

[6/30/2011](#)

[Fee For Service](#)

EXHIBITS. When the box below is marked with a check (4) or an X, the following Exhibits are attached and are incorporated into this Indian Nation Program Agreement by reference:

- Data Security:** **Exhibits (specify):**
 No Exhibits.

By their signatures below, the parties agree to the terms and conditions of this Indian Nation Program Agreement and all documents incorporated by reference. No other understandings or representations, oral or otherwise, regarding the subject matter of this Program Agreement shall be deemed to exist or bind the parties. The parties signing below certify that they are authorized, as representatives of their respective governments, to sign this Program Agreement.

INDIAN NATION SIGNATURE

PRINTED NAME AND TITLE

DATE SIGNED

DSHS SIGNATURE

PRINTED NAME AND TITLE

DATE SIGNED

[Cecelia J. Callison, DSHS/CA Contracts Manager](#)

TERMS AND CONDITIONS

This **Operational Agreement to Provide Foster Care and Adoption Services under Title IV-E Funding Program** is entered into by and between the State of Washington, Department of Social and Health Services, Children's Administration, (hereinafter referred to as the "Department" or "DSHS/CA") and the Lummi Tribe, hereinafter referred to as the "Tribe."

This Operational Agreement is issued in conjunction with an Agreement for *Tribal Participation in the Title IV-E Program for Federal Payments for Foster Care and Adoption Assistance* previously executed between DSHS/CA and the Tribe.

The parties agree to perform their respective duties and responsibilities under this Operational Agreement in good faith and in a spirit of cooperation to accomplish the purpose of providing child welfare services to Title IV-E eligible Indian children under the jurisdiction of the Tribe, as is more specifically set forth below.

1. DEFINITIONS

The words and phrases listed below, as used in this Operational Agreement, shall each have the following definitions:

- a. "BACKGROUND CHECK" shall mean the criminal history inquiries required of all Tribal child welfare services staff and foster and adoptive parents, and any other parties defined in Tribal policy who have unsupervised access to foster children.
- b. "CASE MANAGEMENT" shall mean services which help to create and support those tasks and activities that are required to meet the service needs of the child and/or the child's family.
- c. "DSHS/CA" shall mean the Department of Social and Health Services, Children's Administration.
- d. "ELIGIBLE CHILDREN" shall mean those children who are determined to be eligible for Title IV-E services, who are served under this Agreement and who have been either (a) placed in paid, licensed foster care, or (b) are candidates for placement in foster care.
- e. "ELIGIBLE, NON REIMBURSABLE" shall mean children who have been determined eligible for Title IV-E and placed in unpaid, unlicensed relative care.
- f. "MINOC/YINOC" means minor in need of care/youth in need of care.
- g. "PENETRATION RATE" shall mean the proportion of Title IV-E eligible children within the total Tribal foster care population; this ratio is also referred to as the "Title IV-E penetration rate" and is used to calculate the Tribe's administrative and training claims.
- h. "SACWIS" shall mean the Statewide Automated Child Welfare Information System (SACWIS) which contains the Adoption and Foster Care Analysis and Reporting System (AFCARS) data collection required under 45 CFR 1355.40 for all Title IV-B/Title IV-E agencies. FamLink is the SACWIS system in Washington State.
- i. "TIME STUDY" shall mean the Tribal Title IV-E Time Study as submitted and approved by DSHS/CA under the Department of Social and Health Services (DSHS) Cost Allocation Plan.

The Indian Nation Program Agreement for *Tribal Participation in the Title IV-E Program regarding Federal Payments for Foster Care and Adoption Assistance* has additional definitions that are used in relation to this Operational Agreement.

2. PURPOSE

The purpose of this Operational Agreement is to set forth the terms and conditions regarding the duties and responsibilities of each party with respect to the provision of Title IV-E child welfare services for children who are in the custody of the Tribe.

3. SERVICES

a. Applicable Law and Authority

The parties to this Operational Agreement agree:

- (1) That they will comply with applicable Federal law governing the delivery of child welfare services including the Federal Adoption and Safe Families Act of 1997, the Indian Child Welfare Act of 1978, Multi-Ethnic Placement Act and Amendments – P.L. 103-82 and P.L. 104-188, and any amended or replacement provisions to these acts.
- (2) That the Tribal services provided under this Agreement are provided under the authority of the Tribe, and that in order to provide these services the Tribe shall hire qualified staff in accordance with Tribal personnel policies and procedures.
- (3) That the Tribe currently has, and shall maintain, a DSHS/CA Child Placing Agency (CPA) license and a DSHS/CA Child Placing Agency contract in good standing.
- (4) That the Tribe shall complete such forms and provide such information as may be required by DSHS/CA as necessary to obtain a Title IV-E eligibility determination from DSHS/CA. DSHS/CA will provide an eligibility packet for the Tribe's use. This packet will be returned to the regionally designated contact per this Operational Agreement.

b. Tribal Services

The parties further agree:

That the Tribe will provide case management services, and activities for Title IV-E eligible children as are considered IV-E allowable costs, as described in Section 5 of this Operational Agreement for the provision of child welfare services.

c. Tribal Social Services

The Tribe's Personnel policies and position descriptions shall include but not be limited to minimum educational requirements, required specialized skills, criminal background clearance requirements and staff training plans.

d. Child Abuse and Health and Safety Concerns

- (1) In the delivery of services under this Operational Agreement, children's health and safety shall always be the first concern of the Tribe.
- (2) Under this Agreement, employees of the Tribal child welfare agency are mandated reporters under Part IV-E, Section 471(9) of the Social Security Act and under Lummi Tribal Code. The Tribe shall report all instances of suspected child abuse and neglect in accordance with tribal protocol.
- (3) The Tribe shall complete a criminal history and child abuse/neglect background check that meets or exceeds the background check standards required by Children's Administration, in accordance with the State IV-E Plan, for all persons who may have unsupervised access to children for whom services are provided. At its election, the Tribe may initiate the background check through the Children's Administration. No person shall have unsupervised access to

children served under this Agreement until a satisfactory background check is completed and documentation qualifying the individual for unsupervised access is returned to the Tribe.

- (4) The Tribe agrees to comply with the following provision on mandated reporter training for Tribal staff, foster parents, adoptive parents, employees of child care institutions, volunteers, and subcontractors pertaining to services to Tribal clients or DSHS clients:
- (5) The Tribe agrees to have staff view the video or CD "Making a CPS Referral: A Guide for Mandated Reporters" as part of their training.
 - (a) The Tribe agrees to ensure that all current staff, volunteers, and subcontractors view this video within 30 days of the effective date of this Agreement and that all future employees view the video within two (2) weeks of initial employment.
 - (b) It is also agreed that after viewing, each employee, volunteer, licensed foster parent or subcontractor will sign and date a statement acknowledging his or her duty to report child maltreatment, and the Tribe agrees to retain the signed statement in the employee's personnel file, volunteer's file, foster parent's licensing file, or subcontractor's file.

The Tribe agrees to either obtain a copy of the video or CD from DSHS, or access the video online at the following web address: <http://www1.dshs.wa.gov/ca/pubs/pubcats.asp?cat=Multi-Media>.

e. Reports and Requirements

- (1) The Tribe agrees that it will:
 - (a) Meet the requirements for Federal reimbursement of Title IV-E funds under the provisions of Children's Administration's federally approved IV-E state plan;
 - (b) Meet the requirements of the Tribe's Child Placing Agency contract with the State;
 - (c) Comply with the ICPC Agreement that Washington has signed with other states in the event the Tribe places a Title IV-E eligible child in an out of state placement through the Interstate Compact on Placement of Children (ICPC). When a child is Title IV-E eligible and placed in a licensed home in another state, the child is eligible for medical in the other state under the Consolidated Omnibus Budget and Reconciliation Act (COBRA).
 - (d) Provide a written list to the Department, as part of the Tribal Time Study, of the Title IV-E children receiving services from the Tribe.
 - (e) Conduct time studies of all positions for which Title IV-E funding is requested. These time studies will identify, by position, the amount of time spent on Title IV-E activities. The Tribe further agrees to provide to the Department the results of such time studies with the Tribe's quarterly claim for reimbursement. These time studies shall be the basis for the allocation of the Tribe's expenditures attributable to Title IV-E reimbursable activities.
 - (f) Provide the DSHS-CA social worker the necessary information to allow the social worker to complete the foster care rate assessment or determine the group care rate, and/or other allowable services for the child that need to be authorized at placement or change of placements.
 - (g) Provide the DSHS-CA social worker the necessary information to maintain the legal and placement data of each child under the court jurisdiction of the Tribe, as defined in this Operational Agreement, as outlined by DSHS/CA;

- (h) Documentation of legal structure for those children receiving services (in home or in placement) and under Tribal court supervision includes:
 - i. Removal orders (protective custody, shelter care order or voluntary placement agreement),
 - ii. Subsequent shelter orders,
 - iii. MINOC/YINOC/Dependency petition and findings of fact, conclusion of law,
 - iv. Periodic court reviews,
 - v. Permanency planning orders, and
 - vi. Orders achieving a permanent plan (guardianship orders, dismissal).
 - (i) Documentation of placement for those children receiving services (in home or in placement) and under Tribal court supervision includes:
 - i. Any out of home placement which resulted from protective custody, shelter care order or voluntary agreement; and
 - ii. Any in home dependency.
 - (j) Provide, annually, a copy of the Tribe's letter from the federal government regarding the Tribe's currently approved federally established indirect rate (FEIR);
 - (k) Provide a copy of the section of the Tribe's federal Child and Family Services Plan dealing with the Tribe's training plan for DSHS/CA information. If the Tribe does not have a Child and Family Services Plan that includes the Tribe's training plan, then the Tribe must develop a training plan for their staff and foster care or facility providers for DSHS/CA review to be included in the state's Title IV-B, Child and Family Services Plan that is in accordance with federal regulations and submitted annually to the federal Department of Health and Human Services, Administration for Children and Families;
 - (l) Provide federally requested information for the State Automated Child Welfare Information System (SACWIS) which includes the AFCARS data elements, as defined in this Operational Agreement, as outlined by DSHS/CA; and
 - (m) Maintain information concerning children, families, and foster parents in the strictest confidence per the Social Security Act under Title IV-E, Section 471 (8) [42 USC 671(8)] Title IV-E. The Tribe shall train and assist foster parents to safeguard all information in either electronic, and/or in hard copy.
- (2) The State agrees that it shall:
- (a) Maintain accurate information in the SACWIS system based on the information provided by the Tribe; and
 - (b) Document the information in the SACWIS system, within ten (10) working days of receiving information from the Tribe. Information documented in the SACWIS system includes the following:
 - i. AFCARS data elements;
 - ii. Child's legal and placement information;

- iii. Business and Provider information;
- iv. Licensing information;
- v. Information related to determining federal funding eligibility; and
- vi. Foster rate assessment.

4. CONSIDERATION

a. DSHS/CA Reimbursement/Payment

DSHS/CA agrees:

- (1) To reimburse the Tribe for such portions of the Tribe's costs of allowable Title IV-E child welfare services as described in this Contract. The exact amount of reimbursement to the Tribe will vary, depending on the calculation and application of the Title IV-E Reimbursement Rate set forth below for that payment.
- (2) To reimburse the Tribe 40% of the state's savings in foster care maintenance funding that would have been paid by the state in all state funds for eligible children.

b. Tribal Reimbursement/Payment

The Tribe agrees:

- (1) To provide the matching funds allowable under Title IV-E and related federal regulations towards the cost of services provided under this Agreement. Allowable Tribal IV-E matching funds may also include DSHS/CA Indian Child Welfare (ICW) contract funds once the Tribe has received a letter from the DSHS/CA Assistant Secretary, per the ICW contract, allowing the funds to be used as match funds for the Tribe's Title IV-E Administrative and Training claim. However, the state will continue to provide the matching funds for the foster care maintenance payments. Possible sources of matching funds include, but are not limited to:
 - (a) BIA 638 – administrative funds (Indian Self-determination Act – Amendments of 1994);
 - (b) ICWA (Indian Child Welfare Act) grant funds (needs letter from CA to allow use as a match); and
 - (c) Other funds available to some tribes and tribal organizations at the discretion of the tribe or tribal organization that could be used as match for Title IV-E administration including:
 - i. Gaming funds;
 - ii. Tribal business profits;
 - iii. Other tribally controlled funds; and
 - iv. Private foundation contributions.
- (2) To reimburse licensed foster care providers, if maintenance payments are made directly to the Tribe, these reimbursements will be in accordance with the Department's established rates under applicable SSPS codes for a child in out-of-home placement.

c. Travel Costs

The parties agree that:

All travel or per diem reimbursable costs must be directly related to providing Title IV-E services and must be at or below the current State of Washington travel reimbursement rates as published by the Office of Financial Management.

d. Tribal Responsibility for Costs

The Tribe further understands and agrees:

- (1) That all administrative costs of the Tribe to perform this Agreement, including indirect costs that are not specifically identified in this Agreement, are the responsibility of the Tribe; and
- (2) That the Tribe shall be financially responsible for all costs attributable to and incurred under the Tribe's Program for providing Title IV-E child welfare services under this Agreement.

e. Maintenance of Effort Requirement

- (1) The intent of the "Title IV-E Reimbursement Program," Title IV-E *Participation* Agreement and this Agreement is to assist the Tribe in the development and strengthening of its child welfare infrastructure.
- (2) Accordingly, the Tribe agrees not to reduce the amount of money from calendar year 2008, from January 1, 2009 to December 31, 2009, of tribally administered revenue sources that is available for or is spent on Child Welfare services. This provision {4e(2)} is at the Tribe's request.

5. ALLOWABLE & NON-ALLOWABLE COSTS

a. Allowable Administration Costs

Staff of the Tribe may provide any of the following Title IV-E allowable administrative activities as specified in 45 CFR 1356.60(c) for eligible children under this Agreement:

- (1) Referral to services;
- (2) Assistance in Title IV-E eligibility determination;
- (3) Preparation for and participation in judicial determinations;
- (4) Placement of the child;
- (5) Development of the case plan;
- (6) Case reviews;
- (7) Case management and supervision;
- (8) Recruitment and licensing studies of foster homes;
- (9) Recruitment and home studies of potential adoptive homes;
- (10) A proportionate share of related agency overhead; and
- (11) Costs related to data collection and reporting.

b. Determination of Allowable Administrative Costs

- (1) The time study shall be the basis for the allocation of the Tribe's expenditures attributable to Title IV-E allowable activities. All staff spending part or all of their time on Title IV-E allowable activities shall participate in a time study described in the federally approved DSHS/CA Cost Allocation Plan.
- (2) The Tribe's fiscal staff or any contracted consultants who prepare the Tribe's Title IV-E administrative and training claim will be accounted for in the Tribe's federally established

indirect rate (FEIR) used in calculating the Tribe's administrative and training claim.

c. Allowable Training Costs

Title IV-E reimbursement is available for long or short term training of personnel employed by or preparing for employment with the Tribe in accordance with 45 CFR 1356.60(b). The approved training must relate to the administrative activities specified in the "Allowable Administrative Costs" section of this Agreement. In addition, current or prospective foster or adoptive parents shall be eligible for short-term training (including travel and per diem expenses for training).

d. Determination of Allowable Training Costs

All training activities and costs reimbursed under Title IV-E shall be included in the Tribe's training plan that is included in the DSHS/CA Child and Family Services Plan submitted to the federal DHHS regional office and have prior assurance from DSHS/CA that the training is Title IV-E reimbursable. The Tribe's training plan can be amended to include appropriate training throughout the contract period with prior DSHS/CA approval.

a. Allowable Maintenance Costs

(1) Reimbursement of Foster Care Maintenance and Adoption Support costs shall be paid on a monthly basis as established in accordance with DSHS/CA Adoption Support and Foster Care Rate Schedules. The Foster Care Maintenance payment to the Tribe shall show the Tribe as payee of the funds and the foster home as the provider of the service. Foster care maintenance funding shall continue to the Tribal placements as has been established in previous Agreements between the Tribe and DSHS/CA, subject to any federal or state legislative action that affect the funding level or amounts.

(2) Adoption support payments are not considered foster care maintenance payments. Any adoption support payments made under a negotiated Agreement with the adoptive parents are made directly to the adoptive parent.

e. Non-Allowable Costs

Costs that are not allowed and therefore not reimbursable under Title IV-E, 45 CFR 1356.60(c) (3), include:

(1) Direct social services such as, but not limited to, counseling services, housing services, and homemaker services that provide treatment to the child, the child's family or foster family to remedy personal problems, behavior or home conditions; and

(2) The cost of Child Protective Services (CPS) investigations in response to child abuse or neglect referrals; and

(3) The cost of physical and/or mental examinations.

6. BILLING, PAYMENT AND AUDIT

a. Certification of Expenditures for Administration & Training

(1) Within 90 calendar days after the end of each quarter, the Tribe shall certify to DSHS/CA, on a form provided by DSHS/CA, the Tribe's actual administration and training expenditures for providing foster care and adoption related Title IV-E reimbursable activities.

(2) These expenses are limited to direct administration **and** training expenses, and indirect costs related to eligible children.

(3) The Tribe shall send form A19, certification of expenditures, and any other required reports to:

Jane Jorgensen, Title IV-E Program Manager
DSHS/Children's Administration
Finance and Operations Support Division
Federal Funding Unit
P.O. Box 45710
Olympia, Washington 98504-5710

b. Title IV-E Reimbursement to the Tribe

Within 90 days of the receipt of the Tribe's accurately and properly executed A19 vouchers and certification of expenditures, DSHS/CA shall process and pay to the Tribe the federal reimbursement for Title IV-E services incurred by the Tribe.

c. Federal Title IV-E Reimbursement Rate

(1) Quarterly reimbursement shall be based on the amount of actual expenditures for IV-E allowable costs expended as certified by the Tribe through the time study and cost report in providing services during the quarter, which amount shall be multiplied by:

- The percentage (%) of Native American children in foster care served by the Tribe who are Title IV-E eligible.

The percentage (%) of Native American children in foster care served by the Tribe who are Title IV-E eligible equals the number of children in foster care served by the Tribe who are Title IV-E eligible divided by the total number of Tribal children in foster care served by the Tribe.

(2) The amount of actual expenditures for IV-E allowable costs, when multiplied by the percentage (%) of Native American children in foster care who are Title IV-E eligible, shall then be multiplied by:

- The Federal Financial Participation Rate for administration (50%) or training (75% and only 50% for the Tribe's FEIR), whichever is applicable, depending on whether the expenditures for IV-E allowable costs were for administration or for training.

The resulting figure is the amount of the administrative quarterly reimbursement payment to the Tribe.

(3) During the first operational year of the Agreement, the state's penetration rate will be used for calculating the Tribe's IV-E administrative and Training claim. Then the Tribe will transition to a rolling 4 quarters penetration rate (current quarter penetration rate plus passed 3 quarters penetration rate divided 4) to aid in stabilizing the up and downs of the penetration rate over a year. This has been approved by the Department of Health and Human Services, Administration for Children and Families, Region X office.

d. Federal and State Audits and Monitoring

The Tribe agrees that under this Agreement, it will be subject to all federal or state reviews, to the same extent as DSHS/CA, that are required by the Title IV-E program. Possible areas of review may include, but are not limited to the following:

(1) General case management documentation;

- (2) Documentation of significant encounters with child;
- (3) Documentation regarding foster homes, adoptive homes, and child care institutions;
- (4) Criminal background clearance checks;
- (5) Documentation regarding AFCARS reporting;
- (6) Title IV-E eligible and reimbursable child welfare maintenance payments;
- (7) Documentation required to complete the IV-E eligibility and reimbursability determination, and;
- (8) Title IV-E administrative and training claim support documentation.

e. Audit Exceptions

The Tribe shall be financially responsible for any overpayments by DSHS/CA to the Tribe. The Tribe shall be financially responsible for any audit disallowances resulting from a federal or state audit which resulted from an action, omission or failure to act on the part of the Tribe.

f. Recovery of Expenses as a Result of Non-Compliance

If the Tribe bills and is reimbursed for expenses for services that DSHS later finds were either (a) not delivered or (b) not delivered in accordance with applicable standards, DSHS shall recover the fees for those services and the Tribe shall fully cooperate during the recovery.

g. Funding Stipulations

- (1) Information for Federal Funding. The Tribe shall cooperate in supplying information to DSHS to determine client's eligibility for federal funding.
- (2) Duplicate Billing. The Tribe must not bill other funding sources for services rendered under this Agreement which would result in duplicate billing to different funding sources for the same service. Furthermore, the Tribe shall ensure that no subcontractor bills any other funding sources for services rendered under this Agreement, which would result in duplicate billing to different funding sources for the same service.
- (3) Prohibition of Use of Federal Funds. The Tribe certifies that no federal funds payable under this Agreement will be paid by or on the behalf of the Tribe, to pay any person for influencing or attempting to influence an officer or employee of any agency, member of Congress, an officer or employee of Congress, or an employee of member of Congress in connection with the awarding of a federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative Agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with a federal contract, grant, loan, or cooperative Agreement, the Indian Nation shall complete and submit the "Disclosure Form to Report Lobbying" in accordance with its instructions.

- (4) Prohibition of Use of Funds for Lobbying Activities. The Tribe shall not use funds payable under this Agreement for lobbying activities.
- (5) Use of State Facilities to Support or Oppose Election Campaign or Ballot Proposition

Prohibited. The Tribe shall not use state agency facilities including, but not limited to, office space, telephones, electronic mail, and data processing equipment, word processing and copying facilities, and any other state agency property to support or oppose any person's election campaign or any ballot proposal or propositions

(6) Use of State Facilities to Publish or Distribute Campaign Materials Prohibited. The Tribe shall not use state agency supplies, equipment, or facilities to print, mail, or otherwise produce or distribute materials supporting or opposing any person's election campaign or any ballot proposition.

h. Notice of Overpayment

If the Tribe receives a Vendor Overpayment Notice or a letter communicating the existence of an overpayment from DSHS, the Tribe may protest the overpayment determination by requesting an adjudicative proceeding pursuant to RCW 43.20B.675

7. **MISCELLANEOUS**

a. Debarment Certification

The Tribe certifies that they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. If requested by DSHS, the Tribe shall complete a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion. Any Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion pertaining to this Agreement shall be incorporated into this Agreement by reference.

b. Insurance

- (1) DSHS certifies it is self-insured for all exposure to tort liability, general liability, property damage liability, and vehicle liability as provided by Chapter 43.19, Revised Code of Washington.
- (2) The Tribe certifies that either (a) it is self-insured and shall cover losses for which it is found liable, or (b) it shall maintain commercial liability insurance of \$1,000,000 per occurrence and \$2,000,000 aggregate and shall provide evidence of such insurance to DSHS within fifteen (15) days of execution of this Agreement.
- (3) Evidence of insurance shall be provided in the form of either (a) a letter stating that the Tribe is self-insured as stated above or (b) a certificate of insurance as provided below.

If the Tribe is self-insured, the letter should include:

Full name of the Tribe
Tribe's Federal Employer Identification Number
DSHS Program Agreement Number
Level of self-insured retention

- (4) A duly authorized tribal representative who can warrant and attest to the information contained in the letter should sign the letter. The letter should be submitted to the following address:

DSHS Insurance Services
P. O. Box 45811
Olympia, Washington 98504-5811

If the Tribe is not self-insured, it should submit a certificate of insurance to:

The certificate of insurance should be executed by a duly authorized representative of the insurer, showing compliance with the insurance requirements specified in this Operational Agreement and referencing the DSHS number for this Agreement.

(5) Commercial General Liability Insurance (CGL)

- (a) If the Tribe chooses the option described about to maintain Commercial General Liability Insurance, including coverage for bodily injury, property damage, and contractual liability, the Tribe shall carry the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000.
- (b) The policy shall include liability arising out of premises, operations, independent contractors, products-completed operations, personal injury, and liability assumed under an insured contract, including tort liability of another assumed in a business contract. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insured.

(6) Evidence of Coverage

- (a) The Tribe shall submit a Certificate of Insurance to DSHS for each type of coverage required of the Indian Nation under this Agreement. The Tribe shall submit the Certificates of Insurance to DSHS Office of Risk Management, Post Office Box 45882, Olympia, Washington 98504-5882.
- (b) Each Certificate of Insurance shall be executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Agreement. The Certificate of Insurance for each required policy shall reference the DSHS Number for this Agreement.
- (c) The Tribe is not required to submit to DSHS copies of Certificates of Insurance for personal automobile insurance required of the Tribe's employees and volunteers under the Agreement.
- (d) The Tribe shall maintain copies of Certificates of Insurance for each subcontractor as evidence that each subcontractor has and maintains insurance as required by the Agreement.

(7) Material Changes

- (a) Insurers subject to RCW 48.18 (admitted and regulated by the Insurance Commissioner): The insurer shall give DSHS Office of Risk Management 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the insurer shall give DSHS 10 days advance notice of cancellation.
- (b) Insurers subject to RCW 48.15 (Surplus lines): The insurer shall give DSHS Office of Risk Management 20 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the insurer shall give DSHS 10 days advance notice of cancellation.

(8) General

- (a) By requiring insurance, the State of Washington and DSHS do not represent that the

coverage and limits specified will be adequate to protect the Tribe. Such coverage and limits shall not be construed to relieve the Tribe from liability in excess of the required coverage and limits and shall not limit the Tribe's liability under the indemnities and reimbursements granted to the State and DSHS in this Agreement.

- (b) All insurance provided in compliance with this Agreement shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State. The Tribe waives all rights against the State of Washington and DSHS for the recovery of damages to the extent they are covered by insurance.

c. Drug-Free Workplace

The Tribe shall maintain work places as free as possible from the dangerous effects of alcohol and other drugs. Further, the Tribe shall provide any employee whose use of alcohol and/or drugs has produced a dependency harmful to his/her work performance an opportunity for recovery.

d. Interpretation and Translation

- (1) In accordance with DSHS policy, the Tribe shall provide Limited English Proficient (LEP) clients with certified or qualified interpreters and translated documents and shall provide deaf, deaf-blind, or hard of hearing clients with the services of a certified sign language interpreter.
- (2) Interpreter and translation services shall be provided at no cost to the client. All interpreter and translation costs shall be the financial responsibility of the Tribe.
- (3) Extraordinary costs, which create an undue hardship for the Tribe in providing interpretation and/or translation services to an individual client, may be reviewed by DSHS on a case by case basis.
- (4) If a Tribe is receiving language line support from the Department, they will continue to receive this service.

e. Confidentiality of Client Information

The Tribe shall maintain information concerning individuals in strictest confidence and safeguard all information. The Tribe shall not use or disclose any information concerning any client for any purpose not directly connected with the administration of their responsibilities under this Agreement, except as permitted by law or by prior written consent of the client or, in the case of a minor, the client's legal guardian.

f. Survivability

The terms and conditions contained in this Agreement that by their sense and context are intended to survive the expiration or termination of this Agreement shall so survive. Surviving terms include but are not limited to: Confidentiality, Disputes, Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination and Expiration Procedure, Treatment of Assets Purchased by the Tribe, and Treatment of DSHS Assets.

g. Subcontracting

The Tribe shall not subcontract any part of this Agreement without prior approval from the DSHS/CA regarding the subcontracting effect on the Title IV-E program.

h. Termination

Either party may terminate this Agreement upon one hundred and twenty (120) days written notice to the other party, provided that, before termination of the Agreement, the terminating party makes good faith efforts to discuss, renegotiate, and modify this Agreement or to resolve disputes.