

INDIAN NATION PROGRAM AGREEMENT		DSHS Agreement Number 1162-45095
Operational Agreement to Provide Foster Care and Adoption Services under Title IV-E Funding Program		
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 Childrens Administration	DSHS DIVISION Finance and Operations Support	DSHS INDEX NUMBER 1310
		CCS CONTRACT CODE 2000NC-62
DSHS CONTACT NAME AND TITLE Tim Kelly Program Manager		DSHS CONTACT ADDRESS 14th and Jefferson Olympia, WA 98506-
DSHS CONTACT TELEPHONE (360) 902-7772	DSHS CONTACT FAX (360) 907-7903	DSHS CONTACT E-MAIL tim.kelly@dshs.wa.gov
INDIAN NATION NAME Makah Tribe	INDIAN NATION ADDRESS PO Box 115 Neah Bay, WA 98357-	
INDIAN NATION FEDERAL EMPLOYER IDENTIFICATION NUMBER 910492517 <i>Error! No document variable supplied.</i>	INDIAN NATION CONTACT NAME Robin Denney	
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IS THE INDIAN NATION A SUBRECIPIENT FOR PURPOSES OF THIS PROGRAM AGREEMENT? No		CFDA NUMBERS
PROGRAM AGREEMENT START DATE 07/01/2011	PROGRAM AGREEMENT END DATE 06/30/2013	MAXIMUM PROGRAM AGREEMENT AMOUNT \$0.00
EXHIBITS. When the box 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: <input type="checkbox"/> Data Security: <input type="checkbox"/> Exhibits (specify): <input checked="" type="checkbox"/> 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 Micah McCarty, Chairman	DATE SIGNED 4/23/12
DSHS SIGNATURE 	PRINTED NAME AND TITLE Cecelia Callison, Contracts Manager DSHS, Children's Administration	DATE SIGNED 5/2/12

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 Makah Indian Nation, 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. "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.
- g. "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. For the Children's Administration, FAMLINK is the SACWIS system in Washington State.
- h. "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 shall 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 shall maintain a DSHS/CA Child Placing Agency (CPA) license and a DSHS/CA Child Placing Agency contract in good standing if the Tribe engages in activities as defined in RCW 74.15.
- (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 shall provide an eligibility packet for the Tribe's use. This packet shall be returned to the regionally designated contact per this Operational Agreement.

b. Tribal Services

The parties further agree:

That the Tribe shall 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 Makah 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 for all persons who may have unsupervised access to children for whom service are provided.

e. Mandated Reporter Training

- (1) The Tribe agrees to ensure that all current staff read and view the materials in CA's Mandated Reporter Toolkit within 30 days of the effective date of this Agreement and that all newly hired employees read and view the materials in the Mandated Reporter Toolkit within two (2) weeks of initial employment. After carefully reading and reviewing the materials, each employee shall sign and date a statement acknowledging his or her duty to report child maltreatment and affirming that he or she understands when and how to report suspected child abuse or neglect. The Tribe shall retain the signed statement in the employee's personnel file.
- (2) If a staff member has read and viewed the materials in the Mandated Reporter Toolkit within the last three (3) years, he or she shall be considered as having satisfied this requirement provided the Tribe has the employee's signed statement on file. All employees must, at a minimum, review the materials in the Mandated Reporter Toolkit every three years.
- (3) The Tribe agrees to either obtain a copy of the Mandated Reporter Toolkit from DSHS, or access the Mandated Reporter Toolkit online at the following address:
<http://www.dshs.wa.gov/ca/safety/abuseReport.asp?2>

f. Reports and Requirements

- (1) The Tribe agrees that it shall:
 - (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) Comply with the Interstate Compact on Placement of Children (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 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).
 - (c) 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.
 - (d) Conduct time studies of all positions for which Title IV-E funding is requested. These time studies shall 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.
 - (e) 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 needs to be authorized at placement or change of placement.
 - (f) 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.
 - (g) 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. Minor in Need of Care/Youth in Need of Care (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).

(h) 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.

(i) Provide, annually, a copy of the Tribe's letter from the federal government regarding the Tribe's currently approved federally established indirect rate (FEIR).

(j) 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 (DHHS), Administration for Children and Families.

(k) 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.

(l) 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) Within 30 days of receiving information from the Tribe, CA staff shall document the information in the SACWIS system. 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

The State 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 Agreement. The exact amount of reimbursement to the Tribe shall vary, depending on the calculation and application of the Title IV-E Reimbursement Rate set forth below for that payment; and
- (2) To forward to 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 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) Agreement funds once the Tribe has received a letter from the DSHS/CA Assistant Secretary, per the ICW Agreement, allowing the funds to be used as match funds for the Tribe's Title IV-E Administrative and Training claim. However, the state shall continue to provide the matching funds for the foster care maintenance payments. Possible sources of matching funds include, but are not limited to:
 - (a) Bureau of Indian Affairs (BIA) 638 – administrative funds (Indian Self-determination Act – Amendments of 1994);
 - (b) Indian Child Welfare Act (ICWA) 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 foster care maintenance payments are made directly to the Tribe, these reimbursements shall be in accordance with the Department's established rates in WAC 388-25 under applicable Social Service Payment System (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

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 services infrastructure.

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.

e. Allowable Maintenance Costs

- (1) Reimbursement of Foster Care Maintenance shall be paid on a monthly basis as established in accordance with DSHS/CA Foster Care Rate Schedules. The Foster Care Maintenance payment to the Tribe will be made pursuant to a CPA Agreement or directly to the foster parent in the absence of a CPA Agreement. 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 and Relative Guardianship Assistance Program (RGAP) payments are not considered foster care maintenance payments. Any adoption support or RGAP payments made under a negotiated Agreement with the adoptive parents or relative guardians are made directly to the adoptive parent or guardians.

f. 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;
- (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:

Bob Ensley, 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) A single calendar quarter penetration rate shall be calculated by Children's Administration and used by the Tribe for cost allocating their IVE Administrative and Training Claim. 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 shall 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.
- For quality assurance purposes, DSHS/CA and the Tribe shall participate in regularly scheduled meetings or conference calls to review current placements and 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/CA later finds were either (a) not delivered; or (b) not delivered in accordance with applicable standards, DSHS/CA 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/CA to determine client's eligibility for federal funding.

(2) Duplicate Billing

- (a) The Tribe shall 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.
- (b) 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

- (a) The Tribe certifies that no federal funds payable under this Agreement shall 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.

- (b) If any funds other than federally appropriated funds have been paid or shall 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

- (1) 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.
- (2) 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 from the Tribe shall be provided in the form of either:

(a) A letter stating that the Tribe is self-insured in the amounts, as stated above in 7(b)(2);

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

(b) 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 Office of Risk Management
P. O. Box 45811
Olympia, Washington 98504-5811

Or

(c) A Certificate of Insurance:

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

DSHS Office of Risk Management
P. O. Box 45811
Olympia, Washington 98504-5811

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 Contract number for this Agreement.

(4) Commercial General Liability Insurance (CGL)

(a) If the Tribe chooses the option, described above, to maintain Commercial General Liability Insurance, including coverage for bodily injury, property damage, and contractual liability, the Tribe shall maintain 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.

(5) 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 45811, Olympia, Washington 98504-5811.

(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.

(6) 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 ten (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.

(7) General

- (a) By requiring insurance, the State of Washington and DSHS do not represent that the coverage and limits specified shall 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 agrees to maintain a drug and alcohol free work place for its employees.

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 shall 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

- (1) 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.
- (2) 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.