

INTERGOVERNMENTAL AGREEMENT

For

SOCIAL AND HEALTH SERVICES

Between

THE TULALIP TRIBE

And

THE WASHINGTON STATE

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

I. AUTHORITY

THIS AGREEMENT is entered into between the Tulalip Tribe, (hereafter the Tribe or Nation) and the Washington State Department of Social and Health Services (hereafter Department or DSHS) pursuant to their respective governmental authorities. The Tulalip Tribe is authorized to enter into this Agreement by the Tulalip constitution and tribal resolution signed by the Chairman of the Tulalip Tribes. The Department is authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, RCW 39.34, which permits any State agency to enter into a cooperative agreement with an Indian Tribe for their mutual advantage and cooperation.

Upon Department acceptance of a current Tribal Consolidated Services Plan, the Department will execute this Intergovernmental Agreement (IGA) with the Tribe.

This Agreement supersedes all existing program agreements for the services included in the current and accepted Tribal Consolidated Services Plan. The Parties intend that this Agreement be liberally construed to effectuate its intent and purposes.

II. PURPOSE

The Tribe and the Department enter into this consolidated Agreement to:

- Recognize the government-to-government relationship between the tribes and the United States Government.
- Honor the tribes' inherent right to design and operate culturally relevant and appropriate programs on behalf of the population served.
- Increase the quality and efficiency of state and tribal benefits and services to Washington State native people and other eligible clients served by tribes.

- Honor the Tulalip Tribes inherent right to design and operate culturally relevant and appropriate programs on behalf of the population served.
- Increase the quality and efficiency of state and tribal benefits and services to Washington State native people and other eligible clients served by tribes.

3. DEFINITIONS

The Tulalip Tribes and the Department agree to the following definitions for the purposes of this Agreement.

1. Federal and State MOE Requirements (MOE Requirement): All federal and state laws and regulations that pertain to a State's ability to classify funds as Maintenance of Effort (MOE). These requirements include, but are not limited to: 42 USC 601(a), 45 CFR 260.20, 42 USC 609(a)(7), 45 CFR 263, RCW 74.08A.040, OMB Circulars A-87 and A-133, and 45 CFR 92.
2. Retrocession: The process by which an Indian nation voluntarily terminates and cedes back (or returns) a tribal TANF program to the appropriate state and federal entities, consistent with federal regulations. Retrocession includes the voluntary relinquishment of the authority to obligate or spend previously awarded state and federal funds before that authority otherwise expires.
3. State Maintenance of Effort Funds (MOE): Federally required expenditures of State funds in programs which fulfill specific Federal requirements and which serve TANF eligible families. Available DSHS MOE funding can be found in the enacted budgets.
4. TANF (Temporary Assistance for Needy Families): a program authorized by the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (Pub. L. 104-193), reauthorized under the Deficit Reduction Act of 2005 (DRA) (Pub. L. 109-171), and codified in Title IV-A of the Social Security Act, operated by states and Indian nations to provide financial assistance and employment and training services to eligible, needy families.
5. TFAP (Tribal Family Assistance Plan): Means the plan for implementation of the Tribal TANF program under Section 412(b) of the Social Security Act.
6. Tribal TANF Program: Means a TANF program developed by an eligible Indian Nation, or consortium of Nations, and approved by the Administration for Children and Families under Section 412 of the Social Security Act.
7. WorkFirst: The state's welfare reform program which provides support services and activities to TANF recipients and low-income families so they can find jobs, keep jobs, and become self-sufficient.
8. HHS: United States, Department of Health and Human Services.
9. Annual Report means a report consisting of all information, including and operational and financial information, required by federal and/or state law for the contracted services and funds included in this Agreement or in subsequent amendments to this Agreement.
10. Client: means an individual, or family, that is eligible for services under the terms of this Agreement.

11. General Terms and Conditions (GT&Cs): means the current "DSHS and Indian Nation Agreement on General Terms and Conditions" in effect between the Parties.
12. Intergovernmental TANF Agreement, (IGA), or Agreement: means this Agreement between the Tulalip Tribes and the Department.
13. Monitoring: includes any planned and ongoing or periodic activity that measures and ensures the Tulalip Tribes compliance with the terms, conditions and requirements of this Agreement and the Tulalip Tribes current and approved Tribal Consolidated Services Plan.
14. Parties: means the Tulalip Tribes and DSHS, who are the Parties to this Agreement.
15. Program Agreement: means any DSHS Indian Nation Program Agreement; Interagency Agreement; Indian Nation Intergovernmental Work Order; or Core Provider Agreement in effect between the Tulalip Tribes and DSHS.
16. Single Point of Contact: means the DSHS office designated by the Department and the tribal office designated by the Tulalip Tribes to facilitate the flow of operational information, about this Agreement, between the tribe and the Department.
17. Statute: means any federal, tribal or state law now in existence or any successor, amended or replacement law.

4. REFERENCED AGREEMENTS

1. The Indian Nation and DSHS Agreement Regarding General Terms and Conditions (GT&Cs), currently in effect between the Parties, is incorporated into this Intergovernmental Agreement by reference, except where this Agreement differs from the GT&Cs.
2. The Tulalip Tribe's MOE Performance Plan and annual budget attached and incorporated as Exhibit "A".

5. TFAP AND SERVICE POPULATION

1. The Tulalip Tribes has an approved Tribal Family Assistance Plan (TFAP), which is incorporated by reference. The TFAP is effective from 3/1/2011 to 2/28/2014. The Tulalip Tribes and the Department determined that there were 270 tribal families receiving AFDC public assistance benefits in 1994, based on the Tulalip Tribe's identified service area and population as identified in their TFAP. Consistent with its TFAP, the Tulalip Tribes will serve all enrolled American Indians/Alaska Natives (AI/AN) on the Tulalip Reservation (in zip code 98271) and only their tribal members in North Snohomish County in the following zip codes: 98271, 98270, 98259, 98206, 98287, 98201, 98292, 98223, 98285, 98205, 98207, 98203, 98291, 98204, 98208, 98290, 98296, and 98272, consistent with its federally approved TFAP.

2. The Tulalip Tribes has received federal approval of their TFAP indicating that they have complied with the requirements of the federal policy (TANF-ACF-PI-05-03, May 11, 2005 Program Instruction) relating to serving Indian families on or near the reservation service areas, including the policy provisions relating to notification of other Tribes with overlapping near reservation areas. If there is a change to the Tulalip Tribe's service population under their federal TFAP and associated federal funding, the Tulalip Tribes will notify the Department. The Department will adjust the State funds and the Intergovernmental Agreement with the Tulalip Tribes accordingly to reflect these changes.

6. TRANSFER OF STATE FUNDING

1. For purposes of this Agreement, the state fiscal year is July 1 to June 30.
2. Subject to availability of state MOE funds, and the provision of subsection 8 below, the Department agrees to transfer to the Tribe for the period March 1, 2011 to February 28, 2014, up to the amount of \$1,896,833 in State MOE funds. Payments will be made in accordance with the State MOE Payment and Reporting Schedule, Exhibit "B", attached hereto and incorporated herein.
3. The Department agrees to pay the annual MOE amounts to the Tribe in State Fiscal Year lump sum annual payments, after the receipt and acceptance by the Department of the completed A-19 Invoice Voucher and receipt and acceptance of the reports required under Section 9 of the IGA. Payment shall be considered timely if made by the Department within thirty (30) calendar days after receipt of properly completed A-19 and reports.
4. For each SFY's payment, the Tribe may submit an A-19 invoice voucher and required reports as early as July 1 of the SFY for which the Tribe is requesting payment. However, each annual A-19 must be submitted no later than thirty (30) days after the end of the requested reimbursement state fiscal year. Annual A-19s submitted to the Department after these dates shall not be paid, unless authorized by the Secretary of the Department.
5. The Department agrees to adjust funding to the Tribe under this Agreement in accordance with any legislative action, provided that if there are significant changes impacting either Party, each reserves the right to renegotiate this Agreement.
6. The Tribe will not charge the Department for services if the Tribe has charged or will charge the State of Washington or any other party, under any other contract or agreement, for the same services.
7. Payments are subject to availability of state legislatively appropriated funds.

8. For each SFY, if the Tribe does not spend MOE funds in an amount equal to the MOE funding awarded for this annual period, the difference between the amount awarded and the amount spent will be subtracted from the MOE funding awarded to the Tribe for the next SFY(s).
9. The Department will notify the Tribe of any projected or anticipated budget increase or decrease that affects any program or service contained in its TFAP as soon as they are informed of the projected or anticipated change. This includes one time surplus funding that could be obligated for unmet needs in services and program development.

7. REPORTING

1. The Parties acknowledge that if additional reporting requirements are imposed on the state that necessitates additional reporting by the Tribe, the Tribe will submit additional reports upon reasonable notice of the requirement.
2. The Parties agree that, at a minimum, the report will contain all information, including operational and financial information, required by applicable Federal and/or State law for the Tribal TANF program or in subsequent amendments to the Tribe's TFAP or to this Agreement.
3. By July 31, the Tribe shall send electronic copies of its most recent single annual report as well as a printed and signed copy to:

Department of Social and Health Services
Single Point of Contact
P.O. Box 45105
Olympia, WA 98504

4. Each Party will communicate with the Single Point of Contact identified by the other Party in this Agreement to discuss reporting or other issues relative to this Agreement.
5. Program related communications may continue among program personnel and need not go through the Single Point of Contact.
6. The Department's use of information contained in tribal reports is limited to the purposes for which the reports were required, unless approved by the Tribe, the Department will not use tribal information or data to generate revenue or indirect services that will not directly benefit the Tribe.
7. The Tribe shall maintain all accounting records in accordance with government requirements and generally accepted accounting principles, and all transactions will be made in compliance with federal OMB circulars A-87 and A-133.

8. The Tribe shall furnish a copy of the executive summary from its annual audit to the Department no later than the due date for filing with the federal government. The audit shall comply with the single Audit Act, as amended. The Department will use the audit sent in for the consolidated contract agreement.

State MOE Funds and Caseload

9. The Tribe agrees to provide timely and complete quarterly reports regarding its expenditure of State MOE funds and the number of eligible families served with these funds to the Department. The Department agrees to timely review submitted reports and timely inform the Tribe regarding any missing information or documentation.
10. MOE and caseload reports from the Tribe are mandatory to meet state reporting requirements regarding the use of State MOE funds, as outlined in the November 27, 2000 TANF Policy Announcement (TANF-ACF-PA-00-4) issued by the United States HHS, and incorporated by reference.
11. To report the State MOE funds expended the Tribe will complete and submit quarterly to the Department reporting form ACF-196T Tribal TANF Financial Report Form, which is attached and incorporated as Exhibit "C". The ACF-196T reporting form will be submitted within 40 days after of the end of each quarter of the federal fiscal year – i.e. by November 10th, February 10th, May 10th and August 10th.
12. To report the number of families served, the Tribe will complete and submit quarterly to the Department reporting form, "WA-TT-CR-01", which is attached and incorporated as Exhibit "D". The WA-TT-CR-01 form will be submitted within 40 days after of the end of each quarter of the federal fiscal year – i.e. by November 10th, February 10th, May 10th and August 10th.
13. Any funds received by the Tribe under this Agreement shall remain subject to the reporting requirements of this section at all times, notwithstanding the termination, withholding, reduction, or conclusion of the funding period provided under this Agreement. To the extent that the Tribe retains and spends any funds subsequent to the termination or conclusion of the funding period under this Agreement, the Tribe shall submit all required reports no later than 40 days after the end of the calendar quarter in which State MOE funds are expended.
14. The Department reserves the right to redistribute unspent funds with prior notice to the Tribe. (POLICY NOTE: based on reconciliation the next fiscal year funding may be adjusted or if a Tribe is under spent over 30% in a SFY 3rd quarter report funds may be redistributed to other Tribes).

Performance Measure Data

15. To report the agreed upon performance measure data the Tribe shall submit information on form "Tulalip Tribes, Quarterly Performance Measures Report", which is attached and incorporated as Exhibit "E".
16. The performance measure data will be submitted within 40 days after of the end of each quarter of the federal fiscal year – i.e. by November 10th, February 10th, May 10th and August 10th.

8. RESPONSIBILITIES OF THE TULALIP TRIBES

1. The Tulalip Tribes has designated the following party as its Single Point of Contact for communication regarding operational and financial elements of this Agreement:

Charlene James
Tribal TANF Program Manager
360-651-3420
cjames@tulaliptribes-nsn.gov

2. The Tulalip Tribes shall provide services as described in its current Tribal Family Assistance Plan (TFAP). Services provided, as well as Tribal program and fiscal management shall conform to applicable federal, tribal and/or state laws and regulations.
3. The Tulalip Tribes shall comply with all applicable federal and state laws and regulations and OMB circulars governing the use of state MOE funds.
4. Consistent with its federally approved TFAP, the Tulalip Tribes shall make the final determination of tribal membership of families applying for Tribal TANF services. The Tulalip Tribes shall also determine whether such families meet the eligibility criteria for Tribal TANF services.
5. The Tulalip Tribes shall provide the Department with a list and description of the current eligibility criteria for Tribal TANF services. If and when changes or revisions of such eligibility occur, the Tulalip Tribes shall promptly inform the Department of these changes or revisions.
6. If the Tulalip Tribes requests an amendment to its TFAP which would have a significant financial impact on the Department, the Tulalip Tribes shall also notify the Department of such request and provide a copy of the proposed amendment. The Department and the Tulalip Tribes shall negotiate and reach agreement regarding any amendments to the TFAP, which would have an impact on this Agreement before the Tulalip Tribes implements the amendment. The Tulalip Tribes agrees to give the Department notice when such amendments are approved.
7. Prior to the end of the period covered by the Tulalip Tribes current and approved

TFAP the Tulalip Tribes will submit its new TFAP and an official request for a fiscal amendment for State MOE funds for the next period to the Department.

9. RESPONSIBILITIES OF THE DEPARTMENT

1. The Department has designated the following party as its Single Point of Contact for communication regarding operational and financial elements of this agreement.

Mike Mowrey
Tribal Relations Program Administrator – TANF
State Tribal Relations Unit
Community Services Division
Economic Security Administration
DSHS
P.O. Box 45857
Olympia, WA 98504-5857
Tel. (360) 725-4656
Michael.Mowrey@dshs.wa.gov

2. The Department shall promptly respond on a case-by-case basis to any written request by the Tulalip Tribes regarding the Tulalip Tribes eligibility to access any newly funded services.
3. The Department shall promote good faith efforts to continue the education and training of staff and contractors about tribal governments.
4. When requested by the Tulalip Tribes, the Department will support the Tulalip Tribes in its efforts to obtain waivers of regulatory requirements, associated with the services in its Tribal Plan.
5. The Department shall honor tribal law that meets or exceeds the requirements set forth in federal or state law as it pertains to this Agreement.
6. Compliance Testing.
 - a. The Department may test compliance with the terms of this Agreement in a combination of ways, including but not limited to:
 - i. Review of an Annual Report submitted by the Tulalip Tribes to the Department
 - ii. Review of the Executive Summary and related documents from the Tulalip Tribes federal Single Audit Act audit.

13. IMPLEMENTATION AGREEMENTS

1. The Department and the Tulalip Tribes shall complete (or update) an Operating Agreement describing the working relationship between the Department of Social and Health Services Region #2 and the Tulalip Tribes, including procedures for the effective transfer of cases and coordination of services that shall be performed by each party.
2. This Operating Agreement shall also include provisions to ensure that a family receiving assistance under the Tulalip Tribes TFAP may not receive assistance from another state or tribal TANF program.
3. The Department shall work in cooperation with the Tulalip Tribes to provide Tribal TANF recipients with access to Basic Food (Food Stamps), Medical Assistance, and Working Connections Child Care benefits for all recipients who meet the State's eligibility criteria. Child care policy is now set by the new Department of Early Learning (DEL) which is a separate agency from DSHS.
4. The Tulalip Tribes has its own Title IV-D child support program.
5. To provide for the transfer of information on tribal family cases and for the ongoing coordination of services for these families, the Department and the Tulalip Tribes will sign a data share agreement as a condition of receiving State MOE funds under this Agreement.

14. LIABILITY FOR FAILURE TO COMPLY WITH FEDERAL AND STATE MOE REQUIREMENTS

1. Where the Tulalip Tribes expends funds in a manner inconsistent with federal and state MOE requirements or cannot demonstrate that it spent funds consistent with State MOE requirements, the Tulalip Tribes shall be liable to the Department in an amount equal to such funds as were improperly expended or are unaccounted for.

15. FUNDING REMEDIES

1. The Department maintains the authority to withhold funding under this Agreement for any of the following reasons:
 - a) The Tulalip Tribes does not provide the Department with reports required under this Agreement in a timely fashion;
 - b) Reports provided by the Tulalip Tribes lack required information;
 - c) The Department has a credible basis to believe that the Tulalip Tribes is spending or has spent funds provided under this Agreement inconsistent with federal and state MOE requirements.

- d) The Tulalip Tribes is unable to timely demonstrate that it spent funds under this agreement consistent with federal and state MOE requirements;
 - e) An A-133 audit or federal site visit concludes that the Tulalip Tribes is either misusing federal funds, cannot properly document that expenditures were proper, or is out of compliance with federal TANF requirements;
 - f) The Tulalip Tribes otherwise does not comply with the terms and conditions of the IGA.
2. The Department may take action authorized under this Section immediately despite any dispute resolution provisions provided in Section 17. The Department has the option of notifying the Tulalip Tribes in writing of the compliance issue and giving the Tulalip Tribes a reasonable time in which to cure the noncompliance.
 3. If the Tulalip Tribes wishes to contest Department action taken under this section, it may do so by utilizing the dispute resolution process described in Section 17. Action taken under this section, however, shall continue and remain in effect pending the outcome of any dispute resolution process.

16. CONFLICT RESOLUTION

1. The Parties agree to work cooperatively to accomplish all of the terms of this Agreement, however, acknowledge that there may be instances in which either the Tulalip Tribes or the Department has not complied with the conditions of this Agreement or that clarification is necessary to interpret provisions of this Agreement. In such an instance, the Tulalip Tribes and the Department shall attempt to resolve the matter through discussions. If unsuccessful, the Tulalip Tribes and the Department agree to refer the matter to non-binding mediation.
2. Either Party may request that a mediator be selected to assist in resolving any conflict or dispute. The mediator shall be jointly selected and shall be approved by both the Tulalip Tribes and the Department. The cost of a mediator shall be born equally by the Tulalip Tribes and the Department, with neither Party using funds dedicated for the programs or services contained in this Agreement.
3. If the mediator cannot resolve the conflict or dispute then the issue shall be brought before a Disputes Board. The Disputes Board shall consist of three (3) individuals; one (1) selected by the Tulalip Tribes, one (1) selected by the Department and a third party to be chosen by the first two. The Disputes Board shall review all issues, concerns and conflicts with a goal to determine acceptable solutions for both parties. The decisions of the Disputes Board shall be final and binding on both parties.

This provision supersedes Section 8, Disputes, contained in the current "DSHS and Indian Nation Agreement on General Terms and Conditions."

17. AMENDMENT, WAIVER AND TERMINATION

1. This Agreement or any provision may be altered, amended, or waived by written agreement signed by both Parties. The Parties agree to follow the amendment process established in the current TRIBAL-STATE MOE PARTICIPATION PARTNERSHIP PLAN guidelines published by the Department's Office of Indian Policy.
2. For this Agreement, either Party may terminate the Agreement by giving the other Party forty-five (45) calendar days' written notice.
3. Termination under this Agreement is the termination of funding, which means the Department's obligation to provide future payments of state MOE funds under Exhibit B and the Tulalip Tribes obligation to provide services with the future MOE funds.
4. This section applies if the Tulalip Tribes continues to receive federal funding and operates a Tribal TANF Program. If the Tulalip Tribes terminates both federal and state funding and their entire Tribal TANF Program, then it is a retrocession covered under Section 19.

18. AFTER THE CONCLUSION OR TERMINATION OF THE FUNDING PERIOD

1. This Agreement shall remain enforceable until the last A-133 audit of the funding provided under this Agreement either has no findings or all findings are satisfactorily resolved.

19. RETROCESSION

1. If the Tulalip Tribes chooses to retrocede its Tribal TANF program prior to the end of its three-year plan, it agrees to provide the Department with notification at the same time that it notifies the Secretary of HHS. All future scheduled State funded payments shall be discontinued and any State MOE funds not expended or obligated on Tribal TANF activities as of the retrocession date shall be returned to the Department within forty-five (45) calendar days of the retrocession date.

20. TERM

1. THIS AGREEMENT shall become effective March 1, 2011 and end on February 28, 2014, unless extended or terminated prior to that date, as provided herein.

21. 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.

22. EXECUTION

THE FOLLOWING REPRESENTATIVES, by virtue of their respective representative capacities hereby approve this Agreement as affirmed by their signatures below.



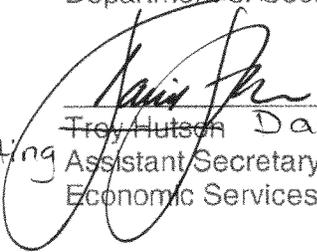
Melvin Sheldon, Jr.
Chair
Tulalip Tribes

Date _____



Susan N. Dreyfus
Secretary
Department of Social & Health Services

Date 6/1/11



David Stillman
Acting Assistant Secretary
Economic Services Administration

Date 5/24/2011

Exhibits:

- A - Performance Plan and Budget
- B - State MOE Payment and Reporting Schedule
- C - ACF-196T Tribal TANF Financial Report
- D - WA-TT-CR-01, Caseload Report
- E - Tulalip Tribes, Quarterly Performance Measures Reporting Form