

ATTACHMENT C-2

Tribal Entity Eligibility Criteria

In accordance with HCA/BH-ASO Contract, SBH-ASO must include indemnification and insurance requirements in all of its subcontracts. However, the following exceptions pertain to Tribal entities:

Indian Tribes and Tribal Organizations. A provider which is an Indian tribe or a tribal organization operating under a contract or compact to carry out programs, services, functions, and activities (or portions thereof) of the IHS pursuant to the Indian Self Determination and Education Assistance Act (ISDEAA), 25 U.S.C. § 450 et seq, or employee of a tribe or tribal organization (including contractors) shall not be required to obtain or maintain insurance (including professional liability insurance), provide indemnification, or guarantee that the Contractor will be held harmless from liability.

This is because Indian tribes and tribal organizations operating under a contract or compact to carry out programs, services, functions, and activities, (or programs thereof) of the IHS pursuant to the ISDEAA, 25 U.S.C. § 450 et seq, are covered by the Federal Tort Claims Act (FTCA), which means the United States consents to be sued in place of employees of a tribe or tribal organization (including contractors) for any damages to property or for personal injury or death caused by the negligence or wrongful act or omission of employees acting within the scope of their employment.

Nothing in the Contractor's agreement (including any addendum) with a tribe or tribal organization shall be interpreted to authorize or obligate such provider, any employee of such provider, or any personal services contractor to perform any act outside the scope of his/her employment.

Urban Indian Organizations. A provider which is an urban Indian organization shall not be required to obtain or maintain insurance (including professional liability insurance), provide indemnification, or guarantee that the Contractor will be held harmless from liability to the extent the provider attests that it is covered by the FTCA. Nothing in the Contractor's agreement (or any addendum thereto) with an urban Indian organization shall be interpreted to authorize or obligate such provider or any employee of such provider to perform an act outside of the scope of his/her employment.