



The Navajo Nation **DR. BUU NYGREN** *PRESIDENT*

Yideeskáądi Nitsáhákees | *Think for the Future*

April 17, 2026

25th Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

RE: *Resolution CMA-22-26: An Act Relating to the Law and Order Committee, Budget and Finance Committee and Naabik'iyáti' Committee and Navajo Nation Council; Enacting a New Navajo Nation Procurement Act, 12 N.N.C. § 301 ET SEQ.*

Dear Honorable Members of the 25th Navajo Nation Council:

I hereby sign into law Resolution No. CMA-22-26, enacting amendments to the Navajo Nation Procurement Act that was most recently adopted through Resolution No. CO-81-23. It is important to note that this new Procurement Act does not go into effect with my signature. **Resolution CMA-22-26 will go into effect when the Budget and Finance Committee enacts regulations.**

In order to provide clarity as we wait for the Budget and Finance Committee to adopt regulations, I have requested that the Department of Justice issue a memorandum providing clear and concise guidance on the current procurement process.

I thank the Office of the Controller, the Department of Justice, the Budget and Finance Committee, and the Navajo Nation Council for coming together to draft and adopt Resolution CMA-22-26. **Controller McCabe has reported that he needs the new procurement process outlined in CMA-22-26 to align with his design of the new financial and procurement management software.** This new software is helping us modernize the Nation's financial management system. **We will become more transparent as we continue to modernize our processes.**

The goal of the Resolution is to streamline the procurement process on the Navajo Nation, which is part of the effort to modernize the Navajo Nation's financial management system. In addressing procurement and in modernizing the Navajo Nation's financial management system, we will become more streamlined. We will move away from paper and the inefficiencies of lost documents and the time it takes to carry paper across the many offices on the Navajo Nation. **All of this will help the Nation work more**

effectively with our Navajo small businesses so that our Navajo small businesses can thrive on the Nation.

There are several types of procurement methods identified in Resolution CMA-22-26. They include sealed bidding, sealed proposals, simplified acquisitions, micro-purchases, non-competitive procurement, and any other method selected by the Budget and Finance Committee through regulations. **Once the Budget and Finance Committee adopts regulations, the Office of the Controller (OOC) will take over two of these procurement methods: 1. sealed bidding and 2. sealed proposals.** OOC will have sole control of procurement using these two methods.

Sealed bidding and sealed proposals apply to all procurements over the simplified acquisition amount. For procurements under the simplified acquisition amount, a Navajo Nation Division, Department, Office, or Program ("Program") can choose to use sealed bidding or sealed proposals, and OOC will be in charge of the procurement. If a Program chooses any other option under the simplified acquisition amount, then the Program will be in charge of the procurement. The Budget and Finance Committee will establish the simplified acquisition amount in the regulations.

By signing this into law, the Navajo Nation will be taking a bold step to radically change the procurement process. **By taking two procurement methods away from our non-OOC Programs, I am hopeful they will have more time to focus on direct service delivery.** Importantly, I am confident that the Executive Branch will work collaboratively under this new approach to ensure that we are streamlining processes and getting our services to the Navajo People more quickly than we do today.

By signing this legislation, we affirm our commitment to continue to modernize the Navajo Nation's financial management system for the benefit of our Navajo People.

Sincerely,

A handwritten signature in black ink, appearing to read "B. V. Nygren", with a stylized flourish extending from the end.

Dr. Buu Nygren, *President*
THE NAVAJO NATION

RESOLUTION OF THE
NAVAJO NATION COUNCIL
25th NAVAJO NATION COUNCIL -- Fourth Year, 2026

AN ACT
RELATING TO THE LAW AND ORDER COMMITTEE, BUDGET AND FINANCE
COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE, AND NAVAJO NATION COUNCIL;
ENACTING A NEW NAVAJO NATION PROCUREMENT ACT, 12 N.N.C. § 301 *ET*
SEQ.

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee is a standing committee of the Navajo Nation Council that makes recommendations to the Council concerning amendments to the Navajo Nation Code. 2 N.N.C. § 601(B)(14).
- B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council that oversees and regulates the financial policies of the Navajo Nation. 2 N.N.C. § 300(C)(1).
- C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council that reviews legislations requiring final action by the Council. 2 N.N.C. § 164(A)(9).
- D. The Navajo Nation Council is the governing body of the Navajo Nation with the authority to review and approve amendments to the Navajo Nation Code. 2 N.N.C. § 102(A), 2 N.N.C. § 164(A).

SECTION TWO. FINDINGS

- A. Pursuant to 12 N.N.C. §§ 201(B) and 203(C), the Controller of the Navajo Nation recommends amendments to the Navajo Nation Procurement Act ("Procurement Act") to properly protect the assets of the Navajo Nation and to implement modern methods of financial management.
- B. The Procurement Act was last amended in early November of 2023 by Resolution No. CO-81-23, included herein by reference.
- C. Since 2023, the Budget and Finance Committee has regularly heard reports from the Controller, as well as from other Departments, that the CO-81-23 amendments to the Procurement Act have not actually made Procurement by the Navajo Nation government more efficient and cost-effective.

- D. The Office of the Controller has reported to the Budget and Finance Committee that amendments to the Procurement Act are necessary to ensure alignment with the Navajo Nation's new financial and procurement management software which is intended to modernize the Navajo Nation's financial management and increase protection of the Nation's assets. The implementation of the new software also requires updated procurement procedures, approval workflows, and documentation standards to support uniformity, transparency, and compliance with modernized financial and procurement system capabilities.
- E. The Controller and Department of Justice have collaborated on and proposed amendments to CO-81-23's Procurement Act that are intended to make Navajo Nation government Procurement more efficient, cost-effective, and responsive to the requirements of external funding sources.
- F. The Navajo Nation finds it in the best interest of the Navajo Nation and the Navajo People to approve the proposed new Navajo Nation Procurement Act.

SECTION THREE. ENACTING THE NAVAJO NATION PROCUREMENT ACT

The Navajo Nation hereby deletes the Navajo Nation Procurement Act enacted through Navajo Nation Council Resolution No. CO-81-23 in its entirety as set forth in **Exhibit A**, which is incorporated herein, and hereby enacts the new Navajo Nation Procurement Act, 12 N.N.C. §§ 301 et seq., as follows:

TITLE 12. Fiscal Matters

Chapter 3. Navajo Nation Procurement Act

Subchapter 1. General Provisions

§ 301. Short title

This Act shall be known and cited as the Procurement Act.

§ 302. Interpretation, purposes, and policies

- A. Interpretation. This Procurement Act shall be interpreted and applied in a manner that promotes its underlying purposes and policies.
- B. Purposes and Policies. The underlying purposes and policies of this Procurement Act are:

1. To simplify, clarify, and modernize the law governing Procurement by the Navajo Nation;
2. To foster effective, broad-based, and fair and open competition consistent with the purposes and provisions of all Navajo Nation laws, as may be amended from time to time, including, but not limited to the: Navajo Nation Business Opportunity Act ("NBOA"), 5 N.N.C. §§ 201 et seq., Navajo Business and Procurement Act ("NBPA"), 12 N.N.C. §§ 1501 et seq., and Navajo Nation Ethics in Government Law ("NNEGL"), 2 N.N.C. §§ 3741 et seq.;
3. To permit the continued development of Procurement activities, Regulations, policies, and practices;
4. To provide for consistency, quality, and integrity in all Navajo Nation Procurement activities;
5. To provide for increased public confidence in all Navajo Nation Procurement activities;
6. To ensure the fair and equitable treatment of all Persons who engage with the Navajo Nation Procurement system; and
7. To provide increased economy in all Navajo Nation Procurements and to maximize to the fullest extent practicable the purchasing value of Public Funds of the Navajo Nation.

§ 303. Application

- A. General Application. This Procurement Act applies only to contracts, which includes purchase orders, solicited or entered into after the effective date of this Procurement Act unless the parties to a contract agree to its application for those contracts solicited or entered into prior to this Procurement Act's effective date.
- B. Good Faith Participation. This Procurement Act requires all parties involved in the negotiation, performance, or administration of all Navajo Nation Procurements, including Procurement contract formation and execution, to act ethically, in good faith, and in compliance with all Navajo Nation laws, regulations, and policies.
- C. Application to Navajo Nation Procurements. This Procurement Act shall apply to every expenditure of Public Funds, irrespective of source, by the Navajo Nation when acting

through a Procuring Party. This Procurement Act shall not apply to Local Governance Act ("LGA"), 26 N.N.C. §§ 1 et seq., governance certified Chapters that are governed by their respective Procurement policies.

D. Exceptions. This Procurement Act shall not apply to the following agreements or types of Procurement:

1. Agreements between the Navajo Nation and any federal, state, and local governments, including prime contracts and grants, for the provision of governmental services to Navajos regardless of where they reside and other Persons residing within the Navajo Nation where the other government has allocated the funds for a specific Person or purpose;
2. Procurements for permits, licenses, or leases of real estate including appurtenant rights;
3. Selection of expert witnesses for litigation on behalf of the Navajo Nation, as selected by the Attorney General or Chief Legislative Counsel for litigation on behalf of the Legislative Branch; or
4. Funds appropriated to a specific Person; Navajo Nation Division, Department, Office, or Program; LGA governance certified Chapter; or tribal enterprise, corporation, or authority through an appropriation enacted by Navajo Nation Council for a specific purpose.

§ 304. Definitions

A. The words used in this Procurement Act shall have their ordinary meanings unless:

1. the context in which they are used clearly requires a different meaning; or
2. a definition is provided for in Section 304(B) below or in the Procurement Regulations.

B. Terms defined in this Procurement Act are:

1. "Business" means any legal organization, including but not limited to a corporation, limited liability company, company, partnership, individual, sole proprietorship, joint venture, or non-profit entities. It does not mean a legal organization owned, wholly or in-part, by the Navajo

Nation, such as a tribal corporation, enterprise, or authority.

2. "Navajo Nation Division, Department, Office, or Program" means any Division, Department, Commission, Council, Board, Bureau, Committee, Institution, Legislative Body, Agency, non-LGA governance certified Chapter, political subdivision, or other establishment or Public Official of the Executive, Legislative, or Judicial Branch of the Navajo Nation government. It does not mean an LGA governance certified Chapter, tribal corporation, enterprise, or authority.
3. "Person" means any individual, Business, union, committee, club, other organization, or group of individuals.
4. "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any Goods or Services, unless explicitly excluded from this Procurement Act or by some other provision of Navajo Nation law. It also includes all functions pertaining to the acquisition of any such Goods or Services.
5. "Procuring Party" means the Navajo Nation Division, Department, Office, or Program, including the Procurement Department of the Office of the Controller, responsible for a Procurement pursuant to this Act and its Regulations.
6. "Public Funds" means all funds as provided for in 12 N.N.C. § 810(R), as amended from time to time, which includes funds from external sources.

§ 305. Open and fair competition

- A. All Procurements must be conducted in a manner that provides fair and open competition.
- B. To ensure objective contractor performance and eliminate unfair competitive advantage, any Person, including its agents and employees, that develop or draft all or part of specifications, requirements, statements of work, or any other portion of a solicitation, including Invitations for Bids, Requests for Proposals, or requests for quotes shall be excluded from submitting offers and receiving awards on those Procurements.

Subchapter 2. Rules and Regulations§ 320. Procurement Regulations

- A. Pursuant to its authorities and responsibilities set forth at 2 N.N.C. §§ 300 et seq., the Budget and Finance Committee of the Navajo Nation Council shall adopt Procurement Regulations (hereinafter "Procurement Regulations" or "Regulations") recommended by the Office of the Controller, after consultation with the Business Regulatory Department; Department of Justice; and Office of Legislative Counsel, that shall apply to all Procurements subject to this Procurement Act.
- B. The Budget and Finance Committee shall not delegate its authority to approve the Procurement Regulations or subsequent amendments therein.
- C. The Procurement Regulations shall address all Navajo Nation Procurement related matters including, but not limited to, procedures and methods related to developing, issuing, publishing, correcting, or canceling solicitations; managing Procurement Files; available methods of Procurement; offer acceptance, corrections, withdrawals, opening, and evaluation; and all enforcement procedures and activities.
- D. The Procurement Regulations are intended to comply with and supplement the Procurement Act in concert with applicable Navajo Nation laws and regulations, including the NBOA, NBPA, and any underlying rules and regulations for either, as amended from time to time.
- E. The purpose of the Procurement Regulations is to ensure uniformity, control, efficiency, and fair and open competition of Procurements utilizing all Public Funds regardless of source, such as those:
1. appropriated by the Navajo Nation;
 2. awarded by Federal Agencies;
 3. awarded by State and Local Agencies; and/or
 4. from any other source not contemplated above.
- F. The Procurement Regulations shall be read and interpreted in a manner consistent with the Procurement Act; however, the Procurement Act shall govern with respect to any inconsistency.

- G. The Procurement Regulations shall be liberally construed in favor of the Navajo Nation and are not intended to limit or repeal any power, authority, right, or immunity possessed by the Navajo Nation or any of its Employees.
- H. Nothing contained in the Procurement Regulations shall be construed to waive any rights, remedies, or defenses the Navajo Nation has or might have under any laws of the Navajo Nation.
- I. Nothing in the Procurement Regulations is intended to, nor shall it, waive any right of the Navajo Nation of any nature whatsoever reserved under any treaty or provided for under federal law; limit any rights, powers, or privileges retained by the Navajo Nation under any law; grant; expand; or confirm, in any way whatsoever, the jurisdiction of any State.
- J. The Procurement Regulations cannot be waived for any Procurement without the express approval of the Budget and Finance Committee through resolution.
- K. All Navajo Nation employees and elected officials shall adhere to the Procurement Regulations and are subject to disciplinary actions up to termination or NNEGL actions for willful non-compliance with the Procurement Regulations.

Subchapter 3. Procurement Department

§ 330. Navajo Nation Procurement Department

- A. The Office of the Controller's Procurement Department, currently named as the Purchasing Department, shall be the Procuring Party for the Navajo Nation for Procurements utilizing the Sealed Bidding and Sealed Proposal Procurement methods in so far as the Procuring Department shall be responsible for the Procurements through offer selection as proscribed in the Procurement Regulations.
- B. Procurements by the Procurement Department shall be completed in consultation with, and with the concurrence of, the Navajo Nation Division, Department, Office, or Program requesting, and responsible for the funding of the Procurement as prescribed by the Procurement Regulations.
- C. The Procurement Department shall consult with the Navajo Nation Division, Department, Office, or Program that is the subject matter expert regarding the details of a Procurement when developing and evaluating solicitations.

- D. Procurements utilizing other methods of selection that have not been explicitly made the responsibility of the Procurement Department in Subsection 330(A) above shall be completed by the Navajo Nation Division, Department, Office, or Program, or Office seeking the Procurement.
- E. The Procurement Department shall develop, document, and maintain Internal Procurement Procedures supporting its implementation of the Procurement Act and its Regulations, including prescribing to be used in requisitioning, ordering, and reporting of Goods and Services, unless otherwise provided for in law or regulation.
1. These Internal Procurement Procedures shall be approved by the Controller and shall not go into effect until published on the Office of the Controller's website.
 2. The Internal Procurement Procedures shall not be more restrictive than what is authorized in this Procurement Act and the Procurement Regulations.
 3. Subject to appropriated funding, the Auditor General shall audit the Procurement Department's Internal Procurement Procedures and the Office of the Controller's written internal policies and procedures every two (2) years for a determination of compliance with the Procurement Act and its Regulations.

Subchapter 4. Methods of Selection

§ 340. Procurement methods

- A. The Navajo Nation may use the following types of Procurement methods:
1. Sealed Bidding;
 2. Sealed Proposals;
 3. Simplified Acquisition;
 4. Micro-Purchase;
 5. Non-competitive Procurement; and

6. Any other procurement method the Budget and Finance Committee shall deem appropriate for the Navajo Nation as provided for in the Procurement Regulations.
- B. The Procurement Regulations shall provide specific rules and requirements for the implementation of the Procurement methods detailed in this subchapter.
- C. The Procurement methods in this subchapter and those that may later be provided for in the Procurement Regulations satisfy and comply with and are intended to satisfy and comply with 2 N.N.C. § 223(E) as may be amended from time to time.

§ 341. Sealed Bidding

Sealed Bidding is a Procurement method in which bids are publicly solicited through an Invitation for Bid and an award is issued to the Person offering the lowest price.

- A. Sealed Bidding shall be the preferred Procurement method for Procurements of goods exceeding the Simplified Acquisition amount.
- B. The Procurement Department shall be the Procuring Party for all Procurements using Sealed Bidding subject to the requirements of the Procurement Regulations.
- C. Sealed Bidding is subject to the Maximum Feasible Price as set forth in the Procurement Regulations.

§ 342. Sealed Proposals

Sealed Proposals is a Procurement method in which proposals are publicly solicited through a Request for Proposals, and an award is issued to the most qualified vendor, subject to negotiation of fair and reasonable compensation including construction services.

- A. Sealed Proposals shall be the preferred Procurement method for Procurements of services, including construction, exceeding the Simplified Acquisition amount.
- B. The Procurement Department shall be the Procuring Party for all Procurements using Sealed Proposals subject to the requirements of the Procurement Regulations.
- C. Sealed Proposals are subject to the Maximum Feasible Price as set forth in the Procurement Regulations.

§ 343. Simplified Acquisition

Simplified Acquisition is a Procurement method in which offers are sought for Procurements not exceeding the amount established in the Procurement Regulations.

- A. The Budget and Finance Committee shall establish the Simplified Acquisition amount in the Procurement Regulations and, upon recommendation by the Controller, may increase or decrease the Simplified Acquisition amount through resolution when it deems it to be in the best interests of the Navajo Nation.
- B. Simplified Acquisition may be used for all Procurements equal to or less than the Simplified Acquisition amount.
- C. The Navajo Nation Division, Department, Office, or Program making the Procurement shall be the Procuring Party for all Procurements using Simplified Acquisitions subject to the requirements of the Procurement Regulations.
- D. Simplified Acquisition is subject to the Maximum Feasible Price as set forth in the Procurement Regulations.
- E. Priority certified businesses under the NBOA shall receive preference in Simplified Acquisition Procurements to the extent practicable.
- F. Simplified Acquisition shall not be used for a Procurement lasting more than three (3) years.

§ 344. Micro-Purchase

Micro-Purchase is a Procurement method in which offers are sought for Procurements not exceeding the amount established in the Procurement Regulations.

- A. The Budget and Finance Committee shall establish the Micro-Purchase amount in the Procurement Regulations and, upon recommendation by the Controller, may increase or decrease the Micro-Purchase amount through resolution when it deems it to be in the best interests of the Navajo Nation.
- B. Micro-Purchase may be used for all Procurements equal to or less than the Micro-Purchase amount.
- C. The Navajo Nation Division, Department, Office, or Program making the Procurement shall be the Procuring Party for all

Procurements using Micro-Purchase subject to the requirements of the Procurement Regulations.

- D. Micro-Purchase is subject to the Maximum Feasible Price as set forth in the Procurement Regulations.
- E. Priority certified businesses under the NBOA shall receive preference in Micro-Purchase procurements to the extent practicable.
- F. Micro-Purchase shall not be used for a Procurement lasting more than one (1) year.
- G. Micro-Purchase may be awarded without competitive selection if the Procuring Party considers the price reasonable and explains and documents its conclusion of such in the Procurement file, and as required in the Procurement Regulations.

§ 345. Non-Competitive Procurement

- A. Non-Competitive Procurement is a Procurement method in which offers are sought for Procurements only if one of the following circumstances apply:
 - 1. The Procurement can only be fulfilled by a single source and no reasonable alternative exists to fulfill the intended purpose of the Procurement;
 - 2. Prior attempts at Procurement through any other Procurement method have yielded inadequate results or otherwise resulted in no award or contract;
 - 3. The Procurement is best fulfilled by a specific source because of the source's direct knowledge and past work on the Procurement and such selection is at a fair and reasonable price and in the best interest of the Navajo Nation; or
 - 4. An emergency situation exists.
- B. The Navajo Nation Division, Department, Office, or Program making the Procurement shall be the Procuring Party for all Procurements using Non-Competitive Procurement subject to the requirements of the Procurement Regulations.
- C. Priority certified businesses under the NBOA shall receive preference in Non-Competitive Procurements to the extent practicable.

- D. Non-Competitive Procurements may be awarded without competitive selection if the Procuring Party considers the price reasonable and explains and documents its conclusion of such in the Procurement file, and as required in the Procurement Regulations.
- E. Non-Competitive Procurement shall not be used as a matter of convenience. Poor or lack of planning does not constitute an emergency.

Subchapter 5. Procurement Contracts

§ 350. Contract authority, format, clauses, and administration

- A. Contract authority. The Department of Justice shall have the sole authority to determine the appropriate contract type for Procurements. The Department of Justice shall consult with the Office of Legislative Counsel as to the appropriate contract type for Legislative Branch contracts or with the Judicial Branch Administration as to the appropriate contract type for Judicial Branch contracts.
- B. Contract format. Any type of contract that will promote the best interests of the Navajo Nation may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A purchase order is a form of contract; any form or version of a purchase order utilized in a Procurement shall receive approval from the Department of Justice.
- C. Contract Clauses. All Contract clauses shall be consistent with the provisions of the Procurement Act and shall include all clauses necessary to ensure the Navajo Nation's interests are addressed and protected, and that the Navajo Nation's sovereign immunity is not waived or compromised, except when such action is completed through appropriate action authorized under the Navajo Nation Sovereign Immunity Act ("NNSIA"), 1 N.N.C. §§ 551 et seq.
 - 1. Any contract provision requiring that litigation, arbitration, or other dispute resolution proceeding arising from the contract be conducted in any state tribunal is against the Navajo Nation's public policy and is void and unenforceable, except when such action is completed through appropriate action authorized under the NNSIA and Navajo Nation Arbitration Act, 7 N.N.C. §§ 1101 et seq.

2. Contracts shall include provisions noting that when funds are not appropriated or otherwise made available to support continuing performance for a multi-term contract in a current or subsequent fiscal period, the contract shall be terminated, and the contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred up to the date of termination. The cost of termination may be paid from any appropriations available for such purposes at the Navajo Nation's discretion.
3. The Navajo Nation may terminate Procurement contracts for cause or convenience.

D. Contract Administration. Prior to final execution, and regardless of Procurement Method utilized, all contracts, including supporting and related documentation, shall be reviewed by the Department of Justice or the Office of Legislative Counsel for Legislative Branch contracts or the Judicial Branch Administration for Judicial Branch contracts for legal sufficiency such that the contract and the supporting Procurement are compliant with this Procurement Act, its Regulations, and all Navajo Nation laws, regulations, and policies.

E. Purchase Order Reviews. Use of a purchase order does not subject the Procurement to review under 2 N.N.C. § 164(B); rather, the Procurement Regulations may establish review and authorization procedures for the final approval and execution of purchase orders.

Subchapter 6. Data Collection, Retention, and Inspection

§ 360. Procurement file

The Procuring Party initiating a Procurement shall create a Procurement file that shall maintain all records of the Procurement from pre-Solicitation activities through the expiration of any contract or later in time warranties. Updating and storage of the Procurement file is the responsibility of the Procuring Party, including when submitting through a software program for review. A Procurement file may be electronically stored.

§ 361. Retention of Procurement records

All Procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules provided for in the Procurement Regulations, which may authorize

the development and maintenance of guidelines and schedules by the Procurement Department.

§ 362. Public access to Procurement records

Procurement records shall be available to the public to the extent provided for in the Navajo Nation Privacy and Access to Information Act, 2 N.N.C. §§ 81 et seq.

§ 363. Collection and reporting of Procurement data

- A. The Office of the Controller is authorized to collect and prepare statistical data concerning the method, usage, and disposition of all procurements by any Procuring Party, to monitor compliance with the requirements of this Procurement Act and its Procurement Regulations, and make reports to, at a minimum, the Budget and Finance Committee and the Office of the Auditor General consistent with the requirements of the Procurement Regulations.
- B. The Department of Justice is authorized to review and utilize all statistical data collected by the Office of the Controller; to monitor and investigate acts of non-compliance with the requirements of this Procurement Act and its Procurement Regulations; and make reports to, at a minimum, the Budget and Finance Committee consistent with the requirements of the Procurement Regulations.

Subchapter 7. Compliance

§ 370. Compliance with Navajo Laws

All Persons involved in a Procurement shall adhere to Navajo Nation laws, including those specifically related to financial confidentiality, non-disclosure, and conflict of interest laws and policies of the Navajo Nation. Nothing in this Procurement Act or the Procurement Regulations is intended to prohibit the Navajo Nation Office of the Prosecutor from pursuing criminal action against any Person, when warranted, for violation of Navajo Nation criminal laws during a Procurement.

§ 371. Compliance with federal, state, county, and municipal requirements

Where a Procurement involves the use of external assistance or funds and the agreement for such use requires compliance with Procurement laws of another jurisdiction, the Navajo Nation shall comply with the laws of the other jurisdiction only such that

compliance does not contradict this Procurement Act or infringe on the Navajo Nation's sovereignty, including its sovereign immunity.

§ 372. Failure to comply

- A. All Navajo Nation employees and elected officials shall adhere to this Procurement Act and its Regulations. If an employee or elected official fails to comply with this Procurement Act and Regulations, they shall be subject to disciplinary actions, including, but not limited to, action under the NNEGL.
- B. Verbal or written authorization or promise to pay any Person to proceed with delivery under a Procurement without following the methods or procedures herein or in the Procurement Regulations shall be deemed to be willful non-compliance with the Procurement Act.

§ 373. Undue Influence

Attempts by any Person, employee, or official, to force, influence, or persuade the Office of the Controller, Department of Justice, Office of Legislative Counsel or any Procuring Party to override this Procurement Act or its Regulations, change internal procedures in a manner that results in non-compliance with this Procurement Act or its Regulations; or otherwise harass such into non-compliance with this Procurement Act or its Regulations shall be deemed non-compliance with this Procurement Act and shall be reported to the Office of Ethics and Rules for investigation under the NNEGL, and as required in the Procurement Regulations for actions affecting responsibility or debarment or suspension.

§ 374. Anti-Competitive Practices

- A. Void for Collusion or other anti-competitive Practices. In the event the Procuring Party determines that collusion or other anti-competitive practices have occurred in a Procurement, the Procuring Party, in consultation with the Department of Justice, or the Office of Legislative Counsel for Legislative Branch Procurements, or the Judicial Branch Administration for Judicial Branch Procurements, may cancel or void any Procurement, including terminating the contract for such Procurement.
- B. If a Procuring Party determines that collusion or other anti-competitive practices have occurred according to Section 374(A) above, it shall report the incident to the Office of Ethics and Rules for investigation under the NNEGL, and as

required in the Procurement Regulations for actions affecting responsibility or debarment or suspension.

Subchapter 8. Enforcement

§ 380. Authority to resolve protested solicitations and awards

- A. Right to Protest. Any Person aggrieved in connection with a solicitation or award of a Procurement contract may protest in writing to the Procuring Party within fourteen (14) days after such aggrieved Person knows or should have known of the facts giving rise thereto following the procedures provided by the Procurement Regulations.
- B. Authority to Resolve Protests. The Procuring Party, with the approval of the Department of Justice, or Office of Legislative Counsel for Legislative Branch procurements, or the Judicial Branch Administration for Judicial Branch procurements, shall have the authority to investigate, resolve, and make a determination regarding a timely protest in accordance with the Procurement Regulations.

§ 381. Actions affecting responsibility

The Business Regulatory Department is authorized to receive, investigate, and maintain for review written complaints from Navajo Nation Divisions, Departments, Offices, and Programs, regarding a Person's past performance, contract non-compliance, and other actions likely to affect findings of a Person as one of integrity and reliability and capable of good faith performance, pursuant to procedures established in the Procurement Regulations.

§ 382. Debarment or Suspension

- A. Authority. The Controller, with concurrence from the Department of Justice, shall have the authority to debar or suspend a Person for cause from contracting with or otherwise receiving a business opportunity from the Navajo Nation pursuant to the conditions and procedures established in the Procurement Regulations.
 - 1. The Controller shall issue a written decision of debarment or suspension, including the length of such, to the Person.
 - 2. To avoid the appearance of any conflicts, employees of the Procurement Department shall not participate in disbarment or suspension investigations except as a witness, nor shall

the Procurement Department have a role in decisions concerning a Person's disbarment or suspension.

3. The Procurement Regulations shall explicitly provide the causes for debarment or suspension, which shall apply to the Person in its current and any other identifiable capacities.

B. Debarment and Suspension List. The Office of the Controller shall maintain on its publicly available website a list of all debarred and suspended Persons, including providing the date on which the action expires.

C. Right to Protest. Any aggrieved person in connection with being debarred or suspended may protest such action in writing within thirty (30) days of the date of the written notice of debarment or suspension according to procedures established in the Procurement Regulations.

D. Authority to Resolve Protests. The Business Regulatory Department shall have the authority to investigate and make a determination regarding the protest in accordance with requirements of the Procurement Regulations.

§ 383. Administrative review

The Office of Hearings and Appeals shall have the jurisdiction to hear and decide appeals of protest decisions under this Procurement Act.

§ 384. Scope of administrative review & presumed finality of decisions

A. The Office of Hearings and Appeals shall have jurisdiction to review and determine de novo:

1. any protest of a solicitation or award of a procurement contract by an aggrieved Person;

2. any appeal by an aggrieved Person from a determination by the Procuring Party related to actions in the Procurement Act, or a determination by the Office of the Controller related to actions in the Procurement Act.

B. Time Limitation on Filing an Appeal. The Aggrieved Person shall file an appeal within twenty (20) calendar days of receipt of a decision.

C. Decision. The Office of Hearing and Appeals shall make a determination based on the preponderance of the evidence on the issue of whether the actions of the Procuring Party or the Office of the Controller were consistent with the provisions of this Procurement Act. The Solicitation or award of a Contract shall be upheld unless it is shown by a preponderance of the evidence that the actions of the Procuring Party or the Office of the Controller violated a specific provision of this Procurement Act.

§ 385. Presumed finality of decisions

Determinations by the Office of Hearings and Appeals shall be final and conclusive.

Subchapter 9. Severability and Amendment

§390. Amendments

This Procurement Act may be amended by the Navajo Nation Council subject to action by the President of the Navajo Nation pursuant to 2 N.N.C. § 221(B) and 2 N.N.C. § 164(A) (17).

§ 391. Severability

If any provision of this Procurement Act is held invalid, such invalidity shall not affect other provisions or the application of this Procurement Act which can be given effect without the invalid provision or application; and to this end, the provisions of this Procurement Act are declared to be severable.

SECTION FOUR. CODIFICATION

The provisions of this resolution that amend or adopt new sections of the Navajo Nation Procurement Act, as set forth in the Navajo Nation Code, shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall arrange for the incorporation of all such provisions in the next codification of the Navajo Nation Code.

SECTION FIVE. SAVING CLAUSE

If any portion of this resolution is determined to be invalid by the Navajo Nation Supreme Court or by a District Court of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of this Act shall remain the law of the Navajo Nation.

SECTION SIX. EFFECTIVE DATE

The provisions of this resolution shall be enacted in accordance with 2 N.N.C. § 221(B) and 2 N.N.C. § 164(A)(17) and shall become effective when the Budget and Finance Committee has promulgated the Procurement Regulations.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 25th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 13 in Favor, and 00 Opposed, on this 19th day of March 2026.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

3/27/2026

Date

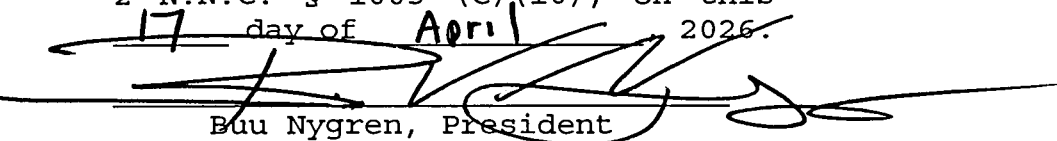
Motion: Honorable Shawna Ann Claw

Second: Honorable Otto Tso

Speaker Crystalyne Curley not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

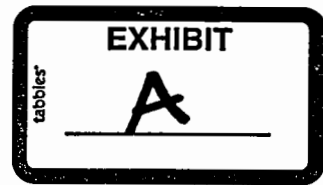
1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 17 day of April, 2026.



Buu Nygren, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 2026 for the reason(s) expressed in the attached letter to the Speaker.

Buu Nygren, President
Navajo Nation



Subchapter 1. General Provisions

§ 301. Short title

~~This Act shall be known and cited as the Procurement Act.~~

§ 302. Purposes, Rules of construction

~~A. Interpretation. This Procurement Act shall be interpreted and applied in a manner that promotes its underlying purposes and policies.~~

~~B. Purposes and Policies. The underlying purposes and policies of this Procurement Act are:~~

- ~~1. to simplify, clarify, and modernize the law governing Procurement by the Navajo Nation;~~
- ~~2. to foster effective broad-based competition consistent with the purposes and provisions of Navajo Nation laws, as may be amended from time to time, including, but not limited to the following: the Navajo Nation Business Opportunity Act ("NBOA"), 5 N.N.C. §§ 201 *et seq.*, the Navajo Business and Procurement Act, 12 N.N.C. §§ 1501 *et seq.*, and the Navajo Nation Ethics in Government Law, 2 N.N.C. §§ 3741 *et seq.*;~~
- ~~3. to permit the continued development of Procurement policies and practices;~~
- ~~4. to provide for consistency, quality, and integrity in all Navajo Nation Procurement;~~
- ~~5. to provide for increased public confidence in all Navajo Nation Procurement;~~
- ~~6. to ensure the fair and equitable treatment of all Persons who engage with the Navajo Nation Procurement system; and~~
- ~~7. To provide increased economy in all Navajo Nation Procurement and to maximize to the fullest extent practicable the purchasing value of Public Funds of the Navajo Nation.~~

§ 303. Ethics in Procurement and reporting of Anti-Competitive practices

~~A. Good Faith Participation. This Procurement Act requires all Parties involved in the negotiation, performance, or administration of all Navajo Nation Procurement and Contracts to act in good faith and in compliance with Navajo Nation laws.~~

~~B. Void for Collusion or other Anti-Competitive Practices. In the event the Department of Justice determines that Collusion or other Anti-Competitive Practices have occurred, the Procuring Employee in consultation with the Department of Justice (or the Office of Legislative Counsel if the Procuring Party is the Legislative Branch) may void any Procurement or Contract.~~

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~~§ 304. Application of this Procurement Act~~

- ~~A. General Application. This Procurement Act applies only to Contracts solicited or entered into after the effective date of this Procurement Act unless the Parties agree to its application to a Contract solicited or entered into prior to the effective date.~~
- ~~B. Application to all Navajo Nation Procurement. This Procurement Act shall apply to every expenditure of Public Funds, irrespective of source, by the Navajo Nation acting through a Procuring Party under any Contract. Nothing in this Procurement Act or its Procurement Regulations shall prevent any Procuring Party from complying with the terms and conditions of any Grant, gift, bequest, or other agreement that requires compliance with procurement laws of another jurisdiction. This Procurement Act shall not apply to Local Governance Act ("LGA"), 26 N.N.C. §§ 1 *et seq.*, governance certified Chapters that are governed by their respective Procurement policies.~~
- ~~C. Exceptions of this Procurement Act. This Procurement Act shall not apply to the following agreements or types of Procurement:-~~
- ~~1. selection of expert witnesses for litigation on behalf of the Navajo Nation, as selected by the Attorney General;~~
 - ~~2. agreements between the Navajo Nation and any federal, state, and local governments, including prime contracts and Grants, for the provision of governmental Services to Navajos and other Persons within the Navajo Nation unless specifically required by the agreement; and~~
 - ~~3. procurements for permits, licenses, or leases of real estate including appurtenant rights.~~

~~§ 305. Severability~~

~~If any provision of this Procurement Act is held invalid, such invalidity shall not affect other provisions or the application of this Procurement Act which can be given effect without the invalid provision or application; and to this end, the provisions of this Procurement Act are declared to be severable.~~

~~§ 306. Construction against implicit repealer~~

~~Since this Procurement Act is a general act, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction of the subsequent legislation can be reasonably avoided.~~

~~§ 307. Effective date~~

~~This Procurement Act shall become effective pursuant to 2 N.N.C. § 164(A)(17).~~

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~~§ 308. Definitions-~~

- A. ~~The words used in this Procurement Act shall have their ordinary meanings unless:~~
1. ~~the context in which they are used clearly requires a different meaning; or~~
2. ~~a different definition is provided for in a particular provision.~~
- B. ~~“Aggrieved Person” means any Offeror or Contractor who is aggrieved in connection with a Solicitation or award of a Contract; or any Person who is aggrieved in connection with a debarment or suspension decision.~~
- C. ~~“Anti-Competitive Practice” means an act that harms, prevents, restricts, or distorts competition for a Procurement, or Contract opportunity, whether by fraudulent action or action taken in bad faith.~~
- D. ~~“Bid” means an Offer to perform a Contract for the provision of Goods, and any attendant Services, at a specified price in response to the requirements contained in an Invitation for Bids.~~
- E. ~~“Business” means any legal entity, including but not limited to a corporation, limited liability company, company, partnership, individual, sole proprietorship, joint venture, or non-profit entities.~~
- F. ~~“Change Order” means a written order directing the Contractor to make changes in the Scope of Work, term, or price in a Construction, architect, engineer, or land surveyor Contract only as authorized by the Contract. A Change Order is a Contract Modification.~~
- G. ~~“Collusion” means an arrangement between two or more Persons designed to achieve an Anti-Competitive Practice, including to improperly influence the actions of another Person.~~
- H. ~~“Conflict of Interest” means the reasonable foreseeability that any personal or economic interest of a Public Official, or Employee, will be affected in any materially different manner than the interest of the general public, by any decision, enactment, agreement, award, or other official action or function of any governmental body the Navajo Nation.~~
- I. ~~“Construction” means the process of building, altering, repairing, improving, installing, renovating, or demolishing any structure or building, or other improvements of any kind to any real property. It does not include the activities necessary to sustain routine operation, routine repair, or routine maintenance of existing structures, buildings, or other improvements to any real property.~~

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- ~~J. “Contract” means all types of Navajo Nation agreements, regardless of what they may be called, for the procurement of Goods, Services, or Construction, unless it is the type of agreement excluded in Section 304(C) of this Procurement Act.~~
- ~~K. “Contractor” means any Person, including Vendors, having a procurement Contract with a Division, Department, Office, or Program of the Navajo Nation.~~
- ~~L. “Data” means recorded information, regardless of form or characteristic.~~
- ~~M. “Designee” means an individual who is an appropriately authorized representative acting within the limits of approved authority.~~
- ~~N. “Division, Department, Office, or Program of the Navajo Nation” means any Department, Commission, Council, Board, Bureau, Committee, Institution, Legislative Body, Agency, Government Corporation, non-LGA governance certified Chapter, or other establishment or Public Official of the Executive, Legislative, or Judicial Branch of the Navajo Nation government. It does not mean an LGA governance certified Chapter, an Enterprise, or an Authority of the Navajo Nation.~~
- ~~O. “Emergency” means a need, following an unexpected occurrence or occasion, that requires immediate action to protect the public health, welfare, or safety of the Navajo Nation or its property.~~
- ~~P. “Employee” means an individual compensated by a Division, Department, Office, or Program of the Navajo Nation, whether elected, appointed, or not, and any uncompensated individual performing Services for any Division, Department, Office, or Program of the Navajo Nation.~~
- ~~Q. “Goods” means all property, tangible or intangible, which includes but is not limited to supplies, products, equipment, materials, printing, software, and insurance.~~
- ~~R. “Grant” means the receipt or provision of any assistance, financial or otherwise, under a program authorized by Navajo Nation, state, or federal law; private; or philanthropic sources. It does not include an award with the primary purpose of procuring an end product, whether in the form of Goods, Services, or Construction; a Contract resulting from such an award is not a Grant but a Procurement Contract.~~
- ~~S. “Invitation for Bids” (“ITB”) means a Solicitation issued by a Procuring Party seeking Offers where the Offer providing the lowest price serves as the basis for the award, so long as that Offeror is Responsible and Responsive.~~

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- V. ~~“Maximum Feasible Price” (“MFP”) means the estimated cost of the Goods, Services, or Construction to be solicited. The Maximum Feasible Price establishes the maximum amount of funds the Procuring Party is willing to expend on the Procurement and restricts the total purchase price for which a Procurement may be made. Regardless of Procurement method utilized, the Maximum Feasible Price shall be established prior to issuing any Solicitation and shall not be shared publicly.~~
- W. ~~“May” denotes the permissive and shall apply if the defined term is not capitalized.~~
- X. ~~“Modification” means any written document that amends the original Contract by mutual action and is signed by the Parties to the Contract.~~
- Y. ~~“Offer Security” means a Bid bond or deposit submitted with an Offer to guarantee to the Procuring Party that the Offeror, if awarded the Contract, will execute the Contract within a specified period of time and will furnish any bonds or other requirements of the Solicitation. Offer Security shall only be required in Construction Procurement.~~
- Z. ~~“Offeror” means the Person who provides a timely, written response to a Solicitation.~~
- AA. ~~“Party” or “Parties” means the Contractor and Procuring Party of a Procurement Contract as it pertains to this Procurement Act.~~
- BB. ~~“Person” means any Business, union, committee, club, other organization, individual or group of individuals.~~
- CC. ~~“Procurement” means buying, purchasing, renting, leasing, or otherwise acquiring any Goods, Services, or Construction, unless such purchase is excluded from coverage by this Procurement Act or by some other provision of Navajo Nation law. It also includes all functions pertaining to the acquisition of any such Goods, Services, or Construction.~~
- DD. ~~“Procuring Employee” means an Employee for a Division, Department, Office, or Program of the Navajo Nation who is responsible for procuring Goods, Services, or Construction for a Division, Department, Office, or Program of the Navajo Nation.~~
- EE. ~~“Procuring Party” means any Division, Department, Office, or Program of the Navajo Nation that is subject to the Procurement Act or its implementing Procurement Regulations. The head of the Procuring Party may delegate completion of required actions under this Procurement Act and Procurement Regulations to the Procuring Employee, unless~~

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~~authorization or signature is required. Such actions shall be made by the head or authorized Designee of the Procuring Party.~~

~~FF. "Proposal" means an offer to perform a Contract for the provision of Services, and any attendant Goods, or Construction, in response to the requirements contained in a Request for Proposals.~~

~~GG. "Public Funds" means all funds as provided in 12 N.N.C. § 810(S).~~

~~HH. "Public Notice" means Publication in a manner by which a Solicitation is made available to the general public.~~

~~I. "Publication" means, for the purposes of this Procurement Act, any commonly utilized or easily accessible report, article, educational material, handbook, brochure, pamphlet, press release, public service announcement, web page, audio or visual material, or other communication for public dissemination.~~

~~JJ. "Public Official" means a Public Official as defined in the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3743 (S).~~

~~KK. "Purchase Description" means the words used in a Solicitation to describe the Goods, Services or Construction to be procured, which includes any Specifications or Scope of Work.~~

~~LL. "Purchasing Manager" means the person, or authorized Designee, of the Purchasing Services Department within the Office of the Controller who is responsible for administering Procurement for the Navajo Nation.~~

~~MM. "Procurement Regulations" means the regulations adopted by the Budget and Finance Committee to govern the Procurement of Goods, Services, or Construction by a Procuring Party.~~

~~NN. "Request for Proposals" ("RFP") means a Solicitation issued by a Procuring Party seeking Offers where the award is based on meeting stated evaluation factors, which includes price.~~

~~OO. "Request for Statement of Qualifications" ("RSQ") means a Solicitation issued by a Procuring Party for the purpose of soliciting information from Persons as to their qualifications and capability to provide Goods or Services where award is based on contracting with the highest qualified Offeror at a fair and reasonable cost.~~

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~~PP. “Responsible Offeror” means a Person who has the capability in all respects to perform fully the Contract requirements noted in the Solicitation, and the integrity and reliability that will assure good faith performance.~~

~~QQ. “Responsive Offeror” means a Person who has submitted an Offer that conforms in all material respects to the requirements of the respective Solicitation for which it is submitted.~~

~~RR. “Scope of Work” means the terms describing the Goods to be provided or the Services to be performed. The Scope of Work should be a part of the Purchase Description and include, but is not limited to, any milestones, reports, deliverables, and end products expected from the Contractor in addition to a time line.~~

~~SS. “Services” means the furnishing of labor, time, or effort by a Contractor, not involving the delivery of Goods other than those incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.~~

~~TT. “Shall” denotes the imperative and shall apply if the defined term is not capitalized.~~

~~UU. “Solicitation” means the process of issuing written document(s), whether attached or incorporated by reference, to obtain information or pricing from an Offeror. Solicitations are issued in the form of an Invitation for Bids, Request for Proposal, Request for Statement of Qualification, or when seeking Quotations utilizing one of the following Procurement methods: Small Purchase, Micro Purchase, Emergency, Direct Source, or Solo Source Procurement.~~

~~VV. “Statement of Qualifications” means an Offer to perform a Contract for the provision of Services that describes the qualifications and capabilities of the Offeror in response to the requirements contained in a Request for Statement of Qualifications.~~

~~WW. “Quotation” or “Quote” means an Offer to perform a Contract that provides the cost for Goods, Services, or Construction in response to a Solicitation, such as a Small, Micro, Emergency, Direct, or Solo Procurement.~~

~~XX. “Vendor” means a dealer, distributor, merchant, or other seller providing Goods, Services, or Construction. A prospective or actual Offeror or Contractor may be a Vendor.~~

~~§ 309. Public access to Procurement information~~

~~Procurement information shall be available to the public to the extent provided by the Navajo Nation Privacy and Access to Information Act, 2 N.N.C. §§ 81 *et seq.*~~

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~~§ 310. Collection of data concerning public Procurement~~

~~The Purchasing Manager shall cooperate with the Office of the Controller in the preparation of statistical Data concerning the Procurement, usage, and disposition of all Goods, Services, and Construction. The Office of the Controller shall employ such trained personnel as may be necessary to carry out this function. A Procuring Party shall furnish such reports as the Purchasing Manager, or authorized Designee, may require concerning usage, needs, and stocks on hand. The Purchasing Manager, or authorized Designee, shall have the authority to prescribe forms to be used by a Procuring Party when making requisitions, orders, and reports regarding of Goods, Services, and Construction, unless otherwise provided for in law or regulation.~~

~~§ 311. Retention of Procurement records~~

~~All Procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules provided for in the Procurement Regulations. Inspection of all retained documents shall be governed by the Navajo Nation Privacy and Access to Information Act, 2 N.N.C. §§ 81 *et seq.*~~

Subchapter 2. Regulations Required by this Act

~~§ 320. Navajo Nation Procurement Regulations~~

- ~~A. The Budget and Finance Committee of the Navajo Nation Council shall adopt Procurement Regulations within one (1) year of the passage of this Act.~~
- ~~1. These Procurement Regulations shall be developed by the Department of Justice and the Purchasing Department of the Office of the Controller in consultation with the Business Regulatory Department of the Division of Economic Development and the Office of Legislative Counsel.~~
- ~~2. The adopted Procurement Regulations should be evaluated for potential revision at least every two (2) years. Such Procurement Regulations shall be consistent with the provisions of the NBOA, 5 N.N.C. §§ 201 *et seq.*~~
- ~~B. The Budget and Finance Committee shall not delegate its power to promulgate Procurement Regulations.~~
- ~~C. No Procurement Regulation shall change any commitment, right, or obligation of the Navajo Nation or of a Contractor under a Contract already in existence on the effective date of such Procurement Regulation.~~

Subchapter 3. Prerequisites to Solicitation

~~§ 330. Procurement file~~

~~The Procuring Party shall create a Procurement file that shall document the life of the Procurement from pre-Solicitation activities through the expiration of any Contract or later in time warranties. Updating and storage of the Procurement file is the responsibility of the Procuring Party, including when submitting through a software program for review. A Procurement file is not a public record.~~

~~§ 331. Prerequisites to Solicitation~~

~~Prior to issuing a Solicitation, the Procuring Party shall document the below actions in the Procurement file, as is applicable to the Procurement method utilized:~~

- ~~A. completion of research related to the Goods, Services, or Construction sought such that the Procuring Party is able to articulate the general details expected for a Contract of this type, including but not limited to cost, scope, potentials delays, and necessary time for completion;~~
- ~~B. evidence of estimated project costs based on the Procuring Party's research into other similar projects, past work experience, and other expertise;~~
- ~~C. documentation of the established the Maximum Feasible Price, including the relevant funding sources;~~
- ~~D. a fully developed Purchase Description, including a Scope of Work and any Specifications, any project expectations related to expected quality of the Goods or Services, project completion, and delivery;~~
- ~~E. submission of the Solicitation to the Risk Management Department to determine any required insurance coverage, if determined necessary; and~~
- ~~F. documentation of established evaluation criteria and scoring system for assessment of all Offers received in response to the Solicitation.~~

~~§ 332. Cancellation of Solicitations~~

~~A Solicitation may be cancelled, or any or all Offers may be rejected in whole or in part, when it is in the best interests of the Navajo Nation. The reasons for the cancellation shall be made part of the Project file.~~

~~Subchapter 4. Methods of Source Selection: Non-Construction~~

~~§ 340. Allowed Procurement methods~~

- ~~A. Except as otherwise authorized by law, all Contracts shall be awarded utilizing the procedures and criteria for the below source selection methods according to the standards established for each:~~
- ~~1. Competitive Sealed Bidding, pursuant to 12 N.N.C. § 341;~~
 - ~~2. Competitive Sealed Proposals, pursuant to 12 N.N.C. § 342;~~
 - ~~3. Competitive Selection for Professional Services, pursuant to 12 N.N.C. § 343;~~
 - ~~4. Small Purchases Procurement, pursuant to 12 N.N.C. § 344;~~
 - ~~5. Micro Purchase Procurement, pursuant to 12 N.N.C. § 345;~~
 - ~~6. Emergency Procurement, pursuant to 12 N.N.C. § 346;~~
 - ~~7. Direct Source Procurement, pursuant to 12 N.N.C. § 347;~~
 - ~~8. Solo Source Procurement, pursuant to 12 N.N.C. § 348; and~~
 - ~~9. Construction Services Procurement, pursuant to 12 N.N.C. § 350.~~

~~§ 341. Public Notice.~~

- ~~A. The Procuring Party shall give Public Notice of the Solicitation lasting a reasonable period, as is appropriate for the Goods, Services, or Construction sought. The Public notice period shall run from the time of first Publication to the deadline for submission of Offers.~~
- ~~B. Public Notice shall be made via Publication in a manner that provides notice the Navajo Nation and the general public.~~
- ~~C. The Business Regulatory Department of the Division of Economic Development shall maintain an internet website that is the official Navajo Nation Procurement Solicitation webpage providing Offerors with Public Notice of Solicitations and other relevant information about Navajo Nation Procurements. The Procuring Party may determine when it is in the best interest of the Navajo Nation to publish a Solicitation via this web page.~~

~~§ 342. Competitive sealed bidding~~

- ~~A. Competitive Sealed Bidding shall be utilized when selecting an offer relies on the lowest price as the determinative factor for the Procurement.~~
- ~~B. Invitation for Bids. The Procuring Party shall issue an Invitation for Bids with a Purchase Description describing the project in detail, the selection process, and all submission requirements, including at minimum deadlines, Offeror NBOA Priority status, project scope, duration, minimum qualifications, mandatory service standards, and any required warranties.~~

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~~C. Public Notice. Public Notice of the Invitation for Bids shall be given, at a minimum, as required in 12 N.N.C. § 341 (Public Notice).~~

~~D. Bid Acceptance. The Procuring Party shall ensure Bids are unconditionally accepted without alteration or correction and kept protected from review, except as authorized by the NBOA, this Section, or the Procurement Regulations.~~

~~E. Bid Correction, Modification, or Withdrawal. Prior to the date and time set for the Bid opening, Offerors may correct, modify, or withdraw a Bid by providing the Procuring Party a written notice of the correction, Modification, or withdrawal according to the procedure identified in the Solicitation or the Procurement Regulations.~~

~~1. After the start of a Bid opening, Offerors shall not correct or modify their Bid in a manner prejudicial to fair competition or the interest of the Navajo Nation.~~

~~2. Correction or withdrawal of inadvertently erroneous Bids before or after award, or cancellation of awards or Contracts based on such Bid mistakes, shall be permitted in accordance with the Procurement Regulations.~~

~~F. Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The name of each Offeror, amount of each Bid, and such other relevant information required by the Procurement Regulations shall be recorded. Bids opening shall occur pursuant to the procedure established in the NBOA and the Procurement Regulations.~~

~~G. Bid Evaluation. The Procuring Party shall evaluate a Bid solely on the requirements and criteria established in the Invitation for Bids with the lowest Responsive price as the determinative factor for award.~~

~~H. Award.~~

~~1. The Procuring Party shall issue, in writing, notice of the award of the Procurement Contract with reasonable promptness, to the lowest Responsible and Responsive Offeror. A Copy of this notice shall be maintained in the Procurement file.~~

~~2. In the event all Responsible and Responsive Bids exceed the established Maximum Feasible Price, the Procuring Party may negotiate and enter into a Contract with a low Responsible and Responsive Offeror if:~~

~~a. the original price of the selected Responsible and Responsive Bid does not exceed the Maximum Feasible Price by more than ten percent (10%);~~

~~b. the negotiations result in a reduction of price or Scop of Work, which may include changes in the Bid requirements, in order to bring the Bid price within the Maximum Feasible Price; and~~

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~~e. the negotiations are carried out according to procedures established in the Procurement Regulations.~~

~~I. Multi-Step Sealed Bidding. When the Procuring Party determines it is impractical to initially prepare a purchase description to support an award based on price, it may issue an Invitation for Bids first requesting the submission of unpriced Offers to be followed by a second Invitation for Bids limited to those Offerors whose offers were qualified under the criteria set forth in the first Solicitation.~~

§ 343. Competitive sealed proposals

~~A. Competitive Sealed Proposals shall be utilized when the Procuring Party determines that the selection of the most advantageous offer requires the evaluation of multiple qualifying factors in which price is one of the evaluated factors.~~

~~B. Request for Proposals. The Procuring Party shall issue a Request for Proposals, which shall include a Purchase Description, all contractual terms and conditions, and set forth the criteria to be used in evaluating the Proposal submissions from Offerors. The Purchase Descriptions, terms and conditions, and Specifications for Services and any attendant Goods shall not be unduly restrictive.~~

~~C. Establishing Evaluation Factors. In addition to the pre-Solicitation requirements of 12 N.N.C. § 331, prior to issuing a Request for Proposal, the Procuring Party shall:-~~

- ~~1. prepare the factors by which it will evaluate Proposals submitted in response to the Solicitation;~~
- ~~2. prepare the standards by which the Procuring Party will determine acceptability of quality, workmanship, delivery, and suitability for a particular purpose of the final work product;~~
- ~~3. specify in writing a scoring system specific to the standards established in the Request for Proposals for rating each submitted Proposal; and~~
- ~~4. Include all abovementioned factors, standards, and scoring system in the Request for Proposal.~~

~~D. Public Notice. Public Notice of the Solicitation shall be given, at a minimum, as provided in 12 N.N.C. § 341 (Public Notice).~~

~~E. Proposal Acceptance. The Procuring Party shall ensure Offers are unconditionally accepted without alteration or correction and kept protected from review, except as authorized by the NBOA, this Section, or the Procurement Regulations.~~

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- ~~F. Proposal Correction, Modification, or Withdrawal. Prior to the date and time set for the Proposal opening, Offerors may correct, modify, or withdraw an Offer by providing the Procuring Party a written notice of the correction, Modification, or withdrawal according to the procedure identified in the Solicitation or the Procurement Regulations, subject to any requirements established in the Procurement Regulations.~~
- ~~1. After the start of an Offer opening, Offerors shall not correct or modify their Offer in a manner prejudicial to fair competition or the interest of the Navajo Nation.~~
 - ~~2. Correction or withdrawal of inadvertently erroneous Offers before or after award, or cancellation of awards or Contracts based on such mistakes, shall be permitted in accordance with the Procurement Regulations.~~
- ~~G. Opening of Proposals. Proposals shall be opened in a manner that avoids disclosure of contents to competing Offerors during the process of evaluation and any necessary negotiation. Proposal opening shall occur pursuant to the procedures established in the NBOA and the Procurement Regulations.~~
- ~~H. Evaluation and Award:~~
- ~~1. The Procuring Party shall issue, in writing, notice of award of the Procurement Contract, with reasonable promptness, to the Responsible and Responsive Offeror whose Proposal is determined to be the most advantageous to the Navajo Nation after considering the evaluation factors established in the Request for Proposals and the Maximum Feasible Price. The Procuring Party may only evaluate factors or criteria established in the Request for Proposal. The notice of award shall be maintained in the Procurement File.~~
 - ~~2. In the event all Responsible and Responsive Proposals exceed the Maximum Feasible Price, the Procuring Party may negotiate and enter into a Contract with a lowest Responsible and Responsive Offeror if:~~
 - ~~a. the original price of the Responsible and Responsive Proposal selected does not exceed the Maximum Feasible Price by more than ten percent (10%);~~
 - ~~b. the negotiations result in a reduction of price or Scope of Work, which may include changes in the Proposal requirements in order to bring the Proposal price within the Maximum Feasible Price; and~~
 - ~~c. the negotiations are carried out according to procedures established in the Procurement Regulations.~~
 - ~~3. Discussion with Responsible Offerors and Revisions to Proposals. As provided in the Request for Proposals, and according to standards set in the Procurement Regulations, the Procuring Party may conduct discussions with Responsible Offerors who submit Proposals, and the Procuring Party determines it reasonably likely to be selected for award, for the purpose of clarification of any issues in the Proposal to assure the Offeror's full understanding of, and responsiveness to, the Solicitation requirements.~~

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~~§ 344. Competitive selection for professional services~~

- ~~A. Competitive Selection of Professional Services shall be utilized when the Procuring Party determines that the selection of the most advantageous Contractor for the Navajo Nation requires the evaluation of multiple qualifying factors in which price is not one of the evaluated factors for award, but that the final agreed-upon compensation after Contractor selection shall be fair and reasonable.~~
- ~~B. When procuring professional Services, the Procuring Party shall issue Request for Statements of Qualifications according to the procedures established in 12 N.N.C. § 343 (Competitive Sealed Proposals), in addition to the requirements of this Section.~~
- ~~C. Professional Services includes the architects, engineers, dentists, physician, land surveyors, attorneys, accountants, trainers or workforce education specialists, and other professional positions requiring specific expertise, certification, or licensing not otherwise addressed in this Procurement Act and as may be further explained in the Procurement Regulations.~~
- ~~D. Any Procuring Party may procure professional Services, except for the Services of attorneys or tribal court advocates. Only the Attorney General of the Navajo Nation may procure Contracts for the Services of outside attorneys and tribal court advocates. This includes Contracts for attorneys representing LGA governance certified Chapters; however, the LGA governance certified Chapters shall follow their Procurement policies for the Procurement of an attorney, whose final selection and Contract award shall be reviewed and approved by the Attorney General.~~
- ~~E. The Procuring Party shall award a Contract, in writing, to the best qualified Offeror based on the evaluation factors established in the Request for Statement of Qualification and after filing a written determination in the Procurement File explaining the reason the compensation is fair and reasonable.~~
- ~~F. The award to a Contractor shall be made pursuant to the provisions of this Section and any further requirements set forth in the Procurement Regulations. If an Offeror includes a separate cost proposal in a submitted Statement of Qualifications when not required, the Procuring Party may not open or evaluate the cost proposal, but may evaluate the Offer only. If selected, the Procuring Party may require the Offeror honor the pricing provided in the originally submitted cost proposal.~~

~~§ 345. Small purchases Procurement~~

~~Applicability. The Procuring Party may make any Procurement costing no less than the amount established for a Micro Purchase in the Procurement Regulations and not exceeding the amount~~

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~~established for a Small Purchase in the Procurement Regulations. Such Procurement shall be made according to the procedures established in the Procurement Regulations, provided that no Procurement shall be artificially divided in such a manner to create multiple Small Purchases under this Section. The Procuring Party shall give NBOA Priority Businesses preference in Small Purchases Procurements.~~

~~§ 346 Micro-purchases Procurement~~

- ~~A. Applicability. The Procuring Party may make any Procurement not exceeding the amount established in the Procurement Regulations, provided that no Procurement shall be artificially divided in such a manner that it constitutes multiple Micro Purchases under this Section. The Procuring Party shall give NBOA Priority Businesses preference in Micro Purchases Procurements.~~
- ~~B. Micro Purchases may be awarded without competitive selection if the Procuring Party considers the price to be reasonable based on research, experience, purchase history, or other information as provided in the Procurement Regulations. Such details and information shall be documented in the Procurement File.~~

~~§ 347. Emergency procurement~~

- ~~A. A Procuring Party may award a Contract without competitive selection when an Emergency exists, under the requirements of this Section, according to the procedure set forth in the Procurement Regulations. If no procedure exists, the Procuring Party may adhere to the Direct Source Procurement procedure.~~
- ~~B. An Emergency Procurement shall be limited to only the Goods, Services, or Construction necessary to fulfill the immediate need created by the present Emergency.~~
- ~~C. Emergency Procurement shall be made utilizing competitive selection and preference for NBOA Priority-certified Businesses as is practicable based on the circumstances.~~

~~§ 348. Direct source procurement~~

- ~~A. A Procuring Party may award a Contract for Goods, Services, or Construction without competitive selection when, regardless of price, the Procuring Party, in concert with the Department of Justice (or the Office of Legislative Counsel for Procurements by the Legislative Branch) determines in writing that either:~~
- ~~1. prior attempt(s) at Procurement through competitive selection methods yielded no Offers, only Offers in excess of the Maximum Feasible Price, or otherwise did not result in a Procurement award or Contract;~~

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- ~~2. the project relates to the selection of a utility provider where the selected provider is the sole utility provider in the respective area or when the Navajo Tribal Utility Authority is the preferred provider in the respective area; or~~
- ~~3. the Contractor has direct knowledge of or past experience with the particular project, such as being the original Contractor on an unfinished project, and that it would be in the best interest of the Navajo Nation to award a Contract to the original Contractor in order to continue and finish the project.~~

- ~~B. The Department of Justice (or the Office of Legislative Counsel for Procurements by the Legislative Branch) shall determine, and may consult with the Purchasing Manager, whether directly sourcing to a single Vendor or to a limited number of Vendors is the appropriate selection method according to the reasoning the Procuring Party provides.~~
- ~~C. The written determination, reasoning for such, approval for the determination, and selection of the Contractor shall be included in the Procurement File.~~
- ~~D. Direct Source selection shall be made utilizing competitive selection and preference for NBOA Priority-certified Businesses as is practicable based on the circumstances.~~
- ~~E. The Procuring Party shall only use Direct Source Procurement when no alternative Procurement method is feasible or when it is in the best interest of the Navajo Nation.~~

~~§ 349. Solo source Procurement~~

- ~~A. A Procuring Party may award a Contract for Goods, Services, or Construction without competitive selection and according to procedures established in the Procurement Regulations when, regardless of price, the Procuring Party, with consent of a representative of the Department of Justice (or the Office of Legislative Counsel for Procurements by the Legislative Branch) and concurrence of the Purchasing Manager determines in writing that:~~
- ~~1. there is only one source available; and~~
 - ~~2. no reasonable alternative exists to meet the intended purpose of the Contract.~~
- ~~B. The written determination, reasoning, and the selection of the particular Contractor shall be maintained in the Procurement File.~~
- ~~C. The Procuring Party shall only utilize Solo Source Procurement when no reasonable alternative source exists. If a generic or other equivalent option is available for the Goods, Services, or Construction sought, then the Procuring Party shall utilize competitive selection methods as allowed under this Procurement Act.~~

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- ~~D. Procurement for Goods, Services, or Construction utilizing patents, trade secrets, or similar intellectual property protections where only one Vendor is capable of providing the Goods, Services, or Construction sought are subject to Solo Source Procurement, provided that a generic or other equivalent option is not available.~~

~~Subchapter 5. Methods of Source Selection: Construction Services~~

~~§ 350. Construction Procurement~~

- ~~A. The default procedural method for Construction Procurement shall be that of Competitive Sealed Proposals; however, the Procuring Party may utilize other Procurement methods if the requirements for such methods are met, except that no Construction shall be procured through Competitive Sealed Bidding.~~
- ~~B. This subchapter provides additional requirements for Construction Procurements to which the Procuring Party must adhere no matter the Procurement method used. The Procurement Regulations shall provide additional guidance for Construction Procurement.~~

~~§ 351. Responsibility for selecting methods of Construction management~~

- ~~A. The Budget and Finance Committee shall include in the Procurement Regulations as many methods of project delivery, Contract type, and Construction management as it may determine feasible. The Procurement Regulations shall also:~~
- ~~1. grant the discretion to select the appropriate method of project delivery and Construction contract management for a particular project to the Procuring Party responsible for carrying out the Construction project; and~~
 - ~~2. require the Procuring Party include in the Request for Proposal or Quotation the type of project delivery method and Construction management it expects to utilize for the project.~~

~~§ 352. Required Construction security and bonding~~

- ~~A. Offer Security. Offer Security shall be required for all Construction Procurements when the price estimated by the Procuring Party will exceed the amount established in the Procurement Regulation.~~
- ~~1. The Procurement Regulations shall provide for any acceptable forms of the Offer Security.~~
 - ~~2. Any Offer submitted that does not comply with the Offer Security requirements shall be rejected unless, pursuant to the Procurement Regulations, the Procuring Party determines that the Offer failures to comply is insubstantial.~~
 - ~~3. If an Offeror withdraws its Proposal before the Procuring Party awards the Contract, no action shall be taken against the Offeror or the Offer Security.~~

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- ~~B. Performance and Payment Bonding. When a Construction Contract is awarded in excess of the amount established in the Procurement Regulations, the Contractor shall deliver a performance and payment bond to the Navajo Nation, which shall become binding on the Parties upon the execution of the Contract and extend for the entire duration of the Contract, including Modifications.~~
- ~~1. The bonds shall be provided such that they are:
 - ~~a. a performance bond satisfactory to the Navajo Nation in an amount equal to one hundred percent (100%) of the total purchase price specified in the Contract; and~~
 - ~~b. a payment bond satisfactory to the Navajo Nation for the protection of all Persons supplying labor and material to the Contractor or its subcontractors for the payment of the work performed pursuant to the Contract. The bond shall be in an amount equal to one hundred percent (100%) of the total purchase price specified in the Contract.~~~~
 - ~~2. The Procurement Regulations shall provide for the acceptable form of the performance and payment bonds required by this Procurement Act.~~
 - ~~3. Reduction of Bond Amounts. The Procurement Regulations may authorize the Procuring Party to reduce the amount of performance and payment bonds to fifty percent (50%) of the total purchase price for each bond.~~
- ~~C. Authority to Require Additional Bonds and Security. Nothing in this Section shall be construed to limit the authority of the Navajo Nation to require a bond or other security in addition to those bonds or security, or in circumstances other than those specified in 12 N.N.C. § 352(A)-(B).~~

Subchapter 6. Contract Formation, Administration

~~§ 360. Uniform Contract clauses and Contract administration~~

~~A. Contract Clauses.~~

- ~~1. All Contract clauses shall be consistent with the provisions of this Procurement Act and the Procurement Regulations issued pursuant to this Chapter. Contracts shall include all clauses necessary to ensure the Navajo Nation's interests are addressed and protected.~~
- ~~2. A provision requiring any litigation, arbitration, or other dispute resolution proceeding arising from the Contract be conducted in any state is against the Navajo Nation's public policy and is void and unenforceable.~~
- ~~3. The Procurement Regulations shall require the inclusion of clauses addressing, as applicable: dispute resolution; choice of law; appropriate remedies; price adjustments; time of performance; differing site conditions; Contract Modification, changes in the Scope of Work and quantities of work; suspension of work; termination of Contracts; inspection, audit, recordkeeping requirements; statutory requirements; and other Contract provisions as appropriate.~~

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- ~~B. Price Adjustments. Adjustments of Contract price shall be permitted by mutual agreement of the parties in writing.~~
- ~~C. Appropriate Remedies. The Procurement Regulations may include, but are not limited to, only clauses providing for appropriate remedies covering the following subjects:~~
- ~~1. liquidated damages;~~
 - ~~2. specified excuses for delay or nonperformance;~~
 - ~~3. termination of the Contract for default of the Contractor; and~~
 - ~~4. termination of the Contract in whole or in part for the convenience of the Navajo Nation or due to unavailability of Navajo Nation funds.~~
- ~~D. Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuing performance for a Contract in a subsequent fiscal period, the Contract shall be terminated and the Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred to that date, but not amortized in the price of the Goods, Services, or Construction delivered under the Contract. The cost of termination may be paid from any appropriations available for such purposes.~~
- ~~E. Contract Approval and Administration. In addition to any other statutory review requirements, prior to final execution and regardless of Procurement Method utilized, all Contracts shall be reviewed and approved by the head or Director (or authorized Designee) of the following:~~
- ~~1. the Division, Department, Office, or Program of the Navajo Nation from where the Contract originates;~~
 - ~~2. the Office of the Controller for documents related to the finances of the Contract;~~
 - ~~3. the Director of the Office of Management and Budget for documents related to a financial impact on the Navajo Nation; and~~
 - ~~4. the Department of Justice for legal sufficiency of the Contract, the Procurement, and the Procurement File.~~
- ~~F. Purchase Orders Excluded from Review. The Procurement Regulation may establish review and authorization procedures independent of to this Section for the final approval and execution of Purchase Orders, provided that any utilized form or version of a Purchase Order receives approval from the Department of Justice.~~

~~§ 361. Contract termination, expiration, and resumption~~

- ~~A. Termination. When a Procuring Party terminates a Contract for the Contractor's default, that Contractor shall not be eligible to complete the work unless decided otherwise by the~~

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~~Procuring Party in consultation with the Department of Justice. A Contractor may be eligible to complete the work if the Navajo Nation terminated the Contract for reasons other than default.~~

~~B. Resumption of expired Contracts. When a Contract expires through no fault of the Contractor and the Scope of Work is not complete, the Procuring Party and the Contractor may enter into a Modification of the original Contract to extend the Contract term to complete the Scope of Work. The Procuring Party and the Contractor shall initiate the Modification within nine (9) months of the original Contract's expiration without amendment to the Scope of Work or total Contract price. This Subsection does not supersede the Navajo Nation preferred practice to extend the term of a Contract by Modification prior to its expiration to ensure continuous work performance.~~

~~§ 362. Types of Contracts~~

~~Subject to the limitations of this Subchapter, any type of Contract promotes the best interests of the Navajo Nation may be used; except that the use of a cost plus a percentage of cost Contract is prohibited.~~

~~§ 363. Multi-term and multi-source Contracts~~

~~A. Unless otherwise provided by law, a Contract may be entered into for any period of time deemed to be in the best interests of the Navajo Nation, based on the considerations enumerated in the Procurement Regulations.~~

- ~~1. The term of the Contract and conditions to meet for renewal or extension, if any, shall be included in the Solicitation.~~
- ~~2. A multi-term Contract shall only be entered into if funds are available to fully fund the first fiscal period or the first project phase of the Contract at the time of contracting. Payment and performance obligations for succeeding fiscal periods or phases shall be subject to the availability and appropriation of additional funds. If funds are not appropriated or otherwise made available to support continuation of Contract performance, the Navajo Nation shall terminate the Contract.~~

~~B. Indefinite Delivery Indefinite Quantity Contracts. A Procuring Party may procure indefinite delivery indefinite quantity Contracts for multiple projects and Contractors under a single Solicitation, provided that the total amount of the multiple Contracts and all renewals for a single Contractor do not exceed the price and term limit, including increases and extensions, established in the Solicitation.~~

~~§ 364. Reimbursement Cost principles regulations required~~

~~The Procurement Regulations may establish reimbursement cost principles that set the maximum limits of incurred costs under Contract reimbursement provisions.~~

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~~§ 365. Protesting Solicitations and awards~~

- ~~A. Right to Protest. Any Offeror or Contractor aggrieved in connection with the Solicitation or award of a Contract may protest such grievance in writing to the Procuring Party within fourteen (14) days after the Aggrieved Person knows or should have known of the facts giving rise to the reason for the protest according to procedures provided by the Procurement Regulations.~~
- ~~B. Authority to Resolve Protests. The Procuring Party, with the approval of the Department of Justice, shall have the authority to investigate, resolve, and make a determination regarding a timely protest from an Aggrieved Person in accordance with requirements of the Procurement Regulations.~~

~~§ 366. Debarment or suspension~~

- ~~A. Authority. The Office of the Controller, with concurrence from the Department of Justice, shall have the authority to debar or suspend for cause a Person from contracting with or otherwise receiving a business opportunity from the Navajo Nation pursuant to the conditions and procedures established in the Procurement Regulations. The Office of the Controller shall issue a written decision of debarment or suspension, including length of such, to the Person under investigation.~~
- ~~B. Debarment or Suspension for Cause. The causes for debarment or suspension shall include the following and are applicable to a Person in their present form or any other identifiable capacity:~~
- ~~1. conviction in any jurisdiction for commission of a criminal offense incident to obtaining or attempting to obtain a public or private Contract or subcontract, or in the performance of such Contract or subcontract;~~
 - ~~2. conviction in any jurisdiction for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a Navajo Nation Contractor;~~
 - ~~3. conviction under any antitrust statute arising out of the submission of Offers;~~
 - ~~4. violation of Contract provisions of such a character that the of Office of the Controller, with concurrence from the Department of Justice, determines to be to be so serious as to justify debarment or a suspension action, such as the below:~~
 - ~~a. deliberate failure, without good cause, to perform in accordance with the Purchase Description or within the time limit provided in the Contract; or~~
 - ~~b. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor~~

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~~shall not be considered as a basis for debarment or suspension;~~

- ~~5. ineligibility to conduct business with the Navajo Nation under the NBOA;~~
- ~~6. submission of bad Offers in which the Procuring Party determines that the Offeror has submitted Offers lower than the expected price, or overstated its qualifications, with the intent to conduct the Services or provide the Goods; and~~
- ~~7. any other cause provided in Procurement Regulations or which the Office of the Controller, with the approval of the Attorney General, determines to be so serious and compelling as to affect Responsibility as a Navajo Nation Contractor, including debarment or suspension by another government.~~

~~C. Debarment and Suspension List. The Office of the Controller shall maintain, on a publicly available website, a list of all debarred and suspended Persons, including the date on which the action expires. The Office of the Controller shall update this list monthly, except that at the time the Office of the Controller issues a written notice of debarment or suspension, it shall add the Person debarred or suspended to the list.~~

~~D. Right to Protest. Any Aggrieved Person in connection with being debarred or suspended may protest such action in writing to the Business Regulatory Department within thirty (30) days of the date of the written notice of debarment or suspension according to procedures established in the Procurement Regulations.~~

~~E. Authority to Resolve Protests. The Business Regulatory Department shall have the authority to investigate and make a determination regarding the protest in accordance with requirements of the Procurement Regulations.~~

~~§ 367. Rejection of Offer or termination of Contract by debarred or suspended Person~~

~~The Procuring Party shall, at the time of Offer acceptance and prior to Contract execution, review the list of debarred or suspended Persons to determine whether the Offeror, in its present or any other identifiable capacity is listed. If that Person is listed and currently debarred or suspended, the Procuring Party shall immediately, in writing, reject any Offer submitted without review or terminate the award.~~

~~§ 368. Administrative review~~

~~The Office of Hearings and Appeals shall have the jurisdiction to hear and decide appeals of protest decisions under this Procurement Act and its Procurement Regulations.~~

~~§ 369. Scope of administrative review & presumed finality of decisions~~

~~A. The Office of Hearings and Appeals shall have jurisdiction to review and determine de novo:~~

- ~~1. any protest of a Solicitation or award of a Contract by an Aggrieved Person;~~

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- ~~2. any protest of a debarment or suspension by the Aggrieved Person; and~~
- ~~3. any appeal by an Aggrieved Person from a determination by the Procuring Party related to actions in 12 N.N.C. § 365 or by the Office of the Controller or Business Regulatory Department related to actions in 12 N.N.C. § 366.~~

~~B. Time Limitation on Filing an Appeal. The Aggrieved Person shall file an appeal within twenty (20) calendar days of the receipt of a decision.~~

~~C. Decision. The Office of Hearing and Appeals shall make a determination based on the preponderance of the evidence on the issue of whether the actions of the Procuring Party, Office of the Controller, or the Business Regulatory Department were consistent with the provisions of this Procurement Act and the Procurement Regulations. The Solicitation or award of a Contract or determination to debar or suspend a Person shall be upheld unless it is shown by a preponderance of the evidence that the actions of the Procuring Party, Office of the Controller, or Business Regulatory Department violated a specific provision of this Procurement Act or the Procurement Regulations.~~

~~D. Presumed Finality of Decisions. Determinations by the Office of Hearings and Appeals shall be final and conclusive.~~

~~Subchapter 7. Compliance with Requirements of Another Jurisdiction~~

~~§ 370. Compliance with federal, state, county, municipal, or other source requirements~~

~~Where a Procurement involves use of external assistance or funds, and where the agreement requires compliance with Procurement laws of another jurisdiction, the Navajo Nation shall comply with only the mandatorily applicable laws of the jurisdiction. If the agreement allows for choice of Procurement law and regulations between the two jurisdictions, this Procurement Act and its Procurement Regulations shall apply unless the Procurement Regulations provide for a specific instance when external funding Procurement law and regulation may be utilized.~~

~~Subchapter 8. Amendment~~

~~§380. Amendments~~

~~This Procurement Act may be amended by the Navajo Nation Council.~~

NAVAJO NATION

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Navajo Nation Council Special Session

3/19/2026

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Amd# to Amd# Legislation #0052-26: Enacting a
MOT Claw, S New Navajo Nation Procurement
SEC Tso, O Act...

PASSED

Yeas : 13

Nays : 0

Excused : 4

Not Voting : 6

Yea : 13

Begay, H	Johnson, C	Nez, T	Tso, O
Charles-Newton, E	Nez, A	Parrish, S	Yazzie, C
Claw, S	Nez, R	Slater, C	Yazzie, L
Crotty, A			

Nay : 0

Excused : 4

Jesus, B	Tolth, G	Notah, N	Yanito, C
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Not Voting : 6

Begay, N	James, V	Simonson, G	Simpson, D
Daniels, H	Mitchell, A		

Presiding Speaker: Curley, C