

TITLE 26 - FINANCE

CHAPTER 1 - FINANCE CODE

ARTICLE 4 - CONTRACTING AND PROCUREMENT AUTHORITY

Legislative History: 26 T.O.C. Chapter One, Article 4, Contracting and Procurement Authority, was enacted and codified by Resolution No. 08-707 effective December 15, 2008.

Related Legislation: The Nation's chairperson is delegated "limited" authority to enter certain agreements with the Indian Health Service pursuant to Resolution No. 93-240, which became effective July 21, 1993.

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CHAPTER 1 - FINANCE CODE

ARTICLE 4 - CONTRACTING AND PROCUREMENT AUTHORITY

Section 1401 Construction.

This Article shall apply to the Nation's Executive, Judicial, and Legislative Branches and shall not be construed to diminish or alter the contracting and procurement powers of the Nation's enterprises or other subordinate entities that have been expressly vested with such powers in accordance with the laws of the Nation.

Section 1402 Contract Approval Reserved.

Except as expressly provided otherwise by law, the following shall require approval by action of the Legislative Council:

- (A) attorney contracts on behalf of the Nation;
- (B) any agreement waiving the Nation's sovereign immunity;
- (C) any agreement providing that the Nation indemnify a third party in a manner that requires a waiver of the Nation's sovereign immunity in order to be enforceable;
- (D) intergovernmental agreements, including but not limited to agreements with any other government, subdivision, or entity thereof; law enforcement and other memoranda of understanding or agreement; self-determination contracts and annual funding agreements; the tribal-state gaming compact; and cooperative agreements;
- (E) agreements to receive and expend grant funds in accordance with Resolution No. 99-059;
- (F) construction and all other contracts and agreements with a total value in excess of \$500,000;
- (G) agreements to manage and lease or otherwise deal with lands, or interests in land, and resources of the Tohono O'odham Nation, including the use, permit or lease of lands for mining purposes (including oil and gas), and the use, permit, lease, sale or disposition of other resources (including surface and ground waters); and
- (H) any other contract, lease, or other agreement exercising a power expressly vested in the Legislative Council or that is otherwise subject to Legislative Council approval.

Section 1403 Judicial Branch.

(A) Travel and Procurement. The Chief Judge of the Tohono O’odham Judicial Branch is vested with the authority, in accordance with budgets approved pursuant to the Nation’s laws, to grant final approval for the travel of Judicial Branch employees and officials, and procure Judicial Branch goods and services, subject to the additional requirements of this Article.

(B) Contracting Authority. Subject to the provisions of this Code and other laws of the Nation, and with the exception of contracts and agreements that require Legislative Council approval, the Chief Judge is authorized to negotiate, execute and otherwise conclude, and administer contracts (1) in amounts not to exceed \$100,000 that are within the Chief Judge’s authority as the chief administrator of the Judicial Branch and (2) that expend funds pursuant to appropriations or budgets authorized under resolutions or in accordance with the other laws of the Nation.

(C) The Chief Judge may delegate the authorities stated in this Section to the Deputy Chief Judge.

Section 1404 Legislative Branch.

(A) Travel and Procurement. The Council Chairperson is vested with the authority, in accordance with budgets approved pursuant to the Nation’s laws, to grant final approval for the travel of Legislative Branch employees and officials, and procure Legislative Branch goods and services, subject to the additional requirements of this Article.

(B) Contracting Authority. Subject to the laws of the Nation and with the exception of contracts and agreements that require Legislative Council approval, the Legislative Council Chairperson, and in the Council Chairperson’s absence, the Council Vice Chairperson, are vested with the authority to negotiate, execute and otherwise conclude, and administer contracts (1) in amounts not to exceed \$100,000, (2) that are within the authorities delegated to the Council Chairperson and Vice Chairperson by the Legislative Council, and (3) that expend funds pursuant to appropriations or budgets authorized under resolutions or in accordance with the other laws of the Nation.

Section 1405 Executive Branch; Nation’s Chairperson.

(A) Official Representative. Except as provided otherwise in this Code or any other law of the Nation, the Nation’s Chairperson shall be the designated signatory and official representative of the Nation on all contracts and agreements.

(B) Travel and Procurement. The Nation’s Chairperson is vested with the authority, in accordance with budgets approved pursuant to the Nation’s laws, to grant final approval for the travel of Executive Branch employees and officials, and procure Executive Branch goods and services, subject to the additional requirements of this Article.

(C) Contracting Authority. Subject to the laws of the Nation, including the provisions of this Code, and with the exception of contracts and agreements that require Legislative Council approval, the Nation's Chairperson, and in the Chairperson's absence, the Nation's Vice Chairperson, are vested with the authority to negotiate, execute and otherwise conclude, and administer Executive Branch contracts in amounts not to exceed \$500,000 that expend funds pursuant to appropriations or budgets authorized under resolutions or in accordance with the other laws of the Nation.

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting Tohono O'odham Code Title 26, Chapter One, Article 4, Contracting and
Procurement Authority)

RESOLUTION NO. 08-707

- 1 **WHEREAS, the Constitution of the Tohono O'odham Nation provides that Judicial Branch shall**
2 **be administered by the Chief Judge, "who shall be the chief administrative officer of**
3 **the Tohono O'odham Judiciary" (Constitution, Article VIII, Section 5); and**
- 4 **WHEREAS, the Constitution also provides that "the executive power of the Tohono O'odham**
5 **Nation shall be vested in the office of the Chairman," and further provides that the**
6 **"Chairman shall be the chief executive officer of the Tohono O'odham Nation"**
7 **(Constitution, Article VII, Section 1 and 2); and**
- 8 **WHEREAS, the Legislative Council is vested with the broad legislative and fiscal powers, and is**
9 **administered by the Council Chairperson and Vice Chairperson, who are delegated**
10 **authority by the Council pursuant to Article V, Section 4 of the Constitution; and**
- 11 **WHEREAS, the Legislative Council finds that, although the Nation has been organized in a tri-**
12 **branch system of government, it is in the Nation's best interest to balance the**
13 **independence of each branch with the need for uniform systems of financial**
14 **management (Constitution, Article V, Section 1, Article VI); and**
- 15 **WHEREAS, the Council therefore finds it is in the Nation's best interest to clarify the authority of**
16 **each branch of government to approve travel and procure goods and services that are**
17 **funded pursuant to approved budgets and appropriations; and**
- 18 **WHEREAS, the Legislative Council is expressly vested with the power to "negotiate and conclude**
19 **agreements and contracts on behalf of the Tohono O'odham Nation" with federal,**
20 **state, and tribal governments and their subdivisions, "or with private persons or**
21 **organizations on all matters within the authority of the Tohono O'odham**
22 **Council,"(Constitution, Article VI, Section 1(f)); and**
- 23 **WHEREAS, as a matter of practice, the Nation's Chairperson has executed and administered the**
24 **majority of Nation's contracts; and**
- 25 **WHEREAS, the Council has also, by resolution, expressly delegated the authority to execute and**
26 **otherwise conclude self-determination contracts and annual funding agreements,**
27 **attorney contracts, construction contracts, intergovernmental agreements,**
28 **memoranda of understanding and agreement, and other contracts and agreements**
29 **to the Nation's Chairperson and, in some cases, to the Nation's Vice Chairman**

1 (Constitution, Article VII, Section 2(d)); and

2 WHEREAS, although the Legislative Council has approved these individual delegations of

3 execution authority to the Nation's Chairperson, and has clarified the Legislative

4 Council officers' contracting authority pursuant to Legislative Order No. 06-047, the

5 Council has not enacted a law expressly enumerating the Nation's Chairperson's

6 contracting powers or those of the Nation's Chief Judge; and

7 WHEREAS, the Council finds it is in the Nation's best interest to clarify the contracting

8 authorities for its branches of government and to expressly vest the Nation's

9 Chairperson with contracting authority for the majority of Nation's contracts and

10 agreements in accordance with Tohono O'odham Code Title 26, Chapter 1, Article 4,

11 Contracting and Procurement Authority, which is hereby incorporated by this

12 reference.

13 NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that it hereby

14 adopts Tohono O'odham Code Title 26, Chapter 1, Article 4, Contracting and

15 Procurement Authority.

16 The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 05TH Day

17 of DECEMBER, 2008 at a meeting at which a quorum was present with a vote of 1,798.95 FOR; 563.55

18 AGAINST; -0- NOT VOTING; and 172.0[08] ABSENT, pursuant to the powers vested in the Council by

19 Section 4 of Article V; Section 1(f) of Article VI of the Constitution of the Tohono O'Odham Nation,

20 adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy

21 Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act

22 of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Felicia Munez Jose
 Verlon M. Jose, Legislative Chairman

10th day of December, 2008

ATTEST:

Lucille Lopez
 Lucille Lopez, Acting Legislative Secretary

05 day of December, 2008.

RESOLUTION NO. 08-707

(Adopting Tohono O'odham Code Title 26, Chapter One, Article 4, Contracting and Procurement Authority)

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Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 11th day of December, 2008 at 9:20 o'clock, a.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

Felicia Munoz for
Verlon M. Jose, Legislative Chairman

APPROVED

on the 15 day of December, 2008

DISAPPROVED

at 8:30 o'clock, a.M.

Ned Norris, Jr.
NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 15 day of

December, 2008, at 8:50 o'clock, A.M.

Lucille Lopez
Lucille Lopez, Acting Legislative Secretary

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Limited Delegation of Authority to the Chairman, Executive Branch
for Entering into Agreements with the Indian Health Service)**

RESOLUTION NO. 93-240

WHEREAS, the Tohono O'Odham Legislative Council, pursuant to Article VI, Section 1 (f) of the Tohono O'Odham Constitution is empowered, "... To consult, negotiate, and conclude agreements and contracts on behalf of the Tohono O'Odham Nation with Federal, state, and local governments and other Indian Tribes or their departments, agencies or political subdivisions, or with private persons or organizations on all matters within the authority of the Tohono O'Odham Council ..."; and

WHEREAS, the Tohono O'Odham Legislative Council does, from time to time, pursuant to the powers granted to it by the Constitution of the Tohono O'Odham Nation, enter into contracts, covenants, and or grant Agreements, with the Federal government, including the Indian Health Service (IHS), the Environmental Protection Agency (EPA), and others, for the provision of community water and wastewater facilities and related services; and

WHEREAS, the Indian Health Service (IHS) has been successful in obtaining annual funds from the Environmental Protection Agency (EPA) to assist the IHS in continuing an operation and maintenance function within the Tucson Area Office, Office of Environmental

RESOLUTION NO. 93-240

**(Limited Delegation of Authority to the Chairman, Executive Branch
for Entering into Agreements with the Indian Health Service)**

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Health and Engineering, which works with the Tohono O'Odham Nation in meeting the requirements of the Safe Drinking Water Act (SDWA) by conducting and/or facilitating operator training classes and providing technical assistance to the Nation and community water systems on the Tohono O'Odham Reservation, and produces operation and maintenance manuals, and as-built drawings for all community water and wastewater systems; and

WHEREAS, it is in the best interests of the Tohono O'Odham Nation, the Legislative Branch, and the Executive Branch to delegate implementation and administration of subsequent projects and grants to the Chairman of the Tohono O'Odham Nation (Executive Branch).

NOW, THEREFORE, BE IT RESOLVED by the Tohono O'Odham Legislative Council that the Nation's Officials, to wit: the Chairman, the Vice-Chairman, and any designated official, are hereby authorized to enter into Agreements with the Indian Health Service for implementing projects outlined by the said Agreements.

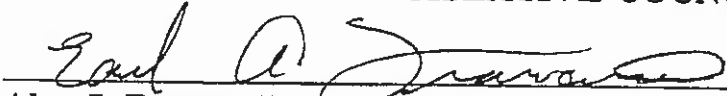
RESOLUTION NO. 93-240

(Limited Delegation of Authority to the Chairman, Executive Branch
for Entering into Agreements with the Indian Health Service)

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The foregoing Resolution was passed by the Tohono O'Odham Legislative Council on the 13TH day of JULY, 1993 at a meeting at which a quorum was present with a vote of 1,763.0 FOR; -0- AGAINST; -0- NOT VOTING; and 04 ABSENT, pursuant to the powers vested in the Council by Section 1 (f) and Section 2(d) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


For Alex J. Ramon, Legislative Chairman

19 day of July, 19 93

ATTEST:


Teresa M. Choyguha, Legislative Secretary

19th day of July, 19 93.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 20 day of July, 1993, at 4:30 o'clock, 7.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL


For Alex J. Ramon, Legislative Chairman

RESOLUTION NO. 93-240


(Limited Delegation of Authority to the Chairman, Executive Branch
for Entering into Agreements with the Indian Health Service)

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APPROVED on the 21 day of July, 1993

DISAPPROVED) at 6:45 o'clock, PM.



SYLVESTER LISTO, Chairman
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 22nd day of July,
1993, at 3:00 o'clock, P.M.



Teresa M. Choyguha, Legislative Secretary