

RESOLUTION OF THE  
NAABIK'ÍYÁTI' STANDING COMMITTEE  
24<sup>th</sup> NAVAJO NATION COUNCIL -- Second Year, 2020

AN ACTION RELATING TO LAW AND ORDER, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES; APPROVING AND AUTHORIZING PUBLIC LAW 93-638 CONTRACT (MODEL 108) BETWEEN THE NAVAJO NATION AND U.S. DEPARTMENT OF THE INTERIOR FOR LAW ENFORCEMENT - PATROL SERVICES FOR A PERIOD OF FIVE YEARS; APPROVING AND AUTHORIZING ANNUAL FUNDING AGREEMENT(S)

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 600(A). Pursuant to 2 N.N.C. § 601 (C)(1), the committee serves as oversight for the Navajo Nation Division of Public Safety.
- B. The Budget and Finance Committee is a standing committee of the Navajo Nation Council. It has the authority to "authorize, review, approve and accept agreements, including contracts and grants, between the Navajo Nation and any federal, state or regional authority upon the recommendation of the standing committee which has oversight of the division, department or program which has applied for the agreement, or upon recommendation of the Chapter." 2 N.N.C. § 301 (B)(15).
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. It has the authority to "authorize, review, approve and accept any and all contracts, grants and associated budgets with the United States, its departments and agencies for the implementation of the Indian Self-Determination and Education Assistance Act, as amended upon the recommendation of the standing committee which has oversight of the division, department or program applying for the contract and/or grant." 2 N.N.C. § 701 (A)(12).
- D. The Navajo Nation has a government-to-government relationship with the federal government. *Treaty of 1868, Navajo Nation/United States.*

**SECTION TWO. FINDINGS**

- A. The Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638) authorizes government agencies, such as the U.S. Department of the Interior, to enter into contracts with, and make grants directly to, federally recognized Indian tribes. The areas of agreements include law enforcement services and other programs of the federal government.
- B. The Navajo Nation currently has a Public Law 93-638 contract with the U.S. Department of the Interior, for *Uniform Patrol* (Contract No. A16AV00383). On July 31, 2020, the Interior Department provided notice that the contract is scheduled to expire December 31, 2020. The Navajo Nation Division of Public Safety prepared and completed documents for contract renewal on August 31, 2020. See attached **Exhibit A**, contract, *Annual Funding Agreement* (2021) and related documents.
- C. The Navajo Nation Department of Justice determines the proposed Public Law 93-638 contract for *Uniform Patrol* legally sufficient. See **Exhibit B**.
- D. It is in the best interests of the Navajo Nation that proposed Public Law 93-638 contract for *Uniform Patrol* be approved.

**SECTION THREE. APPROVING CONTRACT**

- A. The Navajo Nation hereby approves and authorizes the Public Law 93-638 Contract (Model 108) between the Navajo Nation and U.S. Department of the Interior for Law Enforcement - Patrol Services for a period of five years. See attached **Exhibit A**, *Agreement Between the Secretary of the Department of the Interior and the Navajo Nation*. This approval and authorization include the required *Annual Funding Agreements* under the contract (including agreement for fiscal year 2021).
- B. Pursuant to 2 N.N.C. § 164(B), the Navajo Nation Division of Public Safety shall prepare and submit to the U.S. Department of the Interior the required *Annual Funding Agreements* for fiscal years 2022 - 2025 under the contract approved herein.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 24<sup>th</sup> 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 20 in Favor, and 00 Opposed, on this 16<sup>th</sup> day of October 2020.



Honorable Seth Damon, Chairman  
Naabik'íyáti' Committee

10.20.2020

Date

Motion: Honorable Rickie Nez  
Second: Honorable Pernell Halona

Chairman Seth Damon not voting

**AGREEMENT BETWEEN THE SECRETARY  
OF THE DEPARTMENT OF THE INTERIOR  
AND THE NAVAJO NATION**



**A. Authority and Purpose**

**1. Authority**

This agreement, denoted a Self-Determination Contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the "Secretary"), for and on behalf of the United States pursuant to Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301, et seq.) and by the authority of the Navajo Nation (referred to in this agreement as the "Contractor"). The provisions of Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301, et seq.) are incorporated in this agreement.

**2. Purpose**

Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301, et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities and programs (or portions thereof), that are otherwise contractible under Section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor: Law Enforcement-Patrol Services.

**B. Terms, Provisions and Conditions**

**1. Term**

Pursuant to Section 105(c) (1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5324 (c)

(1)), the term of this contract shall be five (5) years. Pursuant to Section 105(d)(1) of such Act (25 U.S.C. 5324(d)(1)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection F2.

## **2. Effective Date**

This Contract shall become effective upon the date of approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

## **3. Program Standards**

The Contractor agrees to administer the program, services, functions and activities (or portions thereof) listed in subsection A2 of the Contract in conformity with the following standards: Navajo Nation laws and policies, federal laws (including the Indian Civil Rights Act), Navajo Nation General Orders, 25 C.F.R. Part 12, 40 IAM, and applicable U.S. Attorney Guidelines. The Secretary shall provide copies of all Bureau of Indian Affairs manuals, federal laws and regulations, as well as any updates, used as standards within this Contract. The procedures contained within this Contract supersede any conflicting Bureau procedures. In the event the Bureau updates its procedures the Contractor may request a waiver before these updated procedures become applicable to this Contract.

## **4. Funding Amount**

Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection F2. Such amount shall not be less than the applicable amount determined pursuant to Section 106(a) of

the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325(a)).

**5. Limitation of Costs**

The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this Contract or a specific activity conducted under this Contract would be greater than the amount of funds awarded under this Contract, the Contractor shall provide reasonable notice to the appropriate Secretary. If the appropriate Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

**6. Payment**

A. In general - Payments to the Contractor under this Contract shall:

- (i) be made as expeditiously as practicable; and
- (ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

B. Quarterly, semi-annual, lump-sum, and other methods of payment:

- (i) In general - Pursuant to Section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this contract, the Secretary shall make available to the Contractor the

funds specified for the fiscal year under the annual funding agreement incorporated by reference pursuant to subsection F2 by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, in a lump-sum payment or as semiannual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the annual funding agreement; and

- (ii) Method of quarterly payment - If quarterly payments are specified in the annual funding agreement incorporated by reference pursuant to subsection F2, each quarterly payment made pursuant to clause (i) shall be made on the first day of each quarter of the fiscal year, except that in any case in which the Contract year coincides with the Federal fiscal year, payment for the first quarter shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, functions and activities subject to this Contract; and
- (iii) Applicability - Chapter 39 of Title 31, United States Code, shall apply to the payment of funds due under this Contract and the annual funding agreement referred to in clause (i).

## **7. Records and Monitoring**

A. In general - Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior or the Department of Health and Human Services (or both), records of the Contractor shall not be considered Federal records for purposes of Chapter 5 of Title 5, United States Code.

B. Recordkeeping System - The Contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

C. Responsibilities of Contractor - The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the routine monitoring visit shall be limited to not more than one performance monitoring visit for this contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless:

- (i) the contractor agrees to one or more additional visits; or
- (ii) the appropriate official determines that there is reasonable cause to believe that grounds for resumption of the Contract, suspension of Contract payments, or other serious Contract performance deficiency may exist. No additional visit referred to in clause (ii) shall be made until such time as reasonable advance notice that includes a



description of the nature of the problem that requires the additional visit has been given to the Contractor.

## **8. Property**

A. In general - As provided in Section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5324(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor, all reasonable divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared by the Secretary, with the concurrence of the Contractor, and periodically revised by the Secretary, with the concurrence of the Contractor.

B. Records - The Contractor shall maintain a record of all property referred to in subparagraph A or other property acquired by the Contractor under Section 105(f)(2)(A) of such Act for purposes of replacement.

C. Joint Use Agreements - Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

D. Acquisition of Property - The Contractor is granted the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, services, functions and activities operated pursuant to this Contract.

E. Confiscated or Excess Property - The Secretary shall assist the Contractor in obtaining such confiscated or

excess property as may become available to tribes, tribal organizations, or local governments.

F. Screener Identification Card - A screener identification card (General Services Administration form numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

G. Capital Equipment - The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Contractor.

**9. Availability of Funds**

Notwithstanding any other provision of law, any funds provided under this contract:

- A. shall remain available until expended; and
- B. with respect to such funds, no further:
  - (i) approval by the Secretary, or
  - (ii) justifying documentation from the Contractor, shall be required prior to the expenditure of such funds.

**10. Transportation**

Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

**11. Federal program guidelines, manuals, or policy directives**

Except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301, et seq.) the Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.

## **12. Disputes**

A. Third-Party Mediation Defined - For the purposes of this Contract, the term "third-party mediation" means a form of mediation whereby the Secretary and the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as third-party mediator to mediate disputes under this Contract.

B. Alternative Procedures - In addition to, or as an alternative to, remedies and procedures prescribed by Section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5331), the parties to this Contract may jointly:

- (i) submit disputes under this Contract to third-party mediation; and
- (ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor; and
- (iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or
- (iv) use the administrative dispute resolution process authorized in subchapter IV of Chapter 5, Title 5, United States Code.

C. Effect of Decisions - The Secretary shall be bound by decisions made pursuant to the procedures set forth in subparagraph B, except that the Secretary shall not be bound by

any decision that significantly conflicts with the interests of Indians or the United States.

**13. Administrative Procedures of Contractor**

Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws policies and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

**14. Successor Annual Funding Agreement**

A. In general - Negotiations for a successor annual funding agreement, provided for in subsection F2, shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. Except as provided in Section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5324(c)(2)), the funding for each successor annual funding agreement shall only be reduced pursuant to Section 106(b) of such Act (25 U.S.C. 5325(b)).

B. Information - The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor annual funding agreement, as provided for in subsection F2 of this Contract.

**15. Contract Requirements, Approval by Secretary**

A. In general - Except as provided in subparagraph B, for the term of the contract Section 2103 of the Revised Statutes (25 U.S.C. 81) and Section 16 of the Act of June 18, 1934 (48 Stat. 987, Chapter 576; 25 U.S.C. 476) shall not apply to any contract entered into in connection with this Contract.

B. Requirements - Each Contract entered into by the Contractor with a third party in connection with performing the obligations of the Contract under this Contract shall:

- (i) be in writing;
- (ii) identify the interested parties, the authorities of such parties, and purpose of the Contract;
- (iii) state of work to be performed under the Contract; and
- (iv) state the process for making any claim, the payments to be made, and the terms of the Contract, which shall be fixed.

**C. Obligation of the Contractor**

**1. Contract Performance**

Except as provided in subsection D2, the Contract shall perform the programs, services, functions, and activities as provided in the annual funding agreement under subsection F2 of this Contract.

**2. Amount of Funds**

The total amount of funds to be paid under this Contract pursuant to Section 106(a) shall be determined in an annual funding agreement entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

**3. Contracted Programs**

Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified in this Contract and funded through the annual funding agreements under subsection F2.

**4. Trust Services for Individual Indians**

A. In general - To the extent that the annual funding agreement provides funding for the delivery of trust

services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

B. Trust Services to Individual Indians - For the purposes of this paragraph only, the term "trust services for individual Indians" means only those services that pertain to land or financial management connected to individually held allotments.

#### **5. Fair and Uniform Services**

The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

#### **D. Obligation of the United States**

##### **1. Trust Responsibility**

A. In general - The United States reaffirms the trust responsibility of the United States to the Navajo Nation to protect and conserve the trust resources of the Navajo Nation and the trust resources of individual Indians.

B. Construction of Contract - Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribe(s) or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

##### **2. Good Faith**

To the extent that health programs are included in this Contract, and within available funds, the Secretary shall

act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act (25 U.S.C. 1601, et seq.).

**3. Programs Retained**

As specified in the annual funding agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe(s) that are not specifically assumed by the Contractor in the annual funding agreement under subsection F2.

**E. Other Provisions**

**1. Designated Officials**

Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

**2. Contract Modifications or Amendment**

A. In general - Except as provided in subparagraph B, no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.

B. Exception - The addition of supplement funds for programs, functions, and activities (or portions thereof) already included in the annual funding agreement under subsection F2, and the reduction of funds pursuant to Section 106(b)(2), shall not be subject to subparagraph A.

**3. Officials Not to Benefit**

No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed

pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

#### **4. Covenant Against Contingent Fees**

The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

#### **F. Attachments**

##### **1. Approval of Contract**

Unless previously furnished to the Secretary, the resolution of the Náabiki'yáti' Committee of the Navajo Nation Council authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as Attachment 1.

##### **2. Annual Funding Agreement**

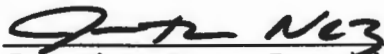
A. In general - The annual funding agreement under this Contract shall only contain:

- (i) terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and
- (ii) such other provision, including a brief description of the program, services,



functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), to which the parties agreed.

B. Incorporation by Reference - The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as Attachment 2.

  
\_\_\_\_\_  
Jonathan Nez, President  
**THE NAVAJO NATION**

\_\_\_\_\_  
Secretary, Department of the Interior, or designee  
**UNITED STATES OF AMERICA**

**FISCAL YEAR 2021**  
**ANNUAL FUNDING AGREEMENT**

CONTRACT NO. \_\_\_\_\_  
Law Enforcement – Patrol Services  
(Mature Definite for 01/01/21 to 12/31/XX)

BY AND BETWEEN

THE NAVAJO NATION

AND

THE UNITED STATES  
DEPARTMENT OF THE INTERIOR  
Bureau of Indian Affairs  
Navajo Regional Office

FOR THE PERIOD

January 1, 2021 through December 31, 2021

Pursuant to 25 U.S.C. 5301 et. seq.  
(Pub. L. 93-638, as amended)

## **ANNUAL FUNDING AGREEMENT**

This Annual Funding Agreement ("AFA") is entered into between the Navajo Nation and the United States Department of the Interior ("DOI"), pursuant to the agreement between the Navajo Nation and DOI for Law Enforcement – Patrol Services, pursuant to Title I of the Indian Self-Determination and Education Assistance Act ("ISDEAA"), Pub. L. 93-638, as amended (hereinafter referred to as the Contract).

### **A. PROGRAM, FUNCTIONS, SERVICES AND ACTIVITIES**

1. The Navajo Nation agrees to administer and perform those portions of the Bureau of Indian Affairs' ("BIA") Law Enforcement – Patrol Services identified in the Scope of Work, attached hereto as Attachment A and incorporated herein by reference, in accordance with its own laws and policies and the terms, provisions, and conditions of the Contract and this AFA and any attachments hereto. The program standards, including any provisions of Federal Regulations waived by the Secretary, are identified in Section B of the Contract.
2. The Navajo Nation agrees that any services or assistance provided to Indian beneficiaries under the Contract and this AFA shall be provided in a fair and uniform manner subject to applicable laws and regulations.
3. The Navajo Nation shall obtain from the BIA all such funds and other resources made available for the benefit of the tribe and Indian beneficiaries for all programs to be operated and services to be delivered by the Navajo Nation through the Contract and this AFA on behalf of the DOI, except for "Trust" and executive functions of the BIA considered non-contractible under the ISDEAA, as amended.
4. The BIA shall transfer to the Navajo Nation all such funds and other resources available for the benefit of the Tribe and Indian beneficiaries through the Contract in the

most expeditious manner authorized by law, and shall provide technical support and assistance at the request of the Navajo Nation or as provided herein, in the most expeditious manner authorized by law.

5. The Navajo Nation shall exercise full discretion over the funds made available subject only to the provisions of the Contract, this AFA, tribal law, and Federal law.

6. The Navajo Nation has identified a need for program and/or office space. DOI shall undertake reasonable efforts to make such program and/or office space available to the Navajo Nation, together with such maintenance services as may be necessary for that program and/or office space. When not available and tribal buildings are used, DOI will enter into a lease pursuant to Section 105 (f) (1) of the ISDEAA, as amended and 25 CFR Part 900, Subpart H.

**B. PROGRAM BUDGET AND FUNDING**

1. Proposed Budget. Attached hereto as Attachment B is the proposed program budget for the services to be provided under this AFA. The amount reflects the Fiscal Year 2020 recurring enacted amount allocated. If Congressional appropriation for full year funding is not available at the start of the FY 2021, as an initial budget, the Navajo Nation may enter in the FMIS a full year budget at the actual, total amount of recurring funds distributed for FY 2020 that is based on Congressional appropriation. If the Navajo Nation is proposing to allocate costs between two 638 programs, the percentage breakdown of such cost allocation shall be reflected in the budget.

2. Funding Distribution and Final Budget. Subject to the availability of Congressional appropriation, DOI shall distribute direct program funding for Fiscal Year 2021 exclusive of any Central Office or Regional Office shares, direct contract support cost and indirect cost funds, in one lump sum payment to the Navajo Nation in accordance with Section B(6) of the Contract. The final program budget shall reflect the actual funds distributed. Funding award(s) such as one-time funding which require separate expenditure and

narrative reports shall be specified in the contract modification (SF-30) by BIA. A separate account Financial Management Information System (FMIS Business Unit) shall be assigned by the Navajo Nation accordingly. Full payment shall be made by all-electronic payment through an Automated Standard Application for Payment (ASAP), an information system developed by the Financial Management Services and the Federal Reserve Bank of Richmond. The Navajo Nation must have: (1) an active registration in ASAP by completing the Participation Request Form; (2) an active Data Universal Number System (DUNS); and an active registration in the System for Award Management (SAM).

3. DOI acknowledges that the amount allocated does not fully fund the contracted activities and to the extent that any shortfalls exist in funding (direct, contract support cost or otherwise,) owed to the Navajo Nation, the DOI and BIA shall make a good faith effort, subject to applicable law, to identify funds or to obtain an appropriation to address this shortfall. DOI will report such shortfalls to Congress and simultaneously provide the Navajo Nation with such report.

4. Nothing in this AFA shall be deemed a waiver of any right the Navajo Nation may have under the Act to receive 100% of its funding, direct, contract support cost or otherwise, as determined under Section 106 of the ISDEAA, as amended.

5. BUDGET REVISION. The Navajo Nation shall request prior approval from the Awarding Official for a budget revision that will increase the amount of indirect cost for the Contract.

All other budget revisions do not require BIA approval, including carryover funds attributable to operation of the program.

6. DEOBLIGATION OF FUNDS.

- a. Funding under this AFA may be reduced only according to the provisions of Section 106(b) of the ISDEAA, as amended.

- b. In the event that funding of this AFA is reduced because of Congressional action, the Navajo Nation retains the option to rescind the Contract, renegotiate the attached Scope of Work, or suspend performance under the Contract consistent with Section B(5) of the Contract.

**C. TRIBAL SHARES**

In addition to the amount referred to in Paragraph B of this AFA, DOI shall pay a sum to be negotiated representing Central Office and Regional Office shares associated with this AFA. Such shares do not reflect Central Office or Regional Office shares which the Navajo Nation has included in other Fiscal Year 2020 Pub. L. 93-638, as amended, Contracts.

**D. CONTRACT SUPPORT COST (CSC) FUNDS**

The Navajo Nation shall be entitled to CSC funds to the full extent specified in Section 106 (a)(2) of the ISDEAA, as amended and related provisions. It is understood by the parties that full CSC funds may not be initially available to the Navajo Nation. However, upon becoming available by Congressional appropriation or through the identification of appropriate budget savings from CSC funds line items, the Navajo Nation shall participate in the distribution of those shortfall funds. If, during the term of this AFA, it is not possible to pay all CSC funds, DOI shall make a good faith effort, subject to applicable law, to identify funds or to obtain an appropriation to address this shortfall.

**1. Direct Contract Support Cost (DCSC) Funds**

In addition to the amount in paragraphs D and D(2) of this AFA, the Navajo Nation shall receive DCSC funds pursuant to Section 106(a)(2) of the ISDEAA, as amended. The amount of DCSC funds are subject to negotiation between the Navajo Nation and DOI. To the extent that DOI does not receive sufficient appropriations to fully fund the amount of DCSC funds that would otherwise be available under Section 106(a)(2) of the ISDEAA, as amended, DOI shall report such shortfall to Congress pursuant to the requirements of Section 106(c)(2) of the ISDEAA, as amended, and simultaneously provide the Navajo Nation with such report. DOI shall pay any shortfalls in DCSC funds, and to the extent such shortfall funds are appropriated by Congress. In

no event does the Navajo Nation waive its right to recover 100% of the DCSC funds negotiated under this AFA.

**2. Indirect Costs (IDC) Funds**

In addition to the amount identified in paragraphs B, C, and D(1) of this AFA, the Navajo Nation shall receive IDC funds applicable to the period covered by this AFA as determined pursuant to the applicable Indirect Cost Negotiation Agreement, entered into between the Navajo Nation and its federal cognizant agent. The award of IDC funds will be made through a Supplemental Annual Funding Agreement entered into between the Navajo Nation and BIA-NRO. To the extent that DOI does not receive sufficient appropriations to fully fund the amount of IDC funds that would otherwise be available under Section 106(a) (2) of the ISDEAA, as amended, DOI shall report such shortfall to Congress pursuant to the requirements of Section 106(c) (2) of the ISDEAA, as amended, and simultaneously provide the Navajo Nation with such report. DOI shall pay any shortfalls in IDC funds when, and to the extent, such shortfall funds are appropriated by Congress. In no event does the Navajo Nation waive its right to recover 100% of the IDC funds associated with this AFA.

**3. Contract Support Cost (CSC) Calculation**

In addition to the entitlement of the CSC funds, the Navajo Nation shall submit a budget report that provides estimated CSC funds needs of both DCSC funds and IDC funds which will be submitted to BIA NRO by July 10 of the AFA year. The budget report shall be used internally at BIA NRO for the sole purpose of supporting the DOI's Contract Support Cost and pay cost allocations and shortfall reports to Congress. The budget report shall be prepared at or equivalent to Level of Detail 6 on the Navajo Nation's FMIS.

**E. PRE-AWARD COSTS**

If this AFA covers the initial year of a contract, any cost the Navajo Nation incurs with respect to the performance of the Contract and this AFA before the award date or effective date of this AFA may be paid with funding under this AFA to the extent (a) that such costs are otherwise reasonable, allowable and allocable to performance of the attached Scope of Work, and (b) that the Navajo Nation informed BIA of costs consistent with Section 106 (a) (6) of the ISDEAA, as

amended.

**F. APPLICABLE LAW**

In the performance of the Contract and this AFA, the Navajo Nation agrees to comply with all expressly applicable Federal laws, regulations and executive orders, including the Drug-Free Workplace Act of 1988 (Pub. L. 100-690), and all applicable Navajo Nation laws, regulations and executive orders. The parties shall renegotiate and modify the language of this AFA to conform to any applicable federal and Navajo Nation laws, regulations or executive orders which are passed after the effective date of this AFA.

The BIA shall inform the Navajo Nation, in writing, of all existing, newly enacted or amended federal laws, regulations and executive orders it believes apply to this AFA within 60 days of execution of this AFA or within 60 days of adoption. The Navajo Nation retains the right to renegotiate the attached Scope of Work to reflect any amended federal laws, regulations, and executive orders and shall not be held responsible under this AFA for compliance with such laws, regulations, and executive orders until the BIA has provided the notice described above.

**G. MANAGEMENT SYSTEMS**

The Navajo Nation shall maintain management systems consistent with requirements of the ISDEAA, as amended and 25 CFR Part 900. The BIA has on file the most recent versions of the following Navajo Nation management system Policies and Procedures:

- i. Navajo Nation Personnel Policies Manual.
- ii. Navajo Nation Employees Travel Policies and Procedures Handbook
- iii. Navajo Nation Purchase Card Policies and Procedures
- iv. Property Management Policy.
- v. Navajo Nation Procurement Rules and Regulations

The Navajo Nation agrees to provide copies of the following management system Policies and Procedures Manuals, within 90 days of final adoption by the responsible oversight committees:

- i. Recordkeeping Policies
- ii. Finance and Accounting Policies

**1. Accounting/Financial System**

The Navajo Nation shall maintain a fiscal accounting system which will provide



accurate, current and complete information with respect to the Contract and this AFA in such a manner as to facilitate audit and review of the financial records consistent with federal statutory and regulatory requirements.

The Navajo Nation shall obtain certification by a licensed accountant that the bookkeeping and accounting procedures that the tribal organization presently uses meets the standards of 25 CFR Part 900, Subpart F.

## **2. Personnel Management**

Unless otherwise stated in this AFA or through an approved and executed Intergovernmental Personnel Agreement, all personnel employed by the Navajo Nation to carry out the Contract and this AFA shall meet the qualifications set forth by the Navajo Nation Department of Personnel Management and all personnel employed by the Navajo Nation under this AFA will adhere to applicable Navajo Nation Personnel Policies Manual including sick leave, holidays, pay schedules and pay tables.

## **3. Records System**

a. The Navajo Nation agrees to keep such records as required pursuant to Section B(7) of the Contract, as amended; to make reports required by Section 5(a)(1) and (2) of the ISDEAA, as amended; and to make such information and reports available to the Indian beneficiaries as required by Section 5(c) of the ISDEAA, as amended. The Navajo Nation shall maintain a recordkeeping system that will allow for the maintenance of records to facilitate retrocession or reassumption of the Contract. Such records system, at a minimum, shall:

- 1) Provide for the creation, maintenance and safeguarding of records of lasting value, including those involving individual rights.
- 2) Provide for orderly retirement of records used or created under the Contract. Such records shall be returned to the BIA for disposition according to the General Records Schedules and the BIA Records Control

Schedule.

b. When the Navajo Nation operates a system of records to accomplish a BIA function, the Navajo Nation shall comply with the Navajo Nation Privacy and Access to Information Act, 2 N.N.C. Section 81, et seq.

c. The Navajo Nation shall make all reports and information concerning the Contract available to the Indian beneficiaries that the Contract serves or represents pursuant to the provisions of the Navajo Nation Privacy and Access to Information Act, 2 N.N.C. Section 81 et seq.

**H. EXAMINATION OF RECORDS.**

1. The Navajo Nation agrees to maintain books, records, documents and other evidence pertaining to the costs and expenses of the Contract (hereinafter collectively called "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs of whatever nature for which expenditure, payment or reimbursement is claimed under the provisions of the Contract or this AFA.

2. The Navajo Nation agrees to make available at the Navajo Nation offices at all reasonable times during the time period of the Contract and this AFA below any of the records, with reasonable advance notice, for inspection, audit or reproduction by any authorized representative of the Comptroller General or the Secretary of Interior as required under the ISDEAA, as amended, and applicable federal regulations.

3. Pursuant to Section (B)(7) of the Contract, the Navajo Nation shall preserve and make available its records related to the Contract and this AFA:

a. Until the expiration of the earlier of three years from the date of final payment under the Contract or the time period for the particular records specified in 25 CFR Chapter V, Part 900, Subpart F, Subsection 900.41 (a-d), whichever

expires earlier.

b. If the Contract is completely or partially cancelled, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.

4. Records which relate to appeals under Section (B)(12), Disputes, of the Contract; litigation or the settlement of claims arising out of the performance of the Contract; or costs and expenses of the Contract as to which written exception has been taken by the Awarding Official or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims or exceptions have been disposed of.

5. Except for documentary evidence required under paragraph 4 above, the Navajo Nation may in fulfillment of its obligation to retain records substitute photographs, microphotographs, or other authentic reproductions or such records, after the expiration of 2 years following the last day of the month of payment or reimbursement to the Navajo Nation of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Awarding Official with the concurrence of the Comptroller General or his duly authorized representative.

6. The provisions of this paragraph (H) shall be applicable to each subcontract hereunder which is on a cost; cost-plus-a-fixed-fee, time-and-material or labor-hour basis.

7. The Navajo Nation further agrees to include in each of its sub-contracts hereunder a provision to the effect that the sub-Contractor agrees that the Comptroller General, the Secretary of the Interior, the Awarding Official, and the Tribal Contracting Officer, or any of their duly authorized representatives, shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in 25 CFR Chapter V, Part 900, Subpart F, Subsection 900.41 (a-d) whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such sub-Contractor, involving transactions related to the sub-

Contract. The term "sub-Contract" as used in this paragraph only, excludes:

- i. Purchase orders not exceeding \$10,000; and
- ii. Sub-Contracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

**I. NAVAJO PREFERENCE**

Consistent with Section 7 (b) of the ISDEAA, as amended, the Navajo Nation Business Opportunity Act, 5 N.N.C. Section 201, et seq., and the Navajo Preference in Employment Act, 15 N.N.C. Section 601, et seq., shall apply to the administration of the Contract and this AFA.

**J. REPORTS**

During the course of this AFA, the Navajo Nation shall submit the following reports:

1. **Annual Federal Financial Report (FFR).** Notwithstanding the process set forth in Paragraph O(1) of the AFA, the Navajo Nation's Office of the Controller agrees to submit an original annual FFR to the Awarding Official through the designated Awarding Official's Technical Representative (AOTR) with a courtesy copy to the Contracts and Grants Section/OMB. This report shall be supported by FMIS Job Status Inquiry for use to monitor expenditures incurred during annual operations. The annual FFR shall be submitted within 90 days after closure of each contract funding period.

On contracts that have approved term end dates extended, the Navajo Nation agrees to, in addition to annual FFR referenced above, submit a final FFR within 90 days after the closure of the contract ending date as extended and shall also be supported by FMIS Job Status Inquiry.

2. **Annual Narrative Report.** Pursuant to the process set forth in Paragraph O(1) of the AFA, the Navajo Nation agrees to submit the brief Annual Narrative Report and include status report on each one-time funded project for this contract to the Awarding Official through the designated AOTR within 90 days after closure of each contract funding period. The report shall describe the conduct of the program and activities in:

- a. Accomplishments of the program objectives;
- b. Description of any significant problems encountered; and
- c. Any changes required to the Contract and/or Scope of Work.

The Navajo Nation is a Mature Contractor and Section 5(a) (2) of the ISDEAA only requires a brief annual narrative report.

On contracts that have approved term end dates extended, the Navajo Nation agrees to, in addition to annual narrative report referenced above, submit a final Narrative Report within 90 days after the closure of the contract ending date as extended.

3. **GPRA Reports.** The Navajo Nation agrees to submit applicable and relevant data and information concerning the operation of the attached Scope of Work to the Awarding Official through the AOTR necessary for the BIA to meet the requirements of the Government Performance Results Act ("GPRA") of 1993 (Pub. L. 103-62). The data and information, including format and due date(s), that the Navajo Nation will submit shall be negotiated between the parties and delineated in Attachment C, which is attached hereto and incorporated herein by reference. The BIA shall simultaneously provide the Navajo Nation with copies of any GPRA reports it submits to the Central Office or the Office of Management and Budget.

4. **Additional Reports.** Any additional reports required by law to be submitted beyond the reports identified in (1) through (3) above shall be negotiated between the parties and delineated in Attachment D, which is attached hereto and incorporated herein by reference.

5. The AOTR will notify the Navajo Nation of delinquent report(s) and suggest the due date that the BIA must receive the delinquent report(s). If the Navajo Nation fails to submit the overdue report(s) by the established deadline, the AOTR will notify the Awarding Official and recommend corrective action. A copy of such recommendation shall be provided to the Navajo Nation. The Awarding Official will then take appropriate action, consistent with the ISDEAA, as amended, to ensure that the Navajo Nation complies with the terms and conditions of the Contract and this AFA.

6. When the Navajo Nation submits the Annual FFR and Narrative Report, the BIA NRO shall review and respond to the reports no later than May 30 after the closure of the contract funding period.

**K. SINGLE AUDIT REQUIREMENTS**

1. The Navajo Nation shall comply with the Single Audit Act Amendment of 1996, 31 U.S.C. Chapter 75 et seq., and agrees to arrange for an annual single organization-wide audit as prescribed by the ISDEAA, as amended; the Single Audit Act Amendment of 1996, 31 U.S.C. Chapter 75 et seq., Office of Management and Budget (OMB), Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200 (Uniform Guidance) and 43 CFR Part 12.

2. If the Navajo Nation fails to comply with the requirements for obtaining audits according to the Single Audit Act Amendment of 1996, the BIA may take actions as appropriate given the circumstances and as allowed pursuant to Subpart F §200.505 of the OMB Uniform Guidance.

3. In addition to the submission requirements of the Single Audit Act Amendment of 1996 and to meet the requirements of ISDEAA, as amended, the Navajo Nation shall send

- a. Single Audit Report with Form SF-SAC (Data Collection Form) to:  
Federal Audit Clearinghouse  
U.S. Bureau of the Census  
1201 East Tenth Street  
Jeffersonville, IN 47132  
(301) 763-1551
- b. Single Audit Report to the Clearinghouse for each funding agency wherein the Report includes a finding related to the funding awarded to the Navajo Nation by such agency.
- c. Two copies of the Single Audit Report to:  
Division of Internal Evaluation and Assessment  
U.S. Department of the Interior  
12220 Sunrise Valley Drive  
Reston, VA 20191  
(709) 390-6357

**L. TECHNICAL ASSISTANCE AND MONITORING**

1. The BIA will expeditiously provide special technical assistance to assist the Navajo Nation to successfully operate the program under the Contract and this AFA. When the Navajo Nation submits a written request for technical assistance through the process identified in Paragraph N(1), BIA will provide the Navajo Nation with written acknowledgement of the request within 15 business days of receipt. The acknowledgement shall include plan of action and a time frame for completion of the technical assistance.

2. The Awarding Official and designated AOTR will monitor the submission of annual reports required under the Contract and the ISDEAA, as amended.

3. The BIA will provide monitoring services to ensure compliance with the terms of the Contract and this AFA. The BIA shall provide thirty (30) days advance written notice which shall include date of the monitoring, information on process and instrument that will be used. This monitoring function will include:

a. One annual evaluation (Monitoring Session) by the Awarding Official and AOTR. This visit shall be scheduled in advance as prescribed in Section B(7)(C) of the Contract. During the Monitoring Session, the Awarding Official, and the designated AOTR will review records, speak to the Program Director and staff, and inspect premises to determine compliance with the Contract and this AFA.

b. Additional visits beyond the Monitoring Session shall only occur when requested by the Navajo Nation or when the Awarding Official determines that there is reasonable cause to believe that grounds for reassumption of the Contract, suspension of contract payments, or that other serious Contract performance deficiency may exist in accordance with Section B(7)(C) of the Contract. Such visits shall be scheduled in advance as prescribed in Section B(7)(C) of the Contract.

c. The Monitoring Session shall be conducted pursuant to the Memorandum

of Understanding entered into by the Navajo Nation and BIA NRO.

**M. FEDERAL TORT CLAIMS ACT**

1. For purposes of Federal Tort Claims Act coverage, the Navajo Nation and its employees are deemed to be employees of the Federal government while performing work under this contract. This status is not changed by the source of the funds used by the Navajo Nation to pay the employee's salary and benefits unless the employee receives additional compensation for performing covered services from anyone other than the Navajo Nation.

2. In accordance with the requirement in 25 CFR Part 900, Subpart M, subsection 900.188(a), the Navajo Nation agrees to designate an individual to serve as tort claims liaison with the Federal government. The designated tort claims liaison shall provide the assistance specified in 25 CFR, Part 900, and Subpart M. subsection 900.188(c).

**N. CONTRACT ADMINISTRATION**

Requests or inquiries on significant and non-routine matters, such as technical assistance, issues that require action or decision by BIA NRO, and those raising legal issues, regarding this AFA shall be submitted in writing as follows. Communication and correspondence on items of a routine nature is not subject to this Section.

1. **Navajo Nation Contract Administration.** All correspondences by the Navajo Nation's Pub. L. 93-638 BIA contracted programs' concerning the Contract and this AFA shall be routed as follows for submission to the BIA NRO by:

Navajo Nation Contracting Officer  
Contracts and Grants Section - Office of Management and Budget  
Post Office Box 646  
Window Rock, Arizona 86515  
Telephone No.: (928) 871-6470  
Fax No. (928) 871-6567

2. **Federal Contract Administration.** All correspondences by BIA NRO concerning the Contract and this AFA shall be routed as follows for submission to the Navajo Nation



by:

Indian Self-Determination Specialist/Awarding Official  
Bureau of Indian Affairs – Navajo Regional Office  
P.O. Box 1060  
Gallup, New Mexico 87305  
Telephone No.: (505) 863-8228, 8311, 8401, 8522 and 8524  
Fax No. (505) 863-8461

3. All requests or inquiries covered under this section shall be done in accordance with the process identified in (1) and (2) above. Any documents associated with requests or inquiries not in compliance with this Section shall be immediately returned to the other party without further action.

**O. SEVERABILITY**

The provisions of this AFA are severable. If any provision of this AFA is determined to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the remainder of the AFA.

**P. EFFECT ON EXISTING RIGHTS**

1. Nothing in this AFA shall be construed as affecting, modifying, diminishing, waiving or otherwise impairing the sovereign immunity from suit enjoyed by the Navajo Nation.

2. Nothing in this AFA shall be construed as waiving any rights of the parties under applicable federal law.

3. Nothing in this AFA shall be construed as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Navajo Nation, Navajo people, or Indian beneficiaries.

**Q. EFFECTIVE DATE**

This AFA shall be effective for the term (mature definite) of the funding year, January 1, 2021 through December 31, 2021 or until such time that a successor AFA is executed or a new contract is issued with a new contract term identified. However, this does not alter the obligation of the Navajo Nation to provide DOI with a proposed AFA for the following calendar year, or a notice of intent not to renew, at least 90 days prior to end of the current calendar year.

\_\_\_\_\_

Jonathan Nez, President

**THE NAVAJO NATION**

\_\_\_\_\_

Date

\_\_\_\_\_  
Secretary, Department of the Interior,

Or designee

**UNITED STATES OF AMERICA**

\_\_\_\_\_  
Date

**SCOPE OF WORK**

**Attachment "A"**

**(WITH AMENDMENT  
MADE AT NAABIK'IYATI'  
COMMITTEE MEETING  
OCT. 16, 2020)**

**Amendment #1 (New Language)**

In addition, the Contractor will provide law enforcement services to each of the communities of Canoncito/To'hajiilee and Alamo (New Mexico) and New Land/Nahata Dziil in Apache County (Arizona).

**LAW ENFORCEMENT PATROL P.L. 93-638 CONTRACT**

**STATEMENT OF WORK**

101. The Contractor shall perform the following Bureau program: **LAW ENFORCEMENT SERVICES.** Subject to the terms of the contract, the Annual Funding Agreement (AFA), and availability of funds, the Contractor shall perform police law enforcement activities as noted in the Indian Law Enforcement Reform Act, 25 U.S.C. §§ 2801, *et seq.*, within Navajo Indian Country, as defined in 18 U.S.C. 1151. **(New Language inserted here)** These services shall include:
- A. Maintaining law enforcement and crime prevention services as deemed necessary by the Contractor within the service area.
  - B. Enforcing applicable Navajo Nation and federal laws and ordinances.
  - C. Protecting private, public and government property within the service area (i.e. Public Hearings, Public Forums, Community Fairs and Events, Townhall Meetings.)
  - D. Providing community plans, prevention programs, as deemed necessary by the Contractor.
  - E. Creating and implementing specialized programs, task forces and teams for particular situations, including internal affairs investigations.
  - F. Responding to citizen's complaints or other request for law enforcement services within the service area.
  - G. Providing patrol services on and off roadways and in Indian communities within the service area.
  - H. Providing other services, such as serving criminal warrants, summons and subpoenas. Civil summons and other Navajo Nation Court orders may be served, provided the Contractor is properly reimburses for all travel related expenses and provided these services do not significantly interfere with Contractor's ability to carry out its daily responsibilities and duties to the general public.
  - I. Writing clear, concise and comprehensive case reports, preparing cases for and testifying in court.
  - J. Familiarizing law enforcement personnel with all applicable provisions of the Navajo Nations Codes, federal and state laws, this statement of work, and other necessary references.
  - K. Conducting search and rescue operations for missing persons, runaway children, drowning victims, and for other victims of natural and manmade emergencies.
  - L. Completing investigations of all unattended deaths that do not involve foul play.

- M. Serve, assist or provide documents to customers on finger printing, police reports, criminal traffic history, citations, etc. and charge / collect fees associated with that.
- N. Providing mutual aid assistance to the Office of Justice Service (OJS) areas (Moencopi Administrative Unit or the Ute Mountain Service Unit) related to law enforcement incidents that may require immediate assistance when OJS is not able to respond. Incidents may include providing back-up assistance on a traffic stop, perimeter control for a fleeing suspect or crowd control at a barricaded suspect location and will conclude upon the arrival of the OJS law enforcement.
- O. This contract does not include investigations for waste, fraud, and mismanagement in any grant, contract, or cooperative agreement in which the United States is a party. All such incidents of waste, fraud, and/or mismanagement, shall be reported to the Department of Interior, Office of the Inspector General. Nor does this contract include investigative responsibilities for administrative matters that are internal to the Bureau of Indian Affairs.

This contract does not include fire and rescue service, highway safety, emergency medical services, emergency management, environmental and resource enforcement provided by other Navajo Nation and federal programs.

**102. Personnel.** The Contractor shall perform the contracted law enforcement program in accordance with the qualifications, training, code of conduct, inspection and evaluation, and other standards applicable to Bureau law enforcement personnel or the equivalent. In addition to Navajo Nation personnel employment standards, the Contractor shall require the following for each law enforcement position:

- A. Employee candidates must present evidence of ability to discharge the duties of the position. Commissioned law enforcement officer candidates, in addition to other qualifications, shall demonstrate the traits and characteristics important to succeed in police work. Among these are: alertness, ability to work in stress situations, ability in oral expression, tact, integrity, capacity for effective public relations, practical intelligence and good judgment. Candidates must be honest and trustworthy; have integrity, sound judgment, temperate habits; and have a satisfactory work record. Any applicant who does not have these qualities shall not be appointed to the commissioned law enforcement position.
- B. Prior to employment of any commissioned law enforcement officer, a full field background investigation shall be completed by the Contractor. Such investigation shall include but not limited to Navajo Nation, other tribal, local, state, and federal criminal history checks. Background checks/ clearances, through fingerprint charts (FD-258) must be conducted through the Assistant Director, Identification Division, Federal Bureau of Investigation, Washington, D.C. 20537. Checks/ Clearance through the National Crime Information Center (NCIC), state criminal history centers and local police and tribal court records shall also be conducted. All background check/clearances shall be recorded, documented, and kept on file for each commissioned officer at the Contractor's Public Safety headquarters.

Careful review and documentation shall be made on each officers' family data, education, employment, medical and military history, previous residences, organizations, and affiliations, person references, credit record and police record, including drivers' license history and status. Background reviews shall be conducted through both a written questionnaire to be completed by the employee applicant and a personal interview with present and past supervisors and associates who have personal knowledge of the applicant's background and character. The Contractor shall update background investigation every five (5) years from the date of last background investigation on all commissioned officers.

- C. Any person who has been convicted of a felony is not eligible for employment. Also, any person who has been convicted of a misdemeanor, excluding minor traffic violations, within a period of three (3) years immediately preceding his/her appointment, or who has been convicted or plead guilty to a misdemeanor or domestic violence, shall not be eligible for employment as a commissioned law enforcement officer. Pursuant to the Indian Child Protection and Family Violence Act of 2006, any person who is found guilty of or entered a plea of *nolo contendere* or guilty to any felony or any of two or more misdemeanors under federal, state, or tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution, crimes against persons or offenses against children shall not be eligible for employment.
- D. Persons appointed to commissioned law enforcement positions shall be 21 years of age. This requirement may be waived for United States armed services' veterans discharged under honorable conditions.
- E. Applicants and commissioned law enforcement officer positions must be physically able to perform efficiently the duties of the positions, applicants shall have binocular vision correctable to 20/20 (Snellen) in each eye; uncorrected vision shall be no more than 20/100 in each eye. Near vision corrected or uncorrected shall be sufficient to read Yeager Type 2 at 14 inches. All law enforcement officers must be able to distinguish basic colors. All law enforcement officer position applicants shall have the ability to hear the conversational voice, without the use of a hearing aid. Persons with an amputation of arm, hand, leg or foot shall not be employed. Applicants shall possess emotional and mental stability. Any physical condition which would cause the employee to be a hazard to himself/herself or to others shall be disqualified for appointment/employment or continued employment or appointment as a law enforcement officer. Fitness for duty examination shall be ordered for any employee in question. In addition, an annual medical examination shall be completed for each commissioned law enforcement officer to ensure fitness for duty. Medical certificates shall be placed in each individual's official personnel folder.
- F. Employee candidates must complete and successfully pass a psychological evaluation conducted by a licensed psychologist prior to employment. Any applicant who does not meet this requirement shall not be hired in a law enforcement officer position. The Bureau of Indian Affairs will cooperate with the Contractor in obtaining such services through the Indian Health Service. In the event that these services cannot be obtained through the Indian Health Services, upon written request from the Contractor, the Bureau of Indian of



Affairs shall assist in developing and submitting a request for contract support funds to cover these costs. In the event that the Bureau develops a comprehensive mechanism to provide these services throughout Indian Country, the Contractor will have the opportunity to participate.

- G. The Contractor, through its internal affairs unit, shall be responsible for promptly conducting administrative investigations in response to allegation of employee misconduct. Administrative investigations shall be conducted professionally, impartially and thoroughly and reports shall be timely, objective and accurate. All administrative investigations conducted by the internal affairs unit shall be documented and maintained in a confidential manner. Any subsequent disciplinary action shall be processed pursuant to applicable Navajo Nation personnel policies and procedures, as amended, and other policies and procedures applicable to the Contractor. The Navajo Nation and the BIA will discuss in a timely manner the development of a protocol for the sharing of information between the Navajo Nation Department of Internal Affairs and the Office of Justice Services. In addition to conducting administrative investigations, the internal affairs unit shall also perform and/or assist with law enforcement patrol duties throughout the Navajo Nation.

**103. Qualifications and Training.** The Contractor shall assure that each law enforcement officer is Qualified, depending upon position classification in the field of law enforcement and has a working knowledge of arrest procedures, rules of evidence, crime scene search, preservation of evidence, report writing, testifying in court and related law enforcement functions.

- A. Each law enforcement officer must pass an approved firearms qualifications course every six (6) months to be qualified to carry a firearm. Whenever an officer's firearms qualification lapses, all weapons issued to the law enforcement officer shall be returned. Any of the following firearm qualification courses may be used to qualify law enforcement officers in the use of a firearm:
  - 1. The National Rifle Association National Police Course.
  - 2. The National Rifle Association 25-Yard Course.
  - 3. The National Rifle Association Practical Pistol Course
  - 4. The Federal Bureau of Investigation Practical Pistol Course
  - 5. All state approved firearms courses.
  - 6. Federal Law Enforcement Training Center Courses.
- B. Newly-employed law enforcement officers shall successfully complete, within their first year of service, the approved Basic Police Recruit Training Course conducted at the Indian Police Academy and approved by the Assistant Secretary of Indian Affairs or a comparable basic police recruit training course approved by a the Assistant Secretary of Indian Affairs.

An officer who fails to complete the training required by this paragraph shall be discharged or transferred to a position not involving law enforcement duties. Transfer may result in demotion. The Contractor may not utilize law enforcement officers, classified as police recruits by the Contractor, until such time that they have successfully completed the Basic Police Recruit training required for peace officer certification. Internal Affairs Investigators shall be required to attain Internal Affairs certification within one year from appointment to Department of Internal Affairs.

- C. Prior to, or within one year after, promotion or appointment to a supervisory law enforcement position, an employee shall complete the approved Supervisory Law Enforcement Officer Training Course conducted at the Indian Police Academy or a similar course substantially meeting or exceeding the level of training provided by the Indian Police Academy and approved by the Assistant Secretary of Indian Affairs. A law enforcement officer who is serving in a supervisory position and fails to complete the training required in this paragraph shall be demoted.
- D. Each law enforcement officer shall receive a minimum of forty (40) hours of local in-service training annually to meet training needs determined by Contractor and to keep abreast with developments in the field of law enforcement.
- E. The Contractor may establish and maintain a training academy for the training of its personnel. The curriculum used for training, in compliance with the Bureau's mandated requirements shall be submitted to the AOTR for approval and certification prior to the implementation of the training. The AOTR, within thirty days of receipt of the curriculum, shall respond to the Contractor its approval or disapproval of the curriculum. If the AOTR fails to respond within the thirty days, it shall be deemed by the Contractor that the curriculum has been approved. Any disapproval of curriculum by the AOTR shall explain the reason for disapproval.
- F. The Contractor will establish and maintain a support section for the maintaining, training, and maintenance of all the computerized reporting of 107 and salaries will be commensurate with duties and responsibilities. This information management section will be responsible for primary criminal justice reporting elements for police dispatch, police patrol, criminal investigations, and corrections.
- G. The Contractor shall directly operate and provide radio communication and dispatch services and activities in furtherance of the Indian Law Enforcement Reform Act (25 U.S.C. §2801, *et seq.*) within Navajo Indian Country. The dispatch services will be responsible for operating the law enforcement radio communications and dispatch system and/or computer aided dispatch services, to include the new Navajo Nation Next Generations (NG) 9-1-1 Public Safety Answering Points (PSAP) operations. The dispatch services will be responsible for reporting emergencies to the respective and appropriate law enforcement personnel or agency. All dispatch personnel will perform dispatch services in accordance with the qualifications, training, code of conduct, inspection and evaluation, and other standards applicable to Bureau law enforcement patrol telecommunications



operators or the equivalent. The Contractor fully understands and agrees to utilize current funding level for said services.

- H. To the extent of available resources, the Bureau shall provide additional necessary training, when requested in writing by the Contractor to enable the Contractor to carry out the terms and standards of the Contract. However, in the event that the Bureau cannot provide training needed by the Contractor to carry out the terms and conditions of this Contract, such failure will not adversely affect this Contract.
- I. CERTIFICATES OF SATISFACTORY COMPLETION OF EACH OF THE ABOVE TRAINING REQUIREMENTS SHALL BE MAINTAINED IN EACH INDIVIDUAL OFFICER'S PERSONNEL FOLDER.

**104. Certification as Federal Law Enforcement Officers.** The Bureau may commission any law enforcement officer as a Federal Law Officer as set out in Attachment A-B, which contain the executed SLEC Agreement and the BIA-OJS SLEC policies in place when the AFA is submitted each year.

**105. Uniforms and Equipment**

- A. Uniforms, when worn, shall positively identify the wearer as a law enforcement officer badge, name plate and tribal patch shall be visible at all times. Uniforms of all law enforcement personnel shall be plainly distinguishable from the uniforms of other non-law enforcement personnel. Each officer shall be issued a standard identification card bearing a photograph of the officer.
- B. All law enforcement officers shall be equipped with a two-way radio, emergency lights (Code 3), sirens, safety screens (cage), fire extinguisher, flashlight, emergency flares, blankets, a first aid kit, a shovel, and a rappelling rope, at least 100 feet in length. Contractor shall maintain all vehicles in good working condition.
- C. The Contractor shall provide all uniformed law enforcement officers with the following items and assure they are in good working condition:
  - 1. .40 caliber, 9 mm, or other firearms duly authorized by the Contractor.
  - 2. Belt holster, handcuffs, mace and pepper mace (including case), cartridge holder, and handcuffs with keys.
  - 3. Minimum of two complete uniforms, including hat/helmet, hat shield and breast badge, baton, bullet-proof vest, foul weather gear, and inclement weather outer wear.
  - 4. Ammunition shall be expended and replaced annually.

5. Baton.

6. Tasers

**D.** The Bureau shall provide necessary equipment, when requested in writing by the Contractor and subject to availability, to the contractor to efficiently and effectively carry out the terms and standards of the Contract.

**E.** All Internal Affairs investigators shall be issued a standard identification card bearing a photograph of the investigator. The Internal Affairs investigator shall wear business attire in accordance with the departmental uniform standard.

**106. Salaries.** Salaries paid law enforcement officers by the Contractor under this Contract shall be equal to or greater than the salaries paid law enforcement officers with similar responsibilities employed directly by the Bureau of Indian Affairs.

**107. Reporting.** The Contractor shall prepare and submit the following reports to the Contracting Officer's Representative:

**A.** Annual Narrative Report.  
(Monthly Statistical Reports)

Within (120) days after the end of the Contract year of this Contract, the Contractor will prepare an annual report covering the accomplishments and problems encountered during the prior year. The Annual Report shall contain the following statistical information and the report may contain any other statistical information the Contractor deems appropriate:

1. Arrest (adult, juveniles, male/female, classification of offenses);
2. Citations (classified by jurisdiction, adults, juvenile, male/female);
3. Motor Vehicle Accidents (non-injury, injury, fatality);
4. Crime statistics (classified into Part I, Part II, offenses classified by jurisdiction);
5. Patrol activities (classified as residential, dances, etc.);
6. Special Operations conducted (missing person, search and rescues, etc.);
7. Legal process served (classified by jurisdiction, warrants, subpoenas, etc.);
8. Public Assistance Contracts (motorist assistance, family disturbances resulting in counseling, weather information, etc.);

9. Crime Prevention Activities conducted (schools, chapters, etc.);
10. Vehicle Mileage Report
11. Monthly Drug Statistical Report; and
12. Other statistical information and Navajo Division of Public Safety may desire to add.

**B. Internal Reporting Procedures.**

The Contractor will maintain the following information as part of its performance of this Contract, but will not submit this information. However, this information will be available for inspection during the Bureau's yearly monitoring visit:

1. Dispatcher logs;
2. Officer logs;
3. Case reports, including arrest, investigation and incident records;
4. Juvenile records;
5. Individual arrest and disposition records;
6. Evidence records;
7. Booking logs;
8. Payroll records of all employees;
9. Reports of all traffic accidents investigated;
10. Individual background investigation records;
11. Training records and certificates of completion;
12. Codes of Conduct;
13. Jailer logs (Inmate checks);
14. Government-furnished property inventory list;
15. Employee performance appraisal files;
16. Annual physical examination records;

17. Firearms certification records;
18. Criminal case logs;
19. Firearm inventory list; and
20. Except in firearms training, each time a firearm is used for law enforcement purposes, a report shall be filed with a supervisor of the officer who used the weapon. Whenever use of a weapon results in serious injury or death of any person, the officer who fired the weapon shall be placed on administrative leave, or be assigned to strictly administrative duties pending a thorough investigation of all circumstances surrounding the incident.

C. **Civil Rights Violations Reports.** In addition to prescribed Navajo Nation reporting guidelines, when a Contract law enforcement officer receives an oral or written allegation that a law enforcement officer employed under this contract has violated the civil rights of any person, the receiving officer shall prepare a written report of the allegation and transmit it through the chain of command to the Navajo Police Department Chief of Police within seven (7) days of receipt of the allegation. No later than seven (7) days after being notified of the allegation, the Navajo Police Department Chief of Police shall submit written notification to the Navajo Department of Criminal Investigations Director, the Navajo Department of Internal Affairs Commander, the Bureau of Indian Affairs, the Navajo Area office, the Federal Bureau of Investigation and the President of the Navajo Nation. If the Navajo Police Department Chief of police, the District Captain or high ranking official is accused of a civil rights violation, the report of the allegation shall be transmitted directly to the Navajo Department of Criminal Investigations Director, the President of the Navajo Nation, the Federal Bureau of Investigation and the Navajo Area office.

D. **Serious Incident Reports.** In addition to prescribed Navajo Nation reporting guidelines, whenever a serious incident occurs, the Navajo Police Department Chief of Police will report by facsimile or email within 24 hours or the next business day, whichever is earlier, to the Office of Justice Services, District 4 in Albuquerque, New Mexico ("District 4"). The information reported to District 4 by facsimile or email in this initial time frame will be of a preliminary nature. The Chief of Police will report a serious incident on the Navajo Police Department Major Incident Report form which is attached as an exhibit to Attachment D of this Scope of Work. The serious incidents to be reported to the Office of Justice Services include:

1. Serious crimes against persons that have the potential to become high profile cases.
2. Major, or unusual, drug seizures or drug-related arrests in which the value, amount or circumstances of the seizure has the potential to attract significant media or political attention.
3. Serious incidents, accidents, or major events involving state, federal, or foreign political government officials or their families.

4. Actual, attempted, or planned terrorist activity, sabotage or other hostile acts.
5. Significant law enforcement events that require, or may require, the dispatch of specially trained teams to augment normal law enforcement capabilities.
6. Major natural or man-caused disasters-excluding wildfires-which cause, or have the potential to cause, significant loss of life, injuries, or property damage.
7. The death of, or life threatening injury to, any law enforcement officer incurred during the performance of duty.
8. The discharge of a firearm by an officer toward another individual or the use of a weapon by another individual against an officer or employee.
9. Any use of force by an officer that results in serious injury or death to another individual.
10. All deaths including homicides, traffic-related, unattended, unknown or suicides.

- 108. No assignment as Security.** No Police Officer shall be assigned to serve as bodyguards for the President, Vice-President or other politically elected or appointed official of the Navajo Nation government. This does not prohibit any Police Officer from conducting an investigation of criminal offenses or threats of criminal offenses against the President, Vice-President or other politically elected or appointed official of the Navajo Nation.
- 109. No Third-Party Beneficiary.** This contract does not and is not intended to create rights in any person(s) or entities other than the contracting parties.
- 110. Upward Mobility Plan.** The Upward Mobility Plan is a component of the Police Department as a staff development and training program, which is an educational support service for under graduate and graduate level employees pursuing a Bachelor of Science degree or Masters Degree in Criminal Justice Administration and/or Public Business Administration, or related fields.

# **Deputation Agreement**

## **Attachment A**

### **Deputation Agreement**

Whereas, pursuant to the Indian Law Enforcement Reform Act, 25 U.S.C. § 2801, *et seq.*, the Secretary of the Interior, acting through the Bureau of Indian Affairs (BIA), is responsible for providing, or assisting in providing law enforcement in Indian Country; and

Whereas, the Secretary has delegated this authority to the Assistant Secretary – Indian Affairs and the Assistant Secretary – Indian Affairs has redelegated this authority to the Director of the BIA, who has redelegated it to the Deputy Bureau Director, Office of Services Services (OJS), BIA; and

Whereas, the Assistant Secretary – Indian Affairs is committed to working with tribal governments and tribal law enforcement to strengthen law enforcement in Indian country; and

Whereas, on February 10, 2004, the Assistant Secretary – Indian Affairs articulated policy guidance to the BIA – as published at 69 Fed. Reg. 6,321 – to govern the implementation of Special Law Enforcement Commission Deputation Agreement; and

Whereas, this policy expressly lays out issues regarding good faith efforts on behalf of all parties involved in the aforementioned agreements, including as they relate to liability;

It is therefore resolved that the BIA, Office of Justice Services (OJS) and the Navajo Nation enter into this Deputation Agreement to govern the BIA OJS's issuance of Special Law Enforcement Commissions, pursuant to the Assistant Secretary – Indian Affairs' Cross-Deputation Agreements, Memoranda of Understanding, Memoranda of Agreement, and Special Law Enforcement Commission Deputation Agreements, FR Doc. 04-2842, policy guidance.

This Deputation Agreement is entered into this 1st day of March, 2013, by and between the Navajo Nation, a federally recognized Indian tribe, Division of Public Safety-Law Enforcement/Criminal Investigations and the BIA, OJS, Department of the Interior, pursuant to the authority of the Indian Law Enforcement Reform Act, 25 U.S.C § 2801, *et seq.*, and related Navajo Nation tribal ordinances, which provide for cooperative agreements to promote better law enforcement services.

The intent of this Agreement is to provide for the deputation of law enforcement officers employed by the Navajo Nation Division of Public Safety-Law Enforcement/Criminal Investigations (hereinafter referred to as the [Navajo Nation Division of Public Safety]), which is a party to this Agreement, so that the Navajo Nation Division of Public Safety law enforcement officers will be authorized to assist the BIA in its duties to provide law enforcement services and to make lawful arrests in Indian country within the jurisdiction of the Tribe or as described in section 5. It is the express desire and intent of both parties to this Agreement to allow law enforcement officers to react immediately to observed violations of the law and other emergency situations.

Both parties to this Agreement recognize that when law enforcement officers arrest a criminal suspect, the officers may not know whether the suspect or the victim is an Indian or non-Indian, or whether the arrest or the suspected crime has occurred in Indian country, as defined by 18 U.S.C. § 1151, and that therefore there is great difficulty in determining immediately the proper jurisdiction for the filing of charges. It is further recognized that the official jurisdictional determination will be made by a prosecutor or court from one of the various jurisdictions, not by cross-deputized arresting officers who may deliver the offender to the appropriate detention facility.

The parties further expressly recognize the manifest intent of the Indian Law Enforcement Reform Act to eliminate the uncertainties that previously resulted in the reluctance of various law enforcement agencies to provide services in Indian country for fear of being subjected to tort and civil rights suits as a consequence of the enforcement or carrying out in Indian country of certain federal law. To eliminate such concerns, pursuant to the authority granted by 25 U.S.C. § 2804(a) and (f), a Tribal Law Enforcement Officer who is deputized by the Bureau of Indian Affairs Special Law Enforcement Commission will be deemed an employee of Department of the Interior for purposes of the Federal Tort Claims Act while enforcing or carrying out laws of the United States covered by this deputation agreement, to the extent outlined in this agreement. Both parties to this Agreement (BIA, Tribe) therefore agree as follows:

1. Purpose

The purpose of this Agreement is to provide for efficient, effective, and cooperative law enforcement efforts in Indian country in the State(s) of Arizona, New Mexico, and Utah, and its terms should be interpreted in that spirit. Accordingly, both parties to this Agreement shall cooperate with each other to provide comprehensive and thorough law enforcement protection, including but not limited to effecting arrests, responding to calls for assistance from all citizens and also from other law enforcement officers, performing investigations, providing technical and other assistance, dispatching, and detention.

This Agreement is not entered into pursuant to the Indian Self Determination Act and Education Assistance Act, P.L. 93-638, as amended, but pursuant to the ILERA and serves as an Appendix to the existing Public Law 93-638 contract for law enforcement services on the Navajo Nation. The Secretary's revocation or termination of this agreement is subject to the appeal and review procedure provided below.

2. Commissions

- A. The BIA as a party to this Agreement may, in its discretion, issue special law enforcement commissions to law enforcement officers of another agency, upon the application of such officers. Such commissions shall grant the officers the same law enforcement authority as that of officers of the BIA (unless specifically limited by the terms of the commission), as more specifically described in Section 3 of this Agreement. When the BIA issues such a commission, it shall provide notice of that commission, including the name of the officer receiving the commission, to any other agencies that are parties to this Agreement or that should be aware of this Agreement. The BIA further has the authority to evaluate



the effectiveness of the commissions and to investigate any allegations of misuse of authority. 25 C.F.R. § 12.21. Pursuant to such evaluation the BIA has the authority to revoke a deputation agreement with a law enforcement agency or to revoke an individual officer's SLEC subject to the appeal and review procedures provided below.

- B. A commission shall not be granted unless the applicant has complied with all the prerequisites for appointment as a police officer as set forth in 25 C.F.R. Part 12 and with the specific requirements of the commissioning agency. Those prerequisites must include the following:

1. United States citizenship;
2. A high school diploma or equivalent;
3. No conviction for a felony, a misdemeanor which restricts the ability to carry firearms, or other crime involving moral turpitude (including any convictions expunged from an individual's record);
4. Documentation of semi-annual weapons qualifications; and
5. A finding that the applicant is free of any physical, emotional, or mental condition that might adversely affect his or her performance as a police officer.

Further, an officer seeking an SLEC must not have been found guilty of, or entered a plea of *nolo contendere* or its equivalent (such as an *Alford* plea), or guilty to any felonious offense, or any of certain misdemeanor offenses under Federal, State, or tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact, or prostitution, or crimes against persons, or offenses committed against children.

- C. The BIA may further impose any other requirements, including, but not limited to, an orientation course on Federal, tribal, or state criminal procedures.
- D. If requested by the BIA, the applicant's agency shall provide a Federal Bureau of Investigation criminal history background check on the applicant.
- E. If BIA denies an officer a commission, it shall disclose the grounds for such denial in writing to the agency which employs the applicant.
- F. Both parties to this agreement may, at any time, suspend or revoke an officer's commission for reasons solely within its discretion. The parties shall notify the officer's agency in writing of the suspension or revocation and the reasons therein and the officer's right to appeal as set forth below. Within ten (10) days after such notification, that agency shall cause the commission card and any other evidence of the commission to be returned to the issuing party.

- G. If the commissioned officer's agency possesses or comes to possess any information on the officer, which provides grounds for the suspension or revocation of the commission, it shall immediately notify the commissioning party.
- H. A commission issued by the BIA under this agreement shall not be used to invoke any State of Arizona, New Mexico, and Utah authority. Officers holding SLECs who are responding to a call, conducting an investigation, or otherwise exercising their authority shall, in their discretion and in the exercise of sound police judgment, address any potential violations of Federal or Tribal law.

3. Scope of Powers Granted

- A. Navajo Nation Division of Public Safety law enforcement officers carrying SLECs issued by the BIA pursuant to this Agreement are given the power to enforce:

All Federal laws applicable within Indian country, and specifically the Navajo Nation's Indian country, including the General Crimes Act, 18 U.S.C. § 1152, and the Major Crimes Act, 18 U.S.C. § 1153, consistent with the authority conveyed pursuant to Federal law through the issuance of commissions or other delegations of authority. See Appendix A, which includes an illustrative list of Federal statutes that officers may be called upon to enforce; this list is not exhaustive.

- B. Both parties to this Agreement note that the applicability of Federal and tribal laws in Indian country may depend on whether the suspect or the victim is Indian, and the parties agree that nothing in this Agreement makes any law applicable to a certain person or certain conduct where it would not otherwise be applicable. (A qualified immunity defense may still be available in appropriate circumstances notwithstanding this limitation.) Accordingly, the purpose of this Agreement is to provide commissioned Navajo Nation Division of Public Safety law enforcement officers the authority to enforce applicable laws. This includes statutes set forth in the local U.S. Attorney Guidelines as well as all laws and statutes applicable in Indian country as described in Section 3.A and Appendix A.
- C. Nothing in this Agreement limits, alters or conveys any judicial jurisdiction, including the authority to issue warrants for arrest or search and seizure, or to issue service of process. Similarly, nothing in this Agreement is intended to impair, limit, or affect the status of any agency or the sovereignty of any government. Lawful actions pursuant to this federal Agreement and a commission issued under it supersede any contrary Tribal, State, or local law, ordinance, or practice.
- D. This Agreement does not create any rights in third parties. Issuance and revocation of SLECs pursuant to this agreement are at the sole discretion of the

BIA. Nothing in this deputation agreement is intended to create or does create an enforceable legal right or private right of action by a law enforcement officer or any other person.

4. Uniform, Vehicles and Weapons

- A. BIA policy requires that BIA police officers will as a rule be in duty-appropriate uniforms, which will conform with the parameters outlined in the BIA Law Enforcement Handbook, carry a weapon where required by their duties and, when stationed in marked police vehicles, will operate such marked police vehicles equipped with light bars. This policy is standard for police forces nationwide, and is necessary for the safety of the officer and to communicate the officer's status and authority to members of the public and to those suspected of criminal activities.
- B. Police officers that are temporarily off duty during a shift, or whose duty is temporarily interrupted for any reason are expected to remain in duty-appropriate uniforms, in a marked vehicle, if so stationed, and otherwise prepared for duty so that they are available to respond to emergency calls.
- C. Police officers and their supervisors may make exceptions to these requirements for undercover operations or otherwise on a case-by-case basis, but deviations from this rule are expected to be infrequent and will usually occur for compelling law-enforcement reasons.

5. Travel Outside of Indian Country

- A. The ordinary duty stations of BIA police officers are located within the boundaries of Indian country. In some situations, however, BIA police officers will be required to leave Indian country as a part of or incidental to their duties. This may occur, for example, where they are responding to an incident in another area of Indian country; where they are transporting evidence or suspects to or from locations in Indian country or to or from other police, court, or prison facilities; when they reside off-reservation and are traveling to their duty station or responding to an emergency call; or when they must obtain products or services located off-reservation while on duty or in the normal course of their business day.
- B. When traveling outside of Indian country, BIA police officers retain their status as Federal law enforcement officials. They are therefore expected as a rule to be in uniform and to operate marked police vehicles as set forth in paragraph 4. They may also be armed; may transport evidence; and may exercise the authority of law enforcement officers to maintain control of suspects in such situations. They may also perform comparable incidental Federal police activities outside of Indian country, but will not as a rule conduct investigations or make arrests outside of Indian country, absent exigent circumstances or: (1) a nexus to a crime committed in Indian country, and (2) communicating and coordinating with the

appropriate local or Federal authorities over procedures and methods.

6. Officers Holding SLECs

- A. Officers holding SLECs are treated as BIA police officers for enforcing Federal laws. They therefore will conform to all requirements and limitations set forth in this agreement and in particular in paragraphs 4 and 5.
- B. In any situation in which an officer holding an SLEC might receive a call related to a potential Federal offense, that officer will as a rule be in uniform and in a vehicle equipped as set forth in paragraph 4.. Such an officer may undertake off-reservation travel as set forth in paragraph 5.
- C. In any situation in which an officer holding an SLEC is responding to a call that may involve a Federal offense, or undertaking any other duties that relate to or may potentially relate to their Federal functions, he or she will conform to the provisions of this agreement, and in particular those in paragraph 5. The officer will function as a BIA police officer as set forth in paragraph 5, irrespective of the boundaries of the Tribe's reservation or the location of Indian country.
- D. When an officer holding an SLEC receives an emergency call in circumstances where a Federal offense may exist, he or she will respond in emergency mode and will travel to the site of the call as rapidly as it is possible to do without compromising safety, irrespective of the boundaries of Indian country or his or her present location. He or she will observe the restrictions on the activation of emergency mode and the precautions for the safety of bystanders required in the BIA, OJS Law Enforcement Handbook and otherwise respond as appropriate and prudent. In instances where the State has criminal jurisdiction in Indian country, and where there is no significant reason to anticipate that a Federal offense may exist with respect to a particular emergency call, Tribal law enforcement officers will respond in accordance with policies and practices set forth under State and local law. But may, in certain circumstances, retain their Federal status.
- E. When located outside of Indian country, officers holding SLECs may respond to observed violations of Federal law in a public safety emergency as appropriate and prudent. Irrespective of their location, officers holding SLECs may only respond to violations of exclusively State law to the extent consistent with that State's law. Officers carrying SLECs may respond to concurrent violations of State and Tribal or Federal laws to the extent consistent with Tribal or Federal law.

7. Disposition and Custody

- A. Any person arrested by an officer commissioned pursuant to this Agreement shall immediately be brought to the attention of a responsible official of the apparent prosecuting jurisdiction. In order to ascertain the proper prosecuting jurisdiction, the officer shall attempt to determine, where practicable, whether the arrestee is

Indian or non-Indian. The official determination of proper jurisdiction, however, will be made by a prosecutor or court, not a law enforcement officer commissioned under this Agreement.

- B. The agency with whom the arresting officer is employed shall ensure the arrestee appears before a judge of the appropriate jurisdiction for initial appearance and bond setting within the time guidelines of the tribal, State, or Federal law as may be appropriate.
- C. In the event an Indian detainee or prisoner under the jurisdiction of the Tribe requires medical treatment, the law enforcement agency with custody may transport the detainee or prisoner to the nearest Indian Health Service or the appropriate Tribal health care facility. In such event, tribal or BIA law enforcement officers shall be notified so that necessary protective services may be provided while the detainee or prisoner is admitted at such health facility.

8. Liabilities and Immunities

- A. It is understood and agreed that each agency which is a party to this Agreement, its agents, employees and insurers do not, by virtue of this Agreement, assume any responsibility or liability for the actions of officers commissioned pursuant to this Agreement which are performed outside the scope of their duties.
- B. Notwithstanding subsection A, any Navajo Nation Division of Public Safety Law Enforcement Officer who is deputized by the Bureau of Indian Affairs Special Law Enforcement Commission will only be deemed an employee of the Department of the Interior for purposes of the Federal Tort Claims Act while carrying out those laws applicable in Indian country as described in Section 3.A and Appendix A. Therefore, such officer will not be deemed a federal employee under 25 U.S.C. § 2804(f)(1), or for purposes of the Federal Tort Claims Act with respect to the enforcement of any other law except those applicable in Indian country as described in Section 3.A and Appendix A. This Agreement does not affect any other extension of Federal Tort Claims Act as conferred by the Indian Self-Determination and Education Assistance Act 25 U.S.C. § 450f.
- C. Nothing in this Agreement shall be read as waiving or limiting any defenses to claims of liability otherwise available to law enforcement officers, such as the defense of qualified immunity.
- D. Nothing in this Agreement shall be construed as a waiver of any government's sovereign immunity, not otherwise expressly waived by legislative act.
- E. The Tribe specifically agrees to hold the United States harmless under this Agreement for any civil claim brought against an officer carrying an SLEC arising out of law enforcement activity, except for actions within the scope of authority delegated by this agreement, provided, however, that this hold harmless

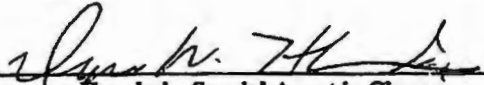
provision shall not be applicable to any obligation of the United States arising out of a relationship between the United States and the Tribe not created under this Agreement.

- F. The Tribe agrees that the United States has no obligation under this Agreement to provide legal representation for any constitutional claim for any officer carrying a SLEC except as provided by 28 C.F.R. 50.15(a), such that (1) providing representation would otherwise be in the interest of the United States, and (2) the event from which the claim arises is within the scope of authority delegated by this agreement.

9. Appeal Procedure

Appeals of termination or revocation of this agreement, or suspension or revocation of a commission issued herein, shall be made within 10 business days of the termination, revocation, or suspension to the Associate Director of Operations, BIA, OLESS, which decision shall be the final agency action subject to judicial review under the Administrative Procedure Act (APA), 5 U.S.C. § 551. At the Navajo Nation's option, appeal may be taken to the Interior Board of Indian Appeals (IBIA) to the extent it has jurisdiction.

Signatures:

  
Duwayne Honahni - Special Agent in Charge  
Bureau of Indian Affairs - Office of Justice Services

3/14/2013  
Date

  
Ben Shelly - President  
Navajo Nation

3/13/2013  
Date

All Federal criminal laws applicable to Indian country, including the General Crimes Act, 18 U.S.C. § 1152, and the Major Crimes Act, 18 U.S.C. § 1153.

All Federal statutes applicable within Navajo Nation (Tribe's) Indian country in Arizona, New Mexico, and Utah which may include, but are not limited to:

1. The Indian country liquor laws, where applicable (18 U.S.C. §§ 1154, 1155, 1156, and 1161),
  2. Counterfeiting Indian Arts and Crafts Board Trade-mark (18 U.S.C. § 1158),
  3. Misrepresentation of Indian produced goods and products (18 U.S.C. § 1159),
  4. Property damaged in committing offense (18 U.S.C. § 1160),
  5. Embezzlement and theft from Indian tribal organizations (18 U.S.C. § 1163),
  6. Destroying boundary and warning signs (18 U.S.C. § 1164),
  7. Hunting, trapping or fishing on Indian land (18 U.S.C. § 1165),
  8. Theft from gaming establishments on Indian land (18 U.S.C. § 1167),
  9. Theft by officers or employees of gaming establishments on Indian land (18 U.S.C. § 1168),
  10. Reporting of child abuse (18 U.S.C. § 1169),
  11. Felon in possession of a firearm (18 U.S.C. § 922(g)),
  12. Youth Handgun Safety Act (18 U.S.C. § 922(x) (2)),
  13. Possession of a firearm while subject to protective order 18 U.S.C. § 922(g) (8)),
  14. Interstate domestic violence - Crossing a state, foreign, or Indian country border (18 U.S.C. § 2261(a) (1)),
  15. Interstate domestic violence - Causing the crossing of a state, foreign, or Indian country border (18 U.S.C. § 2261(a) (2)),
  16. Interstate violation of protective order - Crossing a state, foreign, or Indian country border (18 U.S.C. § 2262),
  17. Illegal trafficking in Native American human remains and cultural items (18 U.S.C. § 1170),
  18. Lacey Act violations (16 U.S.C. § 3371, *et seq.*),
  19. Archaeological Resource Protection Act violations (16 U.S.C. § 470ee),
  20. Controlled substances - Distribution or possession (21 U.S.C. §§ 841(a) (1), 844),
  21. Unauthorized taking of trees (18 U.S.C. § 1853),
  22. Unauthorized setting of fire (18 U.S.C. § 1855),
  23. Assault of a Federal officer (18 U.S.C. § 111),
  24. Bribery of tribal official (18 U.S.C. § 666(a) (2)),
- This list is not exhaustive.

**§ 222. Contracts or other papers generally**

All contracts or agreements entered into pursuant to the Navajo Nation Procurement Code, to the extent applicable, or approved by the Navajo Nation Council, or its Committees shall be executed in the following manner:

A. The President or the Vice-President of the Navajo Nation or their designee shall execute contracts or agreements pertaining to the Executive Branch;

B. The Chief Justice of the Navajo Nation or their designee shall execute contracts or agreements pertaining to the Judicial Branch; and

C. The Speaker of the Navajo Nation Council or their designee shall execute contracts or agreements pertaining to the Legislative Branch.

D. The Chapter President of the Navajo Nation Chapter shall execute contracts or agreements pertaining to the Chapter.

**§ 223. Contracts**

Except as otherwise provided, any contract authorized to be executed on behalf of the Navajo Nation shall meet the following conditions:

A. All contracts involving the expenditure of funds shall expressly state that the liability of the Navajo Nation under such contract is contingent upon the availability of appropriations by the Navajo Nation Council to carry out the same.

B. All contracts shall have sufficient funds appropriated and available.

C. Contracts shall not waive the sovereign immunity of the Navajo Nation or its entities unless approved by two-thirds (2/3) vote of the full membership of the Navajo Nation Council. This provision shall not apply to authority to waive immunity properly delegated.



GOVERNMENT

NAVAJO NATION GOVERNMENT

2 N.N.C. § 1005

1003. Vice-President

- A. There shall be one Vice-President of the Navajo Nation.
- B. He/she shall be elected for a term of four years.
- C. The Vice-President shall serve no more than two terms.

History

CD-68-89, December 15, 1989.  
CJA-1-63, January 10, 1963.

Rules governing Tribal Council, July 1938,  
Ch. 111, §§ 4-5, 1954 Res. p. 190.

Library References

Indians § 32(6).  
Westlaw Topic No. 209.  
C.J.S. Indians § 51.

§ 1004. Qualifications

- A. No person shall serve as President or as Vice-President of the Navajo Nation unless he/she is an enrolled member of the Navajo Nation, 30 years old or older.
- B. No person shall serve as President or Vice-President of the Navajo Nation unless he/she has continually, during the last three years before the time of election been physically present within the Navajo Nation. The "Navajo Nation" is defined at 7 N.N.C. § 254.

History

CD-68-89, December 15, 1989. Rules governing Tribal Council, July 1938, Ch. 111, §§ 7-8, 1954 Res. pp. 190-193.

Cross References

Navajo Nation Election Code, sec. 11 N.N.C. § 1, et seq.

Library References

Indians § 32(6).  
Westlaw Topic No. 209.  
C.J.S. Indians § 51.

§ 1005. Powers and duties

- A. The President of the Navajo Nation shall serve as the Chief Executive Officer of the Executive Branch of the Navajo Nation government with full authority to conduct, supervise, and coordinate personnel and programs of the Navajo Nation. He/she shall have fiduciary responsibility for the proper and efficient operation of all Executive Branch offices.
- B. The President shall represent the Navajo Nation in relations with governmental and private agencies and create favorable public opinion and good will toward the Navajo Nation.
- C. The President shall have the following enumerated powers:
  - 1. Faithfully execute and enforce the laws of the Navajo Nation.

## 2 N.N.C. § 1005

## NAVAJO NATION GOVERNMENT

2. Negotiate and execute contracts subject to applicable laws.
3. Appoint supervisory executive personnel subject to applicable laws.
4. Appoint members of boards, commissions, and other entities subject applicable laws.
5. Report quarterly to the Navajo Nation Council on the state of the Navajo Nation.
6. Recommend to the Budget and Finance Committee an annual operating budget or amendments thereof for the Executive Branch and advise the Navajo Nation Council on the annual budget recommended by the Budget and Finance Committee.
7. Recommend to the Navajo Nation Council supplemental appropriations for the Executive Branch.
8. Recommend legislation, rules or regulations to the Navajo Nation Council or its Committees.
9. Exercise such powers as may be lawfully delegated to the Office of the President of the Navajo Nation.
10. Sign legislation passed by the Navajo Nation Council into Navajo law within ten calendar days after the certification of the legislation by the Speaker or Speaker Pro Tem.
11. Veto legislation passed by the Navajo Nation Council subject to an override of the veto by two-thirds (2/3) vote of the membership of the Navajo Nation Council. The veto shall be exercised by the President by a letter to the Speaker specifying the reasons for the veto. The President's veto shall not be subject to an override by the Navajo Nation Council after the end of the next regular session of the Navajo Nation Council following the session in which the legislation was first passed by the Council.
12. The President's authority to sign into law or veto legislation shall be deemed to be waived if not exercised within ten calendar days after certification of the legislation by the Speaker or Speaker Pro Tem and the legislation shall be deemed enacted and become effective pursuant to 2 N.N.C. § 221.
13. Speak and act for the Navajo Nation on any and all matters relating to the Navajo-Hopi land dispute subject to applicable laws.
14. Issue executive orders for the purpose of interpreting, implementing or giving administrative effect to statutes of the Navajo Nation in the manner set forth in such statutes. Executive orders shall have the force of law upon the recipient.

D. The Vice-President of the Navajo Nation, during the absence of the President, shall exercise the powers and execute the duties of the President of the Navajo Nation.

### History

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Added Subsections B(10), (12) and (14). Amended Subsection B(11) and Renumbered within Subsection B.

GSCF-10-91, January 9, 1991. Added Subsection (C)(11).

CD-68-89, December 15, 1989.

CAU-50-59, August 6, 1959.

CJ-13-53, January 6, 1953.

## NAVAJO NATION

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III, § 3-6, 1954

Indians § 32(6).  
Westlaw Topic No. 1  
C.J.S. Indians § 51.

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CJ-13-53, January

Indians § 32(6).  
Westlaw Topic No.  
C.J.S. Indians § 51

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C.J.S. Indians § 5

**04-04 SPECIAL LAW  
ENFORCEMENT  
COMMISSIONS POLICY**

**Attachment B**

#### **4-04 SPECIAL LAW ENFORCEMENT COMMISSIONS**

##### **POLICY**

The Bureau of Indian Affairs (BIA), Office of Justice Services (OJS) issues Special Law Enforcement Commissions (SLECs) to Tribal, Federal, state, and local full-time certified law enforcement officers who will serve without compensation from the Federal government. This process allows BIA to obtain active assistance in the enforcement of Federal criminal statutes and Federal hunting and fishing regulations in Indian country.

##### **RULES AND PROCEDURES**

#### **4-04-01 AUTHORITY TO ISSUE, RENEW, AND REVOKE DEPUTATION AGREEMENTS AND SLECs**

A. Authority to enter into Deputation Agreements and SLECs is based on Title 25, United States Code, Section 2804 (Pub. L. 101-378), 25 C.F.R. Part 12, and the Tribal Law and Order Act of 2010 (Pub.L. 111-211).

B. Line Authority to Enter into Deputation Agreements and Issue SLECs

Authority to enter into Deputation Agreements and issue is delegated in 3 Indian Affairs Manual 2.8 to the Deputy Bureau Director, OJS. The Deputy Bureau Director has delegated to the District Special Agents in Charge (District SACs) the authority to enter into OJS- and Solicitor's Office-approved Deputation Agreements and the authority to sign SLEC cards granted pursuant to Deputation Agreements.

C. Issuance of SLECs Exclusively for Legitimate Law Enforcement Need

SLECs are to be issued or renewed at BIA-OJS discretion and only when legitimate law enforcement need requires issuance. SLECs are not to be issued solely for the furtherance of inter-agency or public relations. Such decisions by the BIA-OJS are non-appealable.

D. Deputation Agreements

1. The District SAC may enter into a Deputation Agreement with tribal, Federal, state, or other government law enforcement agencies to aid in the enforcement or carrying out of Federal laws in Indian country. Deputation Agreements with tribal law enforcement agencies require authorizing resolutions from the tribes.
2. Any Deputation Agreement that differs in any respect from the Model Deputation Agreement must be explicitly approved by the Deputy Bureau Director, OJS and by the Solicitor's Office before it can be executed.

3. Before executing a Deputation Agreement, the District SAC shall:
    - make a written determination that the applicant law enforcement agency has written law enforcement policies and procedures in place that are at least as stringent as those of BIA-OJS, and
    - obtain the Deputy Bureau Director's concurrence with the decision to issue the Deputation Agreement.
  4. BIA-OJS shall continuously evaluate the effectiveness of the SLECs, in accordance with 25 C.F.R. § 12.21(a).
  5. BIA-OJS may revoke an SLEC, pursuant to 25 C.F.R. § 12.21(a), if BIA-OJS finds that the officer holding the SLEC has misused his or her authority or that the SLEC is not effective in meeting its purpose. BIA-OJS may suspend an SLEC while investigating allegations of the officer's misuse of authority.
  6. The BIA-OJS Central Office East (COE) shall ensure that all signed Deputation Agreements and tribal resolutions are converted to an electronic format and posted to the SLEC Tracking System.
- E. Deputation Agreements with Tribal, State, and Local Law Enforcement Agencies
1. Before BIA-OJS enters into a Deputation Agreement with a state or local law enforcement agency to provide law enforcement within a tribe's jurisdiction, BIA-OJS shall have an authorizing resolution from the appropriate tribal government, supporting the Deputation Agreement with the state or local law enforcement agency.
  2. Agreements for one tribe to provide officers within another tribe's jurisdiction, for the purpose of enforcing Federal law, must include authorizing resolutions from both the tribe providing officers and the recipient tribe. If BIA-OJS determines that there is an emergency situation, this requirement may be temporarily waived, at the discretion of BIA-OJS, until the emergency situation is under control.
  3. An SLEC officer acting under the authority granted by a Deputation Agreement, and within the scope of his or her duties, shall be considered an employee of the U.S. Department of the Interior for purposes of:
    - a. 5 U.S.C. § 3374(c)(2) (coverage under the FTCA)
    - b. 18 U.S.C. §§ 111 and 1114 (assault and protection of officers)
    - c. 5 U.S.C. §§ 8191- 8193 (compensation for work injuries)
- F. Standards for Issuance of SLECs

Applicants for an SLEC must meet the following minimum requirements:

1. The applicant must be a United States citizen;
2. The applicant must have a high school diploma or equivalent;
3. The applicant must be at least 21 years of age;
4. The applicant must possess a valid driver's license;
5. The applicant must be a full-time certified law enforcement officer of a Federal, state, local or tribal law enforcement agency. Such certification shall meet the Peace Officer Standards of Training (POST) requirements for any state certification and shall be consistent with standards accepted by the Federal Law Enforcement Training Accreditation (FLETA). SLEC applicants who work for a federal law enforcement agency must provide evidence of Federal certification that shall be consistent with standards accepted by FLETA.
6. The applicant must have passed his or her law enforcement agency's firearms qualification course; must have been certified within six months preceding the issuance of the SLEC; and must continue to be certified every six months within the period immediately preceding the issuance of, and during the term of the SLEC. Verification of firearms qualification shall be submitted every six months to the District SAC and shall be maintained with the District's SLEC records;
7. The applicant must never have been convicted of a felony offense;
8. The applicant must not have been convicted of a misdemeanor offense within the one-year period preceding the issuance of the SLEC, with the exception of minor traffic offenses, excluding misdemeanor DUI/DWI convictions;
9. The applicant must never have been convicted of a misdemeanor crime involving moral turpitude (including any convictions expunged from the applicant's record);
10. The applicant must never have been convicted of a misdemeanor crime of domestic abuse that prevents the applicant from possessing a firearm or ammunition pursuant to Section 658 of Public Law 104-208 (the 1996 amendment to the Gun Control Act of 1968), 18 U.S.C. § 922(g)(9);
11. The applicant must sign a "Domestic Violence Waiver" certifying that the applicant has never been convicted of a domestic violence offense, including convictions in a tribal court;
12. The applicant must have successfully passed the Criminal Jurisdiction in Indian Country (CJIC) examination with a score of 70 % or higher;
13. If the applicant is a graduate of the Indian Police Academy's Basic Police Officer Training Program, the applicant is considered to have met the mandated training requirements, so long as the SLEC application is made within three years of the applicant's graduation; and
14. Pursuant to 25 U.S.C. § 3207(b), an applicant seeking an SLEC must not have been found guilty of, or entered a plea of *nolo contendere* or its equivalent (such as an Alford plea), to any felonious offense, or any two or more misdemeanor offenses, under Federal, state, or tribal law

involving crimes of violence, sexual assault, molestation, exploitation, prostitution, crimes against persons, or offenses committed against children.

**G. SLECs do not authorize access to "classified" information.**

**H. Required Information on SLEC Cards**

Each SLEC card shall display the following data:

1. Name and recent photograph of the SLEC holder;
2. Date of issuance, date of expiration, title or position of the SLEC holder, the SLEC holder's agency/department, and control number;
3. Signature of the Authorizing Official; and
4. Signature of the SLEC holder.

**I. Maintenance of SLEC Records**

1. The District SAC shall keep a record of all outstanding SLECs, which is subject to review. The record will include, but is not limited to, the name and department of each SLEC holder, the date of issuance of the SLEC, and a copy of the signed Deputation Agreement.
2. Each District SAC shall be responsible for ensuring that all SLECs issued or revoked in the District are recorded in the SLEC Tracking System.

**J. Orientation Includes Authority Conferred by SLEC**

The Indian Police Academy (IPA) shall sponsor or host regional training sessions in Indian Country, not less frequently than every six months, to educate and certify candidates for the SLEC. These training sessions will provide a minimum course of instruction, focusing particularly on Federal jurisdiction, Federal law, and the authority that the SLEC confers. This course must be successfully completed before the District SAC issues the SLEC.

**K. Federal Liability for SLEC Holders**

The SLEC grants the holder specific Federal authority and responsibility, and, as a result, places a high level of liability risk on the U.S. Government. To reduce liability risks for the Government, the District SAC is responsible for ensuring that all requirements are satisfied before issuing the SLEC.

**L. Renewal of SLECs**

An SLEC holder shall apply for renewal of the SLEC 90 days before the

SLEC expires.

**M. Expiration of SLECs**

SLECs expire five years from the date of issuance.

**N. Revocation of SLECs**

SLECs may be revoked for cause. Cause for revocation includes, but is not limited to, the following:

1. Resignation/termination from law enforcement;
2. Providing false information on an SLEC application;
3. A sustained allegation of serious misconduct;
4. Giglio-Henthorne issues affecting the officer's ability to perform duties;
5. Sustained allegations of misuse of SLEC authority as described in 25 C.F.R. §12.21(a); or
6. Termination of the Deputation Agreement.

**O. Suspension of SLECs**

SLECs may be suspended for cause. The chief law enforcement officer of the law enforcement agency employing the SLEC holder shall ensure that the SLEC is confiscated and held until a determination is made regarding the cause for suspension. If applicable, the chief law enforcement officer shall notify the District SAC of a decision regarding the suspended SLEC. Cause for suspension includes, but is not limited to, the following:

1. An active criminal investigation involving the SLEC holder;
2. An active internal affairs investigation involving the SLEC holder.
3. An active investigation of misuse of SLEC authority.

**4-04-02 SLEC APPLICATIONS**

**A.** After a Deputation Agreement has been executed, SLEC applicants shall submit their completed Application for SLECs (Application) to the District SAC.

**B.** The completed Application shall include:

1. A Domestic Violence Waiver signed by the applicant;
2. Verification of training at a state POST academy or IPA;
3. Current firearms qualifications (at least 80 %);
4. Certification from the Indian Police Academy that the applicant passed the Criminal Jurisdiction In Indian Country course examination with a score of 70% or higher;
5. Written acknowledgement that the applicant has reviewed and agrees to comply with the BIA-OJS Code of Conduct;



6. A Standard Form SF-87 fingerprint chart; and
7. An official high school diploma or GED certificate.

#### **4-04-03 CLEARANCE AND ISSUANCE OF SLECs**

- A. The District SAC shall verify that a thorough background investigation has been conducted on the applicant. If a thorough background investigation has not been completed and adjudicated, the applicant shall not be issued the SLEC.
- B. A thorough background investigation shall consist of the following:
  1. Verification that the applicant is a U.S. citizen;
  2. Verification that the applicant is at least 21 years of age;
  3. Verification that the applicant has a high school diploma or GED;
  4. A criminal history check of tribal, municipal, county, state and federal records where the applicant has resided for the past ten years, to include any misdemeanor or felony offense;
  5. A credit history check for the past seven years;
  6. Interviews with listed and developed references, including previous employers for the last seven years;
  7. A driver's license check;
  8. A fingerprint card cleared through the Federal Bureau of Investigation (FBI) to determine criminal record; and
  9. Written identification of any disqualifying factors, which include:
    - a. misconduct or negligence in prior employment which would have a bearing on effective service or interfere with or prevent effective performance;
    - b. criminal or dishonest conduct related to the duties to be assigned;
    - c. intentional false statement or deception or fraud in examination or appointment;
    - d. alcohol abuse of a nature and duration which suggests the applicant would be prevented from performing the duties of the position in question or would constitute a direct threat to the property or safety of others;
    - e. illegal use of narcotics, drugs, or other controlled substances;
    - f. knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force; or
    - g. any statutory bar which prevents the lawful employment of the person involved in the position in question.
- C. Applicants who are employed by a law enforcement agency that requires, as a pre-employment condition, that they be fingerprinted and undergo a background investigation no less stringent than that required of a BIA-OJS officer may provide documentation of such background clearance. The employing chief law enforcement officer shall attest and certify in writing, on department letterhead, that the applicant has met all requirements for the SLEC, including a full background investigation that has been

adjudicated by trained and qualified security professionals, and an FBI criminal history check.

- D. The Application must be fully completed and attested to by the chief law enforcement officer of the law enforcement agency for which the applicant is a full-time officer.
- E. The District SAC shall issue an SLEC within 60 days after determining that all requirements are met.

#### **4-04-04 RENEWAL OF SLECs**

- A. The District SAC shall certify in writing that a continuing need exists for commissioning officers of the renewal applicant's employing agency.
- B. The renewal applicant shall submit a Renewal Application, which shall consist of the following:
  - 1. An up-to-date Application;
  - 2. A letter of verification from the chief law enforcement officer of the renewal applicant's employing agency that an updated background investigation was completed and adjudicated within one year of the Renewal Application;
  - 3. Evidence from the Indian Police Academy that the renewal applicant passed the Criminal Jurisdiction in Indian country Update online examination, with a score of 70% or higher, within six months before submitting the Renewal Application.
- C. The chief law enforcement officer of the applicant's employing agency shall attest and certify in writing, on department letterhead, that all information on an applicant's Renewal Application is accurate.
- D. The District SAC shall issue an SLEC within 60 days after determining that all requirements are met.

#### **4-04-05 RETURN OF SLECs**

The chief law enforcement officer of the applicant's employing agency shall agree, in writing, to assume responsibility for returning the SLEC card to the District SAC when one of the following conditions occurs:

- 1. The SLEC has expired.
- 2. The SLEC holder terminates employment as a full-time peace officer for any reason.
- 3. The SLEC holder is transferred to another area of jurisdiction.

4. The SLEC holder is suspended by the employing agency for any reason.
5. The SLEC holder is under indictment or has been charged with a serious crime or any other disqualifying factor as specified in the Deputation Agreement.
6. The SLEC is revoked by BIA-OJS for cause.
7. The tribe having jurisdiction has adopted a resolution objecting to the use of SLEC personnel of a non-Federal agency within the tribe's jurisdiction.

#### **4-04-06 SLEC TRACKING SYSTEM**

The District SAC or designee shall, immediately upon receiving an Application, enter the following data into the SLEC Tracking System:

1. Applicant's Last Name
2. Applicant's First Name
3. Applicant's Date of Birth
4. Applicant's Middle Initial (if applicable)
5. Date SLEC issued to Applicant
6. SLEC Control Number
7. Applicant's Agency/Department
8. Applicant's Social Security Number
9. Comments (Optional)
10. SLEC Status
  - a. Undetermined
  - b. Issued
  - c. Denied
  - d. Suspended
  - e. Revoked
  - f. Expired
11. Reason for SLEC Status  
If the applicant's SLEC is expired, suspended, or revoked, a reason or cause must be noted in the comments (e.g., applicant under investigation, resigned, or was terminated).

#### **4-04-07 APPEAL PROCEDURE**

Appeals of termination or revocation of a Deputation Agreement or suspension or revocation of an SLEC shall be made within 15 days of termination, revocation, or suspension to the BIA-OJS Associate Director of Operations, whose decision shall be the final agency action under the Administrative Procedure Act, 5 U.S.C. § 551.

# **Exhibit B**

## **Budget**

B

Navajo Nation

Summary of Proposed Budget

FY 2021 - P. L. 93-638 BIA Contract

Part I. - Program Information:

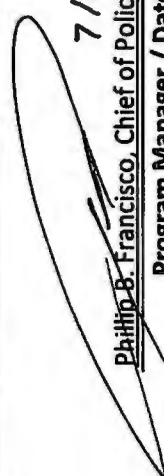
A. Program / Division: Law Enforcement - Patrol FY 2021

B. Contract No.: A16AV00383

Part II. - Budget Information:

| A            | B                         | C                                                                      | D               |
|--------------|---------------------------|------------------------------------------------------------------------|-----------------|
| Cost Type    | Title of Cost Type        | Description on the purpose of the budget.                              | Budget Amount   |
| 2001         | Personnel Salary          | Regular Status Employee and LE-Police Officer                          | \$19,466,778.24 |
| 2900         | Fringe Benefit            | Regular Status Employee rate @ 47.88%, LE-Police Officer rate @ 47.98% | \$9,336,773.84  |
| 3000         | Travel                    |                                                                        |                 |
| 3500         | Meeting                   |                                                                        |                 |
| 4000         | Supplies                  |                                                                        |                 |
| 5000         | Lease & Rental            |                                                                        |                 |
| 5500         | Communication & Utilities |                                                                        |                 |
| 6000         | Repairs & Maintenance     |                                                                        |                 |
| 6500         | Contractual Service       |                                                                        |                 |
| 7000         | Special Transactions      | Workers Compensation for all employee                                  | \$173,254.33    |
| 8000         | Assistance                |                                                                        |                 |
| 9000         | Capital Outlay            |                                                                        |                 |
| 9720         | Indirect Cost             |                                                                        |                 |
| Total Budget |                           |                                                                        | \$28,976,806.41 |

Part III. - Signatures:

 7/15/20  
Phillip B. Francisco, Chief of Police

Program Manager / Date

Jesse Delmar

Division Director / Date



THE NAVAJO NATION  
PROGRAM BUDGET SUMMARY

FY 2021

|                                    |  |                                  |  |                                                                               |  |
|------------------------------------|--|----------------------------------|--|-------------------------------------------------------------------------------|--|
| PART I. Business Unit No.: K2107XX |  | Program Title: LE-Administration |  | Division/Branch: Public Safety                                                |  |
| Prepared By: Delores Hunt          |  | Phone No.: 928-871-5565          |  | Email Address: <a href="mailto:dhunt@navajo-nsn.gov">dhunt@navajo-nsn.gov</a> |  |

| PART II. FUNDING SOURCE(S) |  | Fiscal Year Term | Amount        | % of Total | PART III. BUDGET SUMMARY |                             |   | Fund Type Code | (A) NNC Approved Original Budget | (B) Proposed Budget | (C) Difference (Column B + A) |
|----------------------------|--|------------------|---------------|------------|--------------------------|-----------------------------|---|----------------|----------------------------------|---------------------|-------------------------------|
| P.L. 93-638                |  | 01/01-12/31/21   | 28,976,806.41 | 100%       | K2107XX                  | LE-Administration           | 6 |                | 2,275,009.52                     | 2,275,009.52        | 2,275,009.52                  |
|                            |  |                  |               |            | K2107XX                  | Chinle Police District      | 6 |                | 3,850,327.47                     | 3,850,327.47        | 3,850,327.47                  |
|                            |  |                  |               |            | K2107XX                  | Crownpoint Police District  | 6 |                | 4,001,156.57                     | 4,001,156.57        | 4,001,156.57                  |
|                            |  |                  |               |            | K2107XX                  | Kayenta Police District     | 6 |                | 3,268,944.42                     | 3,268,944.42        | 3,268,944.42                  |
|                            |  |                  |               |            | K2107XX                  | Shiprock Police District    | 6 |                | 4,001,609.51                     | 4,001,609.51        | 4,001,609.51                  |
|                            |  |                  |               |            | K2107XX                  | Tuba City Police District   | 6 |                | 3,983,071.97                     | 3,983,071.97        | 3,983,071.97                  |
|                            |  |                  |               |            | K2107XX                  | Window Rock Police District | 6 |                | 4,306,569.05                     | 4,306,569.05        | 4,306,569.05                  |
|                            |  |                  |               |            | K2107XX                  | Dilkon Police District      | 6 |                | 1,866,022.73                     | 1,866,022.73        | 1,866,022.73                  |
|                            |  |                  |               |            | K2107XX                  | LE-Training Academy         | 6 |                | 819,560.78                       | 819,560.78          | 819,560.78                    |
|                            |  |                  |               |            | K2107XX                  | LE-Infom. Mgmt Services     | 6 |                | 604,534.39                       | 604,534.39          | 604,534.39                    |
|                            |  |                  |               |            |                          |                             |   |                |                                  |                     | 0.00                          |
|                            |  |                  |               |            |                          |                             |   |                |                                  |                     | 0.00                          |
|                            |  |                  |               |            |                          |                             |   |                |                                  |                     | 0.00                          |
|                            |  |                  |               |            | TOTAL                    |                             |   |                | 0.00                             | 28,976,806.41       | 28,976,806.41                 |

| PART IV. POSITIONS AND VEHICLES |  | (D) | (E) |
|---------------------------------|--|-----|-----|
| Total # of Positions Budgeted:  |  |     | 388 |
| Total # of Vehicles Budgeted:   |  |     |     |

PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE.

Phillip B. Francisco, Chief of Police

SUBMITTED BY: Program Manager's Printed Name

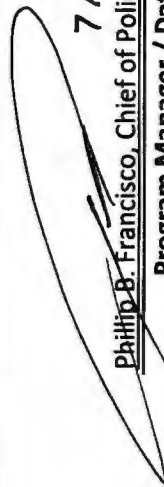
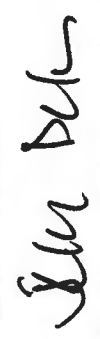
SUBMITTED BY: Program Manager's Signature and Date *7/15/21*

Jesse Delmar, Executive director

APPROVED BY: Division Director/Branch Chief's Printed Name

APPROVED BY: Division Director/Branch Chief's Signature and Date *Jesse Delmar 07/15/21*



| Navajo Nation                                                                                                                                                    |                           |                                                                                                                                 |                 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Summary of Proposed Budget                                                                                                                                       |                           |                                                                                                                                 |                 |
| FY 2021 - P. L. 93-638 BIA Contract                                                                                                                              |                           |                                                                                                                                 |                 |
| <b>Part I. - Program Information:</b>                                                                                                                            |                           |                                                                                                                                 |                 |
| A. Program / Division: Law Enforcement - Patrol FY 2021                                                                                                          |                           |                                                                                                                                 |                 |
| B. Contract No.: A16AV00383                                                                                                                                      |                           |                                                                                                                                 |                 |
| <b>Part II. - Budget Information:</b>                                                                                                                            |                           |                                                                                                                                 |                 |
| A                                                                                                                                                                | B                         | C                                                                                                                               | D               |
| Cost Type                                                                                                                                                        | Title of Cost Type        | Description on the purpose of the budget.                                                                                       | Budget Amount   |
| 2001                                                                                                                                                             | Personnel Salary          | Regular Status Employee and LE-Police Officer                                                                                   | \$19,466,778.24 |
| 2900                                                                                                                                                             | Fringe Benefit            | Regular Status Employee rate @ 47.88%, LE-Police Officer rate @ 47.98%                                                          | \$9,336,773.84  |
| 3000                                                                                                                                                             | Travel                    |                                                                                                                                 |                 |
| 3500                                                                                                                                                             | Meeting                   |                                                                                                                                 |                 |
| 4000                                                                                                                                                             | Supplies                  |                                                                                                                                 |                 |
| 5000                                                                                                                                                             | Lease & Rental            |                                                                                                                                 |                 |
| 5500                                                                                                                                                             | Communication & Utilities |                                                                                                                                 |                 |
| 6000                                                                                                                                                             | Repairs & Maintenance     |                                                                                                                                 |                 |
| 6500                                                                                                                                                             | Contractual Service       |                                                                                                                                 |                 |
| 7000                                                                                                                                                             | Special Transactions      | Workers Compensation for all employee                                                                                           | \$173,254.33    |
| 8000                                                                                                                                                             | Assistance                |                                                                                                                                 |                 |
| 9000                                                                                                                                                             | Capital Outlay            |                                                                                                                                 |                 |
| 9720                                                                                                                                                             | Indirect Cost             |                                                                                                                                 |                 |
| Total Budget                                                                                                                                                     |                           |                                                                                                                                 | \$28,976,806.41 |
| <b>Part III. - Signatures:</b>                                                                                                                                   |                           |                                                                                                                                 |                 |
| <br>Phillip B. Francisco, Chief of Police<br>Program Manager / Date 7/15/20 |                           | <br>Jesse Delmar<br>Division Director / Date |                 |

FY 2021

**THE NAVAJO NATION  
PROGRAM BUDGET SUMMARY**

Page 1 of 1  
**BUDGET FORM 1**

|                                           |  |                                         |  |                                                                                      |  |
|-------------------------------------------|--|-----------------------------------------|--|--------------------------------------------------------------------------------------|--|
| <b>PART I. Business Unit No.:</b> K2107XX |  | <b>Program Title:</b> LE-Administration |  | <b>Division/Branch:</b> Public Safety                                                |  |
| <b>Prepared By:</b> Delores Hunt          |  | <b>Phone No.:</b> 928-871-6565          |  | <b>Email Address:</b> <a href="mailto:dhunt@navajo-nsn.gov">dhunt@navajo-nsn.gov</a> |  |

| PART II. FUNDING SOURCE(S) |  | Fiscal Year /Term | Amount        | % of Total | PART III. BUDGET SUMMARY |                             |   | Fund Type Code | (A) NNC Approved Original Budget | (B) Proposed Budget | (C) Difference (Column B + A) |
|----------------------------|--|-------------------|---------------|------------|--------------------------|-----------------------------|---|----------------|----------------------------------|---------------------|-------------------------------|
| P.L. 93-638                |  | 01/01-12/31/21    | 28,976,806.41 | 100%       | K2107XX                  | LE-Administration           | 6 | 2,275,009.52   | 2,275,009.52                     | 2,275,009.52        |                               |
|                            |  |                   |               |            | K2107XX                  | Chinle Police District      | 6 | 3,850,327.47   | 3,850,327.47                     | 3,850,327.47        |                               |
|                            |  |                   |               |            | K2107XX                  | Crownpoint Police District  | 6 | 4,001,156.57   | 4,001,156.57                     | 4,001,156.57        |                               |
|                            |  |                   |               |            | K2107XX                  | Kayenta Police District     | 6 | 3,268,944.42   | 3,268,944.42                     | 3,268,944.42        |                               |
|                            |  |                   |               |            | K2107XX                  | Shiprock Police District    | 6 | 4,001,609.51   | 4,001,609.51                     | 4,001,609.51        |                               |
|                            |  |                   |               |            | K2107XX                  | Tuba City Police District   | 6 | 3,983,071.97   | 3,983,071.97                     | 3,983,071.97        |                               |
|                            |  |                   |               |            | K2107XX                  | Window Rock Police District | 6 | 4,306,569.05   | 4,306,569.05                     | 4,306,569.05        |                               |
|                            |  |                   |               |            | K2107XX                  | Dilkon Police District      | 6 | 1,866,022.73   | 1,866,022.73                     | 1,866,022.73        |                               |
|                            |  |                   |               |            | K2107XX                  | LE-Training Academy         | 6 | 819,560.78     | 819,560.78                       | 819,560.78          |                               |
|                            |  |                   |               |            | K2107XX                  | LE-Inform. Mgmt Services    | 6 | 604,534.39     | 604,534.39                       | 604,534.39          |                               |
|                            |  |                   |               |            |                          |                             |   |                |                                  | 0.00                |                               |
|                            |  |                   |               |            |                          |                             |   |                |                                  | 0.00                |                               |
|                            |  |                   |               |            |                          |                             |   |                |                                  | 0.00                |                               |
|                            |  |                   |               |            | <b>TOTAL</b>             |                             |   | 0.00           | 28,976,806.41                    | 28,976,806.41       |                               |

| PART IV. POSITIONS AND VEHICLES |  | (D) | (E) |
|---------------------------------|--|-----|-----|
| Total # of Positions Budgeted:  |  |     | 388 |
| Total # of Vehicles Budgeted:   |  |     |     |

**PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE.**

|                                                                                                                                                                                               |                                                                                                                                                                                                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SUBMITTED BY: <u>Phillip B. Francisco, Chief of Police</u><br>SUBMITTED BY: <u>Program Manager's Printed Name</u> <u>7/15/21</u><br>SUBMITTED BY: <u>Program Manager's Signature and Date</u> | APPROVED BY: <u>Jesse Delmar, Executive director</u><br>APPROVED BY: <u>Division Director/Branch Chief's Printed Name</u> <u>7/15/21</u><br>APPROVED BY: <u>Division Director/Branch Chief's Signature and Date</u> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



**Government Performance Results Act**  
**GPRA**

**NONE REQUIRED**

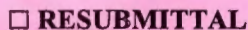
**Attachment "C"**

## **Additional Report(s)**

**NONE REQUIRED**

**Attachment "D"**

**D**



# DOCUMENT REVIEW REQUEST FORM



DOJ  
8/31/2020 1102  
DATE / TIME  
☐ 7 Day Deadline  
DOC #: 014701  
SAS #:   
UNIT: H596

\*\*\* FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. \*\*\*

**CLIENT TO COMPLETE**

DATE OF REQUEST: 8/31/20 ENTITY/DIVISION: Public Safety  
CONTACT NAME: Herbert Tsasie DEPARTMENT: Police  
PHONE NUMBER: 928-871-7859 E-MAIL: httsasie@nava.io-rsm.gov

TITLE OF DOCUMENT: 164 Review Form LE Patrol P.L. 93-638 Contract

## DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 8/31/2010 @ 1:49

DATE/TIME OUT OF UNIT:

## DOJ ATTORNEY / ADVOCATE COMMENTS

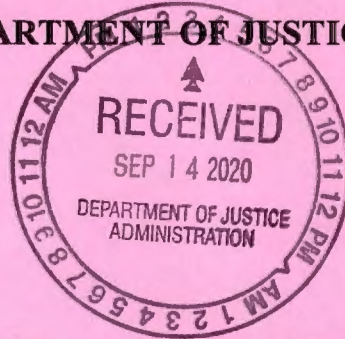
|                                                                                                                 |                    |                             |                    |
|-----------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------|--------------------|
| <b>Return to Spouse</b>                                                                                         |                    | <b>Needs OOC Citation</b>   |                    |
| <b>REVIEWED BY: (PRINT)</b>                                                                                     | <b>DATE / TIME</b> | <b>SURNAMED BY: (PRINT)</b> | <b>DATE / TIME</b> |
| Jur M Begay<br>UBV                                                                                              | 8/3/2020<br>3:00pm | UBV                         | 9/1/2020<br>1012   |
| <b>DOJ Secretary Called:</b> Herbert Tsosie <b>for Document Pick Up on</b> 9/1/2020 <b>at</b> 2:00 <b>By:</b> n |                    |                             |                    |
| <b>PICKED UP BY: (PRINT)</b>                                                                                    |                    | <b>DATE / TIME:</b>         |                    |





# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM



|                                                    |             |
|----------------------------------------------------|-------------|
| DOJ                                                |             |
| 9/14/20 @ 3:10p                                    | DATE / TIME |
| <input checked="" type="checkbox"/> 7 Day Deadline |             |
| DOC #: 014701#2                                    |             |
| SAS #:                                             |             |
| UNIT: #59u                                         |             |

☒ RESUBMITTAL

\*\*\* FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. \*\*\*

### CLIENT TO COMPLETE

DATE OF REQUEST: 9/14/20 ENTITY/DIVISION: Public Safety  
 CONTACT NAME: Herbert Tsosie DEPARTMENT: Navajo Police  
 PHONE NUMBER: 928-871-1859/7554 E-MAIL: htsosie@navajo-nsn.gov

TITLE OF DOCUMENT: L.E. Patrol P.L. Q3-638 Contract

### DOJ SECRETARY TO COMPLETE

Emailed by: m  
 DATE/TIME IN UNIT: 9/15/20 @ 10:25 REVIEWING ATTORNEY/ADVOCATE: Michelle Begay

DATE/TIME OUT OF UNIT:

### DOJ ATTORNEY / ADVOCATE COMMENTS

legally sufficient by Michelle Begay 10

|                                |                                 |                            |                                 |
|--------------------------------|---------------------------------|----------------------------|---------------------------------|
| REVIEWED BY: (PRINT)<br>for MB | DATE / TIME<br>9/18/20 @ 10:20a | SURNAMED BY: (PRINT)<br>MB | DATE / TIME<br>9/18/20 @ 10:30a |
|--------------------------------|---------------------------------|----------------------------|---------------------------------|

DOJ Secretary Called: VM: Herbert Tsosie for Document Pick Up on 9/18/20 4:00 By: m

PICKED UP BY: (PRINT) DATE / TIME:

Navajo Nation - Division of Finance

Office of the Controller

164 or Signature Authorization Sheet (SAS) Sign-Off Sheet for OOC

(Attach sign off sheet to SAS document to ensure each section within OOC signs off on SAS)

PLEASE NOTE OOC (ALL SECTIONS IN TOTAL) HAS 7 DAYS TO REVIEW

14701

OOC - Section

Date

1 Accounts Receivable:

2 General Accounting:

3 Contract Accounting:

4 Contract Administration:

Insufficient - see CGS memo 8/28/20 #2 Budget aut.  
Jany m 9/14/20

Comments:

Deemed insufficient by OMB. No budget increase justification  
for renewal.

Document No. 014701Date Issued: 07/16/2020**SECTION 164 REVIEW FORM**Title of Document: SOW - L.E. PATROL P.L. 93-638 CONTRACT Contact Name: TSOSIE III, HERBERT HProgram/Division: DIVISION OF PUBLIC SAFETYEmail: hhtsosie@navajo-nsn.gov Phone Number: 928-871-7859Division Director Approval for 164A: John Almar

**Check document category: only submit to category reviewers. Each reviewer has a maximum 7 working days, except Business Regulatory Department which has 2 days, to review and determine whether the document(s) are sufficient or insufficient. If deemed insufficient, a memorandum explaining the insufficiency of the document(s) is required.**

**Section 164(A) Final approval rests with Legislative Standing Committee(s) or Council**

| <input type="checkbox"/> | Statement of Policy or Positive Law:                                                                                              |             | Sufficient               | Insufficient             |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------|--------------------------|--------------------------|
|                          | 1. OAG: _____                                                                                                                     | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds) |             |                          |                          |
|                          | 1. OMB: _____                                                                                                                     | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 2. OOC: _____                                                                                                                     | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 3. OAG: _____                                                                                                                     | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |

**Section 164(B) Final approval rests with the President of the Navajo Nation**

|                          |                                                                                     |             |                          |                          |
|--------------------------|-------------------------------------------------------------------------------------|-------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Grant/Funding Agreement or amendment:                                               |             |                          |                          |
|                          | 1. Division: _____                                                                  | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 2. OMB: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 3. OOC: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 4. OAG: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | Subcontract/Contract expending or receiving funds or amendment:                     |             |                          |                          |
|                          | 1. Division: _____                                                                  | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 2. BRD: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 3. OMB: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 4. OOC: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 5. OAG: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment: |             |                          |                          |
|                          | 1. Division: _____                                                                  | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 2. OAG: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | M.O.A. or Letter of Assurance expending or receiving funds or amendment:            |             |                          |                          |
|                          | 1. Division: _____                                                                  | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 2. OMB: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 3. OOC: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | 4. OAG: _____                                                                       | Date: _____ | <input type="checkbox"/> | <input type="checkbox"/> |



Document No. 014701Date Issued: 07/16/2020**SECTION 164 REVIEW FORM**Title of Document: SOW - L.E. PATROL P.L. 93-638 CONTRACT Contact Name: TSOSIE III, HERBERT HProgram/Division: DIVISION OF PUBLIC SAFETYEmail: hhtsosie@navajo-nsn.gov Phone Number: 928-871-7859

Division Director Approval for 164A: \_\_\_\_\_

**Check document category: only submit to category reviewers. Each reviewer has a maximum 7 working days, except Business Regulatory Department which has 2 days, to review and determine whether the document(s) are sufficient or insufficient. If deemed insufficient, a memorandum explaining the insufficiency of the document(s) is required.**

**Section 164(A) Final approval rests with Legislative Standing Committee(s) or Council**
☐ **Statement of Policy or Positive Law:**

 1. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐
☐ **IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)**

 1. OMB: CMG see memo Date: 8/28/20 Sufficient ☐ Insufficient ☒

 2. OOC: Danny Wu - see CGS memo #2 Date: 9/14/20 Sufficient ☐ Insufficient ☒

 3. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 \* See Michelle Bagby's email  
 \* See SOW
**Section 164(B) Final approval rests with the President of the Navajo Nation**
☒ **Grant/Funding Agreement or amendment:**

 1. Division: John De Date: 07/16/20 Sufficient ☒ Insufficient ☐

 2. OMB: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 3. OOC: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 4. OAG: Uky Uky Date: 9/11/2020 Sufficient ☒ Insufficient ☒

 5. OMP 8/11/2020 9/23/20 9/18/2020 Sufficient ☒ Insufficient ☒
☐ **Subcontract/Contract expending or receiving funds or amendment:**

 1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 2. BRD: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 3. OMB: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 4. OOC: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 5. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐
☐ **Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment:**

 1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 2. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐
☐ **M.O.A. or Letter of Assurance expending or receiving funds or amendment:**

 1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 2. OMB: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 3. OOC: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

 4. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ Sufficient ☐ Insufficient ☐

# THE NAVAJO NATION

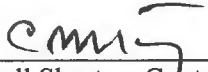


JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

August 28, 2020

## MEMORANDUM

TO: Jesse Delmar, Division Director  
Navajo Division of Public Safety (NDPS)

FROM:   
Cordell Shortey, Contracting Officer  
Contracts and Grants Section (CGS) / OMB

SUBJECT: Document Review No. 014701 – CY 2021 SAFA P. L. 93-638 Contract Law  
Enforcement / Patrol

The attached subject document was reviewed pursuant to FY 2021 NN BIM Appendix L Sections V. B. and VI. B., which in part states "pursuant to its enabling statute at 2 NNC §§ 1201, OMB's Contracts and Grants Section has authority to review grant applications and agreements prior to submission to external funding sources...." Pursuant to Sec. VI. G., the review is to advise President Nez if the grant application or agreement (award) is sufficient for his signature for submission, acceptance or approval.

The document was further reviewed based on Instruction on Development of Funding Proposal for FY 2021 Funds on P.L. 93-638 BIA Contracts that was issued by CGS memorandum of August 20, 2020. The document is surnamed Insufficient as Section 164(A) action due to following issues:

1. Page 3 of the Instruction indicates the Contract is due for renewal effective CY 2021 which begins on January 1, 2021. This requires the funding proposal packet be compiled as a Contract Renewal pursuant to Section 3. B. on Page 1 of the Instruction and is subject to Section 164(A) action as indicated at Section 3. E. While the SECTION 164 REVIEW FORM cover is correct, you surnamed the document as Section 164(B) which is in the wrong area and in correct. You need to sign on Division Director Approval for 164A line at the top of the review cover.
2. The budget submitted as Attachment B is \$28,976,806.41. Section 3. D. forth bullet of the Instruction on Page 2 indicates the recurring funds awarded in FY2020 shall be used as the proposed budget. If a higher amount is proposed it needs to be justified. The amount proposed exceeds the FY 2020 base and there is no justification.

Aside from the above, the proposal addressed other areas of the Instruction including the scope of work being determined sufficient by Ms. Begay, DOJ Attorney via email of Aug 17, 2020.

DPS is advised to resolve the issues raised above to ensure final packet is sufficient for submission to BIA NRO. Also to monitor the packet to complete the 164(A) action at soonest possible. Contact our office at 871-6033 if you have question.

Attachment

Cc: file

Herbert H. Tsosie III, Program Supervisor II, Support Services, NDPS





# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Washington, DC 20240

JUL 31 2020

IN REPLY REFER TO  
Office of Justice Services  
ES Control 0068

Received EDOCS

August 7, 2020

Office of Management & Budget  
The Navajo Nation, Window Rock, Arizona

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Honorable Jonathan Nez  
President, Navajo Nation  
Post Office Box 9000  
Window Rock, Arizona 86515

**Patrol**



Dear President Nez:

This is to notify you that the Navajo Nation's existing P.L. 93-638 Self Determination contracts for Law Enforcement – Uniform Patrol (Contract No. A16AV00383) and Law Enforcement - Criminal Investigations (Contract No. A16AV00384) with the Bureau of Indian Affairs (BIA) Office of Justice Services (OJS) will expire on **December 31, 2020**.

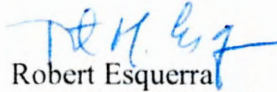
In accordance with Indian Self-Determination and Education Assistance Act (ISDEAA) implementing regulations found at 25 C.F.R. § 900.12, "...an Indian tribe or tribal organization should submit a **renewal contract proposal or an annual funding agreement proposal at least 90 days before the expiration date of the contract.**" At this time, we do not know the status of FY2021 congressionally appropriated amounts that will be made available under the expiring agreements, and as such we are recommending that you utilize the final appropriated amounts from FY2020 [\$20,241,607 for Uniform Patrol and \$4,145,872 for Criminal Investigations] for budget planning purposes in preparing your contract renewal proposals.

Documents required to renew an expiring contract include: (1) Authorizing Tribal Resolution that requests to enter into a renewal P.L. 93-638 contract with BIA for law enforcement and criminal investigations; (2) Proposed budgets with justification; and (3) Updated Scopes of Work, for each re-contracting proposal, if applicable. The renewal proposals shall provide funding information in the same detail and format as the original proposals and may also identify any significant proposed changes to the Scope of Work or program standard. In the case of some of these programs, copies of updated and/or revised program policies and procedures (if they differ from what is in the current contract) should be submitted with all other renewal documents.

All of the requested documents should be submitted to the BIA OJS District IV Office at the address below no later than **October 1, 2020**.

Should you have questions or need additional assistance, please contact me at the BIA OJS District IV Office at (505) 563-3882, via email at robert.esquerra@bia.gov, or via mail at 1001 Indian School Road, Albuquerque, New Mexico, 87104, or Orlinda Platero, Awarding Official, at the BIA Navajo Regional Office, at (505) 863-8311.

Sincerely,



Robert Esquerra  
Special Agent in Charge/Approving Official

cc: Cordell Shortey, Contracts/Grants, Navajo Nation  
Orlinda Platero, Awarding Official, BIA Navajo Regional Office

## Elouise White

---

**From:** Elouise White  
**Sent:** Thursday, August 20, 2020 11:49 AM  
**To:** 'Michelle Begay'  
**Cc:** LeVerne Harrison; Germaine Jones  
**Subject:** FW: FY 2021 SOW - L.E. Patrol

Thank you Michelle.

Elouise

**From:** Michelle Begay [mailto:mbegay@nndoj.org]  
**Sent:** Monday, August 17, 2020 4:24 PM  
**To:** Elouise White <ewhite@omb.navajo-nsn.gov>  
**Cc:** LeVerne Harrison <lvharrison@omb.navajo-nsn.gov>; Germaine Jones <gejones@NNOOC.ORG>  
**Subject:** RE: FY 2021 SOW - L.E. Patrol

Elouise,

Thank you for providing the letter.

I reviewed the SOW. NDPS said there are no changes, the SOW is legally sufficient.

Michelle Begay, Senior Attorney  
Human Services and Government Unit  
Navajo Nation Department of Justice  
P.O. Box 2010  
Window Rock, Navajo Nation (Arizona) 86515  
Phone 928.871.6935  
Fax 928.871.6177

If this e-mail message concerns legal or related matters, this communication and any attachments are attorney-client privileged and confidential, and intended for use only by the individual or entity named above as the intended recipient. If you are not the intended recipient, reading, distributing or copying this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender and delete this e-mail and any attachments. Thank you.

**From:** Elouise White [mailto:ewhite@omb.navajo-nsn.gov]  
**Sent:** Monday, August 17, 2020 3:43 PM  
**To:** Michelle Begay <mbegay@nndoj.org>  
**Cc:** LeVerne Harrison <lvharrison@omb.navajo-nsn.gov>; Germaine Jones <gejones@NNOOC.ORG>  
**Subject:** FW: FY 2021 SOW - L.E. Patrol

Hi Michelle,

Attach is the BIA OJS 15 day review letter from last year and NN Law Enforcement – Patrol Letter.

Elouise



# THE NAVAJO NATION

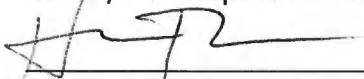


JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

September 14, 2020

## MEMORANDUM :

TO : §164 Reviewers  
OPVP, NN Departments and Navajo Nation Council

FROM :   
Herbert H. Tsosie III, Program Supervisor II  
Support Services, NDPS

SUBJECT : 164A Document 014701

In response to Office of Contract and Grants (OCG) insufficient memo listed two items on 164A and justification needed on budget.

1) Originally, this document was signed off as a 164B and resubmitted as a 164A, but the document was not located at OCG between the receptionist and Contract Analyst as reviewed by Cordell Shorty, Contracting Officer. In July 2020, NDPS started 014701 without OCG instructions, due to unforeseen reasons of COVID 19 limited services provided by OCG non-essential workers and limited work schedule of less than 24 hours or telecommuting from other approve worksites, internet or scanned document to OMB. Attached in signed copy of 164A by Jesse Delmar not located at OCG to date.

2) The Navajo Nation has requested annually more than the base budget of \$22 Million for Direct Cost which covers salary, fringe benefits, insurance-workers comp premium, Cost of living adjustment by the Navajo Nation Council during the annual budget deliberation and approval by Navajo Nation President. The Navajo Police department has in excess of 400 FTE and a high FB rate of 48% and during the COVID 19 pandemic period compensated non-exempt and exempt employees' overtime and special duty pay of '638 funds. The Navajo Nation operates on 24/7 and has in excess of 250,000 calls for services annually, make over 25,000 arrest, and depending on location response time over 25 minutes. The training academy has completed two classes in FY19 to address the high attrition rate to fill vacancies, and greater demand to provide adequate coverage at an 2.5 PO per 1,000 population ratio to a benchmark requiring over 400 police officer from the current force of 210.

Should you have any question(s) on this matter, please do not hesitate to call me at extension 7859.

attachments:

# THE NAVAJO NATION

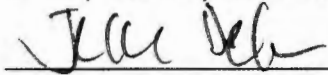


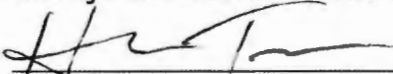
JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

July 16, 2020

## MEMORANDUM:

TO : §164 Reviewers  
OPVP, NN Departments and Navajo Nation Council

THRU :   
Jesse Delmar, Division Director  
Navajo Division of Public Safety

FROM :   
Herbert H. Tsosie III, Program Supervisor II  
Support Services, NDPS

SUBJECT : Navajo Police Department Re-contract Services

Your review and approval are requested under P.L. 93-638 to continue patrol services from January 2021 through December 2025.

There are no changes for the Scope of Work, Model Contract, and Annual Funding Agreement, as attached.

The budget increase from Fiscal Year 2021 includes updated BC and BE salary schedules for Regular Status Employees, Commission Personnel and Fringe Benefits rates of 47.88% and 47.98%. This proposed budget of \$28 million exceeds 480 FTE of filled and vacant positions.

Should you have any question(s) on this matter, please do not hesitate to call me at extension 7859.

attachments:

NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE-PRESIDENT

POST OFFICE BOX 7440 • WINDOW ROCK, AZ 86515 • PHONE: (928) 871-7000 • FAX: (928) 871-4025

# NAVAJO NATION

716

Naabikiyati Committee Special Meeting

10/16/2020

06:03:59 PM

Amd# to Amd#      Legislation 0240-20: Approving  
MOT Nez, R      and Authorizing Public Law 93-  
SEC Halona, P      638 Contact (Model 108) Between  
the Navajo Nation and U.S....

PASSED

Yeas : 20

Nays : 0

Excused : 1

Not Voting : 2

Yea : 20

|                |             |            |            |
|----------------|-------------|------------|------------|
| Begay, E       | Daniels     | Nez, R     | Tso, D     |
| Begay, K       | Freeland, M | Slater, C  | Tso, E     |
| Begay, P       | Halona, P   | Smith      | Tso, O     |
| Charles-Newton | Henio, J    | Stewart, W | Wauneka, E |
| Crotty         | James, V    | Tso, C     | Yellowhair |

Nay : 0

Excused : 1

Walker, T

Not Voting : 2

Yazzie      Brown

Presiding Speaker: Damon