

# THE NAVAJO NATION



JONATHAN NEZ | **PRESIDENT** MYRON LIZER | **VICE PRESIDENT**

January 6, 2023

Hon. Otto Tso  
Office of the Speaker  
Post Office Box 3390  
Window Rock, AZ 86515

RE: CD-57-22, *An Action Relating to the Resources and Development and Naabik'iyáti' Committees and the Navajo Nation Council; Approving a Limited Waiver of Sovereign Immunity Allowing the Navajo Nation to be Sued in Federal District Court Regarding Compliance With the National Environmental Policy Act in Carrying Out Grants From the United States Department of Housing and Urban Development and Authorizing the President of the Navajo Nation or the Executive Director of the Navajo Nation Division of Community Development to Sign HUD Form 7015.15 Through September 30, 2027*


Dear Speaker Tso,

We appreciate the work of the Navajo Nation Council, the Committees and the Navajo Nation Division of Community Development (DCD) in addressing this matter. Pursuant to the authority vested in the Navajo Nation President, I am signing CD-57-22 into law.

Approving a limited waiver of sovereign immunity should not be taken lightly and used sparingly. The waiver will allow much needed grant funding to be drawn down for DCD's Community Housing Infrastructure Department to continue project implementation and address the housing needs of the Navajo people as intended by the Grant. Waiving the Nation's sovereign immunity is also an expression of the Nation's authority and we make this decision in the best interest of the Navajo people.

Sincerely,

  
Jonathan Nez, *President*  
THE NAVAJO NATION

  
Myron Lizer, *Vice President*  
THE NAVAJO NATION

RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
24<sup>th</sup> NAVAJO NATION COUNCIL - FOURTH YEAR, 2022

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY ALLOWING THE NAVAJO NATION TO BE SUED IN FEDERAL DISTRICT COURT REGARDING COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT IN CARRYING OUT GRANTS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING THE PRESIDENT OF THE NAVAJO NATION OR THE EXECUTIVE DIRECTOR OF THE NAVAJO NATION DIVISION OF COMMUNITY DEVELOPMENT TO SIGN HUD FORM 7015.15 THROUGH SEPTEMBER 30, 2027

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is the oversight committee for the Navajo Division of Community Development. 2 N.N.C. § 501(C) (1).
- B. A proposed resolution that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee before it is heard by the Navajo Nation Council. 2 N.N.C. § 164(A) (9).
- C. The Navajo Nation Code provides, "[c]ontracts 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." 2 N.N.C. § 223(C).
- D. The Navajo Nation Council is the governing of body of the Navajo Nation. 2 N.N.C. § 102(A).

SECTION TWO. FINDINGS

- A. The Navajo Nation Division of Community Development for purposes of administering Indian Community Development Block Grant (ICDBG) funds is required to have a tribal official sign and execute HUD Form 7015.15- "Request for Release of Funds and Certification" in which the Navajo Nation consents to be sued in Federal district court regarding compliance with the National Environmental Policy Act in carrying out the Department of Housing and Urban Development (HUD) grants.

- B. Pursuant to 24 CFR Part 58, HUD Form 7015.15 as signed by an authorized tribal official is required as part of the HUD Environmental Review.
- C. In order for the Navajo Nation to draw down funds needed to implement projects an authorized tribal official must execute HUD Form 7015.15.
- D. The Navajo Nation Council approved Council Resolutions CO-58-17, CJA-04-13, CO-32-09, CAP-21-05 authorizing a limited waiver of sovereign immunity thereby permitting the President of the Navajo Nation or the Executive Director of the Navajo Nation Division of Community Development to sign HUD Form 7015.15 through Fiscal Year 2022. Resolution CO-58-17 is attached as **Exhibit A**.
- E. The Southwest Office of Native American Programs (HUD), in a letter dated October 18, 2017, indicated the current Navajo Nation Council limited waiver of sovereign immunity will expire on September 30, 2022. Letter is attached as **Exhibit B**.
- F. The Navajo Nation Division of Community Development Indian Community Development Block Grant (CBDG) Program requests a five-year authorization period, through fiscal year 2027, for the President of the Navajo Nation and the Executive Director of the Division of Community Development to sign HUD Form 7015.15. The five-year timeframe will have a favorable impact on the ability to carry out approved HUD projects and to apply for new Indian Community Development Block Grants. The Nation competes with other tribes for these grants. These grants provide needed infrastructure service to improve quality of life.
- G. The request for this limited waiver of sovereign immunity has been reviewed under the Section 164 Review Process, attached as **Exhibit C**.
- H. It is in the best interest of the Navajo Nation that a limited waiver of sovereign immunity be approved by the Navajo Nation Council and that the President of the Navajo Nation or the Executive Director of the Navajo Nation Division of Community Development be authorized to sign HUD Form 1715.15 allowing the Navajo Nation to be sued in Federal District Court regarding compliance with the National Environmental Policy Act in carrying out HUD grants through Fiscal Year 2027.

## SECTION THREE. APPROVAL

- A. The Navajo Nation Council hereby approves a limited waiver of sovereign immunity through Fiscal Year 2027 allowing the Navajo Nation to be sued in Federal District Court regarding compliance with the National Environmental Policy Act in carrying out HUD grants.
- B. The Navajo Nation Council hereby authorizes the President of the Navajo Nation and the Executive Director of the Division of Community Development to sign HUD Form 7015.15 through Fiscal Year 2027.

## CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by 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 19 in Favor, and 00 Opposed, on this 19<sup>th</sup> day of December 2022.



Honorable Jamie Henio, Speaker Pro Tem  
24<sup>th</sup> Navajo Nation Council

DEC 29, 2022  
DATE

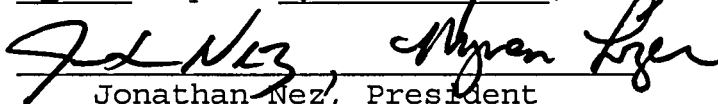
Motion: Honorable Elmer P. Begay

Second: Honorable Rickie Nez

Speaker Pro Tem Jamie Henio not voting

## ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 6th day of January, 2022.

  
Jonathan Nez, President  
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this \_\_\_\_\_ day of \_\_\_\_\_, 2022 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Jonathan Nez, President  
Navajo Nation



CO-58-17

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

23<sup>RD</sup> NAVAJO NATION COUNCIL - THIRD YEAR, 2017

AN ACTION

RELATING TO AN EMERGENCY AND THE NAVAJO NATION COUNCIL; APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY ALLOWING THE NAVAJO NATION TO BE SUED IN FEDERAL DISTRICT COURT REGARDING COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT IN CARRYING OUT GRANTS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING THE PRESIDENT OF THE NAVAJO NATION OR THE EXECUTIVE DIRECTOR OF THE NAVAJO NATION DIVISION OF COMMUNITY DEVELOPMENT TO SIGN HUD FORM 7015.15

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. Matters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council. 2 N.N.C § 164(16).
- B. Enactments of positive law must be reviewed and approved by resolution by the Navajo Nation Council. 2 N.N.C. § 164(A); CO-45-12.

SECTION TWO. FINDINGS

- A. This matter constitutes an emergency because of the direct services required as an entitlement under Federal law and directly threatens the sovereignty of the Navajo Nation and requires final action by the Council.
- B. The Navajo Nation Division of Community Development for purposes of administering Indian Community Development Block Grant (ICDBG) funds is required to have a tribal official sign and execute HUD Form 7015.15- "Request for Release of Funds and Certification" in which the Navajo Nation consents to be sued in Federal district court regarding compliance with the National Environmental Policy Act in carrying out the Department of Housing and Urban Development (HUD) grants.

- C. Pursuant to 24 CFR Part 58, HUD Form 7015.15 as signed by an authorized tribal official is required as part of the HUD Environmental Review.
- D. In order for the Navajo Nation to draw down funds needed to implement projects an authorized tribal official must execute HUD Form 7015.15.
- E. Pursuant to the Navajo Nation Sovereign Immunity Act neither the President nor any other Navajo Nation official has the authority to waive the sovereign immunity of the Navajo Nation without the expressed authorization of the Navajo Nation Council. 1 N.N.C. §554.
- F. The Navajo Nation Council approved Council Resolution CJA-04-13 on January 31, 2013 which authorized a limited waiver of sovereign immunity in order that the President of the Navajo Nation or the Executive Director of the Navajo Nation Division of Community Development may sign HUD Form 7015.15 through Fiscal Year 2017. Resolution CJA-04-13 is attached as **Exhibit A**.
- G. The Southwest Office of Native American Programs (HUD), in a letter dated May 10, 2017, indicated the current Navajo Nation Council limited waiver of sovereign immunity will expire on September 30, 2017. Letter is attached as **Exhibit B**.
- H. The request for this limited waiver of sovereign immunity has been reviewed under the Section 164 Review Process and found sufficient, attached as **Exhibit C**.
- I. It is in the best interest of the Navajo Nation that a limited waiver of sovereign immunity be approved by the Navajo Nation Council and that the President of the Navajo Nation or the Executive Director of the Navajo Nation Division of Community Development be authorized to sign HUD Form 1705.15 allowing the Navajo Nation to be sued in Federal District Court regarding compliance with the National Environmental Policy Act in carrying out HUD grants through Fiscal Year 2022.

### **SECTION THREE. APPROVAL**

- A. The Navajo Nation Council hereby approves a limited waiver of sovereign immunity through Fiscal Year 2022 allowing the Navajo Nation to be sued in Federal District Court regarding compliance with the National Environmental Policy Act in carrying out HUD grants.
- B. The Navajo Nation Council hereby authorizes the President of the Navajo Nation and the Executive Director of the Division

of Community Development to sign HUD Form 7015.15 through Fiscal Year 2022.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the 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 18 in Favor and 03 Opposed, this 5<sup>TH</sup> day of October, 2017.



LoRenzo C. Bates, Speaker  
Navajo Nation Council

10-12-17

Date

Motion: Honorable Herman M. Daniels  
Second: Honorable Leonard H. Pete

Speaker Bates not voting





U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
SOUTHWEST OFFICE OF NATIVE AMERICAN PROGRAMS



October 18, 2017

Honorable Russell Begaye  
President  
Navajo Nation  
PO Box 7440  
Window Rock, AZ 86515-7440

Dear President Begaye:

SUBJECT: Indian Community Development Block Grant (ICDBG) Program  
Certifying Officer Designation for Environmental Compliance

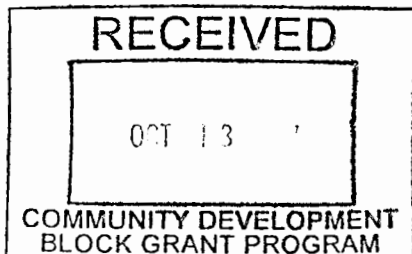
The purpose of this letter is to confirm the Southwest Office of Native American Programs has received the Navajo Nation Council resolution number CO-58-17 by email attachment on October 17, 2017. The resolution authorizing the President of the Navajo Nation and the Nation's Division of Community Development Director the authority to sign and execute form HUD 7015.15 Request for Release of Fund and Certification, which consents to suit in Federal District Court regarding compliance with the National Environmental Policy Act in carrying out U.S. Department of Housing and Urban Development assisted projects.

Based on the language in the body of the resolution, the designation is only valid through September 30, 2022, or the end of the Navajo Nation's fiscal year. An extension of this action, in a manner consistent with the Nation's process, will be required for environmental reviews prepared and certified starting October 1, 2022.

If you have any questions, please contact Sarah Olson, Grants Management Specialist, at (602) 379-7233 or via email at [Sarah.D.Olson@hud.gov](mailto:Sarah.D.Olson@hud.gov).

Sincerely,

Robert J. Holden  
Director  
Grants Management Division



Document No. 019424Date Issued: 09/22/2022**SECTION 164 REVIEW FORM**Title of Document: Limited Waiver of Sovereign Immunity Contact Name: DALGAI, PATRICK RProgram/Division: DIV. OF COMMUNITY DEVELOPMENTEmail: pat\_dalgai@nnchid.org Phone Number: (928) 871-6564/7240Division 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:**

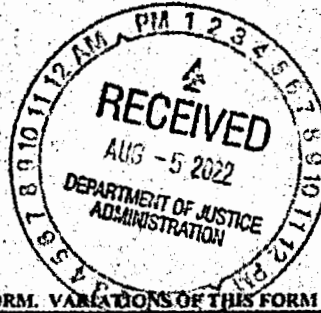
Sufficient    Insufficient

1. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐**IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)**1. OMB: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐2. OOC: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐3. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐**Section 164(B) Final approval rests with the President of the Navajo Nation****Grant/Funding Agreement or amendment:**1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐2. OMB: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐3. OOC: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐4. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐**Subcontract/Contract expending or receiving funds or amendment:**1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐2. BRD: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐3. OMB: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐4. OOC: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐5. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐**Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment:**1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐2. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐**M.O.A. or Letter of Assurance expending or receiving funds or amendment:**1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐2. OMB: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐3. OOC: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐4. OAG: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

# NAVAJO NATION DEPARTMENT OF JUSTICE



**REQUEST  
FOR  
SERVICES**



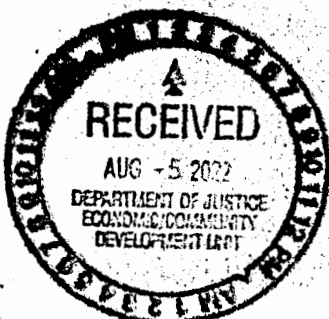
DOJ
8/5/22 @ 1381
DATE / TIME
RFS #: 22-1523
UNIT: ECD

☐ RESUBMITTAL

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

CLIENT TO COMPLETE			
DATE OF REQUEST:	7/26/2022	ENTITY/DIVISION:	Division of Community Development
CONTACT NAME:	Patrick Dalgai, Dept. Mgr. II	DEPARTMENT:	CDBG Program/CHID
PHONE NUMBER:	(928) 871-7240/6564	E-MAIL:	pat_dalgai@nnchid.org
COMPLETE DESCRIPTION OF LEGAL NEED AND SERVICES REQUESTED (Attach Documents):			
Pre-Review: CDBG Sovereign Immunity Waiver			
DEADLINE:	Click here to enter a date.	REASON:	Limited to 40 characters
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT:	8/5/2022 2:54pm	REVIEWING ATTORNEY/ADVOCATE:	Francesca Katherine Belkowski Sjoberg
DATE TIME OUT OF UNIT:		PREPARED BY (initial):	U
DOJ ATTORNEY / ADVOCATE COMMENTS			
See attached email.			
REVIEWED BY: (PRINT) Katherine Belkowski		DATE / TIME: 8/24/22 8:30am	
DOJ Secretary Called:	for Document Pick Up on	at	By:
PICKED UP BY: (PRINT)		DATE / TIME:	

NNDJ/DRRF-July 2013



**SCANNED**  
8/5/2022 FSKUB

## Katherine Belzowski

---

**From:** Katherine Belzowski  
**Sent:** Wednesday, August 24, 2022 11:20 AM  
**To:** Patrick Dalgai  
**Cc:** Saraphina Curley  
**Subject:** RE: HUD Waiver

Thanks Patrick,

So use the NHA as a template for your legislation and make edits as needed to address CHID's situation. It is not going to be an exact cut and paste.

**Katherine Belzowski, Acting Assistant Attorney General**  
Economic/Community Development Unit  
Navajo Nation Department of Justice  
P.O. Box 2010  
Window Rock,  
Navajo Nation (AZ) 86515  
Phone: 928.871.6933  
Fax: 928.871.6200  
[kbelzowski@nndoj.org](mailto:kbelzowski@nndoj.org)



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**From:** Patrick Dalgai [mailto:pat\_dalgai@nnchid.org]  
**Sent:** Wednesday, August 24, 2022 11:14 AM  
**To:** Katherine Belzowski <kbelzowski@nndoj.org>  
**Cc:** Saraphina Curley <scurley@nnchid.org>  
**Subject:** Re: HUD Waiver

Katherine,

That is correct, for another 5 years.

On Wed, Aug 24, 2022 at 11:07 AM Katherine Belzowski <[kbelzowski@nndoj.org](mailto:kbelzowski@nndoj.org)> wrote:

Hi Patrick,

For the purposes of the legislation the you are just adding the DCD Division Director after the President as an authorizing authority to sign form 7015.15 right?

**Katherine Belzowski, Acting Assistant Attorney General**

Economic/Community Development Unit

Navajo Nation Department of Justice

P.O. Box 2010

Window Rock,

Navajo Nation (AZ) 86515

Phone: 928.871.6933

Fax: 928.871.6200

[kbelzowski@nndoj.org](mailto:kbelzowski@nndoj.org)



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**From:** Patrick Dalgai [mailto:[pat\\_dalgai@nnchid.org](mailto:pat_dalgai@nnchid.org)]

**Sent:** Wednesday, August 24, 2022 10:50 AM

**To:** Katherine Belzowski <[kbelzowski@nndoj.org](mailto:kbelzowski@nndoj.org)>

**Cc:** Saraphina Curley <[scurley@nnchid.org](mailto:scurley@nnchid.org)>

**Subject:** Re: HUD Waiver

Hello Katherine,

# NAVAJO NATION

1242

12/19/2022

Navajo Nation Council Special Session

06:13:59 PM

<b>Amd# to Amd#</b>	<b>Legislation 0192-22: Approving</b>	<b>PASSED</b>
MOT Begay, E	a Limited Waiver of Sovereign	
SEC Nez, R	Immunity Allowing the Navajo	
	Nation to be Sued in Federal....	

**Yeas : 19**

**Nays : 0**

**Excused : 2**

**Not Voting : 2**

## **Yea : 19**

Begay, E	Daniels	Slater, C	Walker, T
Begay, K	Freeland, M	Stewart, W	Wauneka, E
Begay, P	Halona, P	Tso, C	Yazzie
Charles-Newton	James, V	Tso, D	Yellowhair
Crotty	Nez, R	Tso, E	

## **Nay : 0**

## **Excused : 2**

Tso	Damon
-----	-------

## **Not Voting : 2**

Smith	Brown
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**Presiding Speaker: Henio, J**