

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL - Third Year, 2017

AN ACTION

RELATING TO THE LAW AND ORDER COMMITTEE AND THE BUDGET AND
FINANCE COMMITTEE; ACCEPTING THE INTERNAL AUDIT OF THE NAVAJO
NATION CONTINGENCY MANAGEMENT FUND SUBMITTED BY THE OFFICE OF
THE AUDITOR GENERAL AND APPROVING THE CORRECTIVE ACTION PLAN
SUBMITTED BY THE NAVAJO NATION OFFICE OF THE ATTORNEY GENERAL

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee (LOC) is a standing committee of the Navajo Nation Council with oversight authority over the Navajo Nation Department of Justice. 2 NNC §§ 600(A) and 601(C) (2).
- B. The LOC, as the oversight committee of the Navajo Nation Department of Justice, which oversees the Contingency Management Fund, is to receive audit reports and corrective action plans. 12 NNC § 7(E).
- C. The Budget and Finance Committee (BFC) is a standing committee of the Navajo Nation Council and is charged with receiving and approving chapter audit reports from the Auditor General. 2 NNC § 300(A); 12 NNC §§ 6(A) and 7(D).

SECTION TWO. FINDINGS

- A. The Auditor General provided an audit report of the Special Review of the Navajo Nation Contingency Management Fund (CMF) for approval. This Audit Report is attached as **Exhibit A** (Audit Report 17-03, October 2016).
- B. The audit was conducted with the following objectives:
 - 1. To determine whether payments from the CMF were supported by relevant legal documents,

2. To determine whether the Attorney General initiated and approved the CMF payments and the Controller properly authorized the payments,
 3. To determine whether the Attorney General complied with the reporting requirements outlined in the Fund Management Plan, and
 4. To determine whether disbursements from the CMF were sufficient and legitimate to settle legal liabilities against the Navajo Nation.
- C. The audit covers CMF expenses from October 1, 2009 through September 30, 2010, as well as the period from October 1, 2014 through April 30, 2015.
- D. The audit determined CMF expenses were supported with relevant legal documents, initiated and approved by the Attorney General, and authorized by the Controller. However, the CMF was used to pay legal fees to a former special prosecutor. The audit determined the legal fees did not constitute a settlement or legal liabilities of the Nation.
- E. The Office of the Attorney General has submitted a corrective action plan to the Office of the Auditor General. This document is attached as **Exhibit B**.

SECTION THREE. ACCEPTANCE AND APPROVAL

- A. The Navajo Nation hereby accepts the Auditor General's Report No. 17-03, October 2016, attached as Exhibit A.
- B. Navajo Nation directs the Office of the Attorney General to submit a written status report on its progress in implementing the Corrective Action Plan to the Office of the Auditor General six months after the approval of this resolution.
- C. The Navajo Nation hereby directs the Office of the Auditor General to review the written status report to be submitted by the Office of the Attorney General to and report to the Law and Order Committee and the Budget and Finance Committee.
- D. The Navajo Nation hereby directs the Office of the Auditor General to conduct a follow-up review in twelve months after the approval of this resolution to verify all actions claimed to have been taken by the Office of the

Attorney General, to issue a written follow-up report on the Office of the Attorney General's progress in implementing its Corrective Action Plan, and to make recommendations to the Law and Order Committee and the Budget and Finance Committee.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 4 in favor and 1 opposed, this 6th day of June, 2017.



Dwight Witherspoon, Vice Chairperson
Budget and Finance Committee

Motion: Honorable Tom T. Chee
Second: Honorable Lee Jack, Sr.



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

ETHEL B. BRANCH
ATTORNEY GENERAL

RODGERICK T. BEGAY
DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: Levon Henry, Chief Legislative Counsel
Office of Legislative Counsel

FROM: 
Rodgerick T. Begay, Deputy Attorney General
Office of the Attorney General

DATE: March 13, 2017

SUBJECT: **Exhibits for Proposed Legislation Accepting the CAP for the CMF**

Generally, exhibits to legislations are posted online for public view. However, pursuant to 2 N.N.C. §164(A)(6), "[a]ny matters or exhibits determined by the Navajo Nation Department of Justice to be confidential shall be properly marked 'confidential' and shall not be placed on the website or otherwise released." There are two exhibits (A and B) for the above referenced legislation in which DOJ deems confidential which should be kept from public view.

The Navajo Nation Privacy and Access to Information Act, 2 N.N.C. sec. 81 et seq. (the "Privacy Act"), defines certain records as private or otherwise protected documents, and provides such protected records shall not be disclosed except pursuant to certain procedures, which are not at issue here. Generally, a final audit may be released. 2 N.N.C. §85(A)(13). However, the CMF was created through Navajo Nation Council resolution CD-105-99. In Resolve Clause number two, the Council stated that the CMF "shall be deemed confidential and shall be sealed in order to protect the litigation position of the Nation and subject to disclosure pursuant to 2 N.N.C. §1964(G). Under 2 N.N.C. §1964(G), only the Attorney General is authorized to waive the confidential and attorney-client privileged communications. Since both exhibits contain such sensitive information, the Attorney General will maintain its confidentiality.

If there are any questions regarding this memorandum, please contact the Attorney General's office at extension 6345.