

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23RD 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 5TH 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



EXHIBIT "A"

CJA-04-13

RESOLUTION OF THE
NAVAJO NATION COUNCIL

22ND NAVAJO NATION COUNCIL - Third Year, 2013

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT AND THE
NAABIK'ÍYÁTI'; 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 AND THE
DIVISION DIRECTOR OF THE NAVAJO NATION DIVISION OF
COMMUNITY DEVELOPMENT TO SIGN FORM 7015.15

BE IT ENACTED:

1. The Navajo Nation finds the following with respect to
this limited waiver of sovereign immunity:

- a) The Navajo Nation Division of Community Development for purposes of administering Indian Community Development Block Grant (ICDBG) funds requires a tribal official to sign and execute HUD Form 7015.15 "Request for Release of Funds and Certification" which consents to suit in Federal District Court regarding compliance with the National Environmental Policy Act in carrying out the Department of Housing and Urban Development (HUD) grants; and
- b) Pursuant to 24 CFR Part 58, the HUD Environmental Review requires an authorized tribal official to execute HUD Form 7015.15; and
- c) In order to draw down federal funds that implement projects, an authorized tribal official must execute HUD Form 7015.15; and
- d) Pursuant to the Navajo Sovereign Immunity Act, 1 N.N.C. §554, neither the President nor any other Navajo Nation official has the authority to waive sovereign immunity of the Navajo Nation; and

- e) The Navajo Nation Council approved a limited waiver of sovereign immunity, CO-32-09, attached as Exhibit "1", on November 2, 2009, in order for the President of the Navajo Nation to sign HUD Form 7015.15 through Fiscal Year 2012; and
- f) The Southwest Office of Native American Programs-DHUD, in a letter dated February 28, 2012, attached as Exhibit "2", indicated the current Navajo Nation Council limited waiver of sovereign immunity will expire on September 30, 2012.
- g) It is the purpose of to this limited waiver of sovereign immunity, and the authorization of the President of the Navajo Nation and the Division Director of the Navajo Nation Division of Community Development to sign HUD Form 7015.15, to allow the Navajo Nation to be sued in Federal District Court regarding compliance with the National Environmental Policy Act in carryout HUD grants.

2. The Navajo Nation hereby approves a limited waiver of sovereign immunity that allows the Navajo Nation to be sued in Federal District Court regarding compliance with the National Environmental Policy Act in carrying out HUD grants.

3. The Navajo Nation hereby authorizes the President of the Navajo Nation and the Director of the Division of Community Development to sign HUD Form 7015.1 through Fiscal Year 2017.

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 17 in favor and 0 opposed, this 29th day of January 2013.


Johnny Naize, Speaker
Navajo Nation Council

Jan 31, 13
Date

Motion: Honorable Alton Joe Shepherd
Second: Honorable Jonathan Hale

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 _____ day of FEB 11 2013 2013.



Ben Shelly, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2013 for the reason(s) expressed in the attached letter to the Speaker.

Ben Shelly, President
Navajo Nation



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

May 10, 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 (Status)
Mr. Carl Smith, Executive Director of Division of Community Development

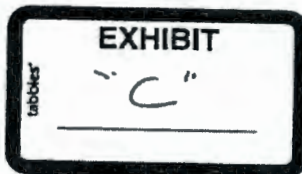
The purpose of this letter is to further memorialize history related to Navajo Nation Council resolution number CJA-04-13 and a recent memorandum from the Navajo Nation that authorizes Mr. Carl Smith, as the Executive Director, to assume all responsibilities of this role as certifying officer (24 CFR 58.13). Based on supporting documentation, this designation expires on September 30, 2017 and will require additional actions by the Navajo Nation to ensure there are no lapses in designation of the certifying officer authority under 24 CFR 58.13.

The resolution CJA-04-13 authorized 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. The resolution was initially received by the Southwest Office of Native American Programs (SWONAP) via email attachment on February 12, 2013. The SWONAP disseminated a February 23, 2013 SWONAP letter (enclosed) that served to provide confirmation back to the Navajo Nation. Based on the language in the body of the resolution, the resolution CJA-04-013 designation is only valid through September 30, 2017, 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, 2017.

The SWONAP looks forward to getting similar notification for our files, so that we have the necessary assurance that any form HUD 7015.15 submitted to our office is signed by the correct individual and we don't unnecessarily frustrate the regulatory process awaiting any confirmation. A PDF submission by email with the original retained in Navajo Nation environmental file is sufficient. 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.

Sincerely,

Sarah D. Olson
Grants Management Specialist

Document No. 008041Date Issued: 05/18/2017**SECTION 164 REVIEW FORM**Title of Document: Limited Waiver of Sovereign Immunity Contact Name: ADAKAI, JAMES F.Program/Division: DIV. OF COMMUNITY DEVELOPMENTEmail: james_adakai@nnchid.org Phone Number: (928) 871-6717/6564Division Director Approval for 164A: *Carl Smith*

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: *ADD signature* Date: 6/6/17 Sufficient ☒ Insufficient ☐
- ☐ **IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)**
1. OMB: _____ Date: _____ Sufficient ☐ Insufficient ☐
2. OOC: _____ Date: _____ Sufficient ☐ Insufficient ☐
3. OAG: _____ Date: _____ Sufficient ☐ Insufficient ☐

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

- ☐ **Grant/Funding Agreement or amendment:**
1. Division: _____ Date: _____ Sufficient ☐ Insufficient ☐
2. OMB: _____ Date: _____ Sufficient ☐ Insufficient ☐
3. OOC: _____ Date: _____ Sufficient ☐ Insufficient ☐
4. OAG: _____ Date: _____ 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 ☐



☐ RESUBMITTAL

NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
5/30/17 1137a
DATE / TIME
<input checked="" type="checkbox"/> 7 Day Deadline
DOC #: 008041
SAS #:
UNIT: ECDL

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

CLIENT TO COMPLETE

DATE OF REQUEST:	5/30/2017	DIVISION:	Community Development
CONTACT NAME:	James Adakai, Prog. & Proj. Spec.	DEPARTMENT:	Community Dev. Block Grant Prog/CHID
PHONE NUMBER:	(928) 871-7420/6564	E-MAIL:	james_adakai@nnchid.org

TITLE OF DOCUMENT: 164 Document #8041: Approving a Waiver of Sovereign Immunity to Allow the Navajo Nation to be Sued in Federal District Court regarding Compliance of the National Environmental Policy Act

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 5/30/17 @ 1:20p REVIEWING ATTORNEY/ADVOCATE: Adjua

DATE TIME OUT OF UNIT:

DOJ ATTORNEY / ADVOCATE COMMENTS

Legally sufficient

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
ADJUA ADJEI - DANSO	31 st May 2017, 3 ²² pm	<i>[Signature]</i>	6/6/17 12pm

DOJ Secretary Called: _____ for Document Pick Up on _____ at _____ By: _____

PICKED UP BY: (Print) _____ DATE / TIME: _____

NNDOJ/DRRF-July 2013



23rd Navajo Nation Council

Special Session

Thursday, October 5, 2017

8

Legislation 0376-17 (Main Motion)

Motion: Herman Daniels

Second: Leonard Pete

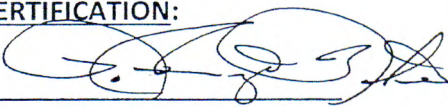
ALL DELEGATES:

	Yea	Nay
BATES, LoRenzo C.		
BEGAY, Kee Allen Jr.	✓	
BEGAY, Norman M.	✓	
BEGAY, Steven	✓	
BEGAYE, Nelson		✓
BENNETT, Benjamin L.	✓	
BROWN, Nathaniel	✓	
CHEE, Tom T.	✓	
CROTTY, Amber K.	✓	
DAMON, Seth	✓	
DANIELS, Herman	✓	
FILFRED, Davis	✓	
HALE, Jonathan L.	✓	
JACK, Lee Sr.	✓	
PERRY, Jonathan		
PETE, Leonard H.	✓	
PHELPS, Walter	✓	
SHEPHERD, Alton Joe		
SLIM, Tuchoney Jr.		✓
SMITH, Raymond Jr.	✓	
TSO, Otto	✓	
TSOSIE, Leonard		✓
WITHERSPOON, Dwight	✓	
YAZZIE, Edmund	✓	

GRAND TOTAL

18 3

CERTIFICATION:



Honorable LoRenzo C. Bates
Speaker