

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0052-26

SPONSOR: Shaandiin Parrish

TITLE: An Act Relating to the Law and Order Committee, Budget and Finance Committee and Naabik'iyáti' Committee and Navajo Nation Council; Enacting a New Navajo Nation Procurement Act, 12 N.N.C. § Et Seq.

Date posted: March 12, 2026 at 4:57 PM

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0052-26

DATE: March 12, 2026

AN ACT RELATING TO THE LAW AND ORDER COMMITTEE, BUDGET AND FINANCE COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE, AND NAVAJO NATION COUNCIL; ENACTING A NEW NAVAJO NATION PROCUREMENT ACT, 12 N.N.C. § 301 *ET SEQ.*

PURPOSE: This proposed resolution, if adopted, will enact a new Navajo Nation Procurement Act.

FINAL AUTHORITY: Navajo Nation Council

VOTE REQUIRED: 2/3 Majority

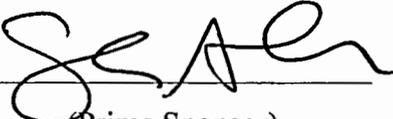
This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: AMM
Website Posting Time/Date: _____
Posting End Date: 3/17/26
Eligible for Action: 3/18/26

Law & Order Committee
Thence
Budget & Finance Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 25th NAVAJO NATION COUNCIL – Fourth Year, 2026

3
4 Introduced by:

5 
6 _____
7 (Prime Sponsor)

8
9 Tracking No. 0052-26

10
11 AN ACT
12 RELATING TO THE LAW AND ORDER COMMITTEE, BUDGET AND
13 FINANCE COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE, AND NAVAJO
14 NATION COUNCIL; ENACTING A NEW NAVAJO NATION
15 PROCUREMENT ACT, 12 N.N.C. § 301 *ET SEQ.*

16
17 BE IT ENACTED:

18
19 SECTION ONE. AUTHORITY

- 20 A. The Law and Order Committee is a standing committee of the Navajo Nation Council
21 that makes recommendations to the Council concerning amendments to the Navajo
22 Nation Code. 2 N.N.C. §601(B)(14).
23 B. The Budget and Finance Committee is a standing committee of the Navajo Nation
24 Council that oversees and regulates the financial policies of the Navajo Nation. 2 N.N.C.
25 §300(C)(1).
26 C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council that
27 reviews legislations requiring final action by the Council. 2 N.N.C. §164(A)(9).
28 D. The Navajo Nation Council is the governing body of the Navajo Nation with the
29 authority to review and approve amendments to the Navajo Nation Code. 2 N.N.C.
30 §102(A), 2 N.N.C. §164(A).

1
2 **SECTION TWO. FINDINGS**

- 3 A. Pursuant to 12 N.N.C. §§ 201(B) and 203(C), the Controller of the Navajo Nation
4 recommends amendments to the Navajo Nation Procurement Act (“Procurement Act”)
5 to properly protect the assets of the Navajo Nation and to implement modern methods
6 of financial management.
- 7 B. The Procurement Act was last amended in early November of 2023 by Resolution No.
8 CO-81-23, included herein by reference.
- 9 C. Since 2023, the Budget and Finance Committee has regularly heard reports from the
10 Controller, as well as from other Departments, that the CO-81-23 amendments to the
11 Procurement Act have *not* actually made Procurement by the Navajo Nation government
12 more efficient and cost-effective.
- 13 D. The Office of the Controller has reported to the Budget and Finance Committee that
14 amendments to the Procurement Act are necessary to ensure alignment with the Navajo
15 Nation’s new financial and procurement management software which is intended to
16 modernize the Navajo Nation’s financial management and increase protection of the
17 Nation’s assets. The implementation of the new software also requires updated
18 procurement procedures, approval workflows, and documentation standards to support
19 uniformity, transparency, and compliance with modernized financial and procurement
20 system capabilities.
- 21 E. The Controller and Department of Justice have collaborated on and proposed
22 amendments to CO-81-23’s Procurement Act that are intended to make Navajo Nation
23 government Procurement more efficient, cost-effective, and responsive to the
24 requirements of external funding sources.
- 25 F. The Navajo Nation finds it in the best interest of the Navajo Nation and the Navajo
26 People to approve the proposed new Navajo Nation Procurement Act.

27
28 **SECTION THREE. ENACTING THE NAVAJO NATION PROCUREMENT ACT**

29 The Navajo Nation hereby deletes the Navajo Nation Procurement Act enacted through
30 Navajo Nation Council Resolution No. CO-81-23 in its entirety as set forth in **Exhibit A**,

1 which is incorporated herein, and hereby enacts the new Navajo Nation Procurement Act,
2 12 N.N.C. §§ 301 *et seq.*, as follows:

3
4 **TITLE 12. Fiscal Matters**

5 **Chapter 3. Navajo Nation Procurement Act**

6
7 **Subchapter 1. General Provisions**

8 **§ 301. Short title**

9 This Act shall be known and cited as the Procurement Act.

10
11 **§ 302. Interpretation, purposes, and policies**

12 A. Interpretation. This Procurement Act shall be interpreted and applied in a manner that
13 promotes its underlying purposes and policies.

14 B. Purposes and Policies. The underlying purposes and policies of this Procurement Act
15 are:

16 1. To simplify, clarify, and modernize the law governing Procurement by the
17 Navajo Nation;

18 2. To foster effective, broad-based, and fair and open competition consistent with
19 the purposes and provisions of all Navajo Nation laws, as may be amended from
20 time to time, including, but not limited to the: Navajo Nation Business
21 Opportunity Act (“NBOA”), 5 N.N.C. §§ 201 *et seq.*, Navajo Business and
22 Procurement Act (“NBPA”), 12 N.N.C. §§ 1501 *et seq.*, and Navajo Nation
23 Ethics in Government Law (“NNEGL”), 2 N.N.C. §§ 3741 *et seq.*;

24 3. To permit the continued development of Procurement activities, Regulations,
25 policies, and practices;

26 4. To provide for consistency, quality, and integrity in all Navajo Nation
27 Procurement activities;

28 5. To provide for increased public confidence in all Navajo Nation Procurement
29 activities;

30 6. To ensure the fair and equitable treatment of all Persons who engage with the

1 Navajo Nation Procurement system; and

2 7. To provide increased economy in all Navajo Nation Procurements and to
3 maximize to the fullest extent practicable the purchasing value of Public Funds
4 of the Navajo Nation.

5
6 **§ 303. Application**

7 A. General Application. This Procurement Act applies only to contracts, which includes
8 purchase orders, solicited or entered into after the effective date of this Procurement Act
9 unless the parties to a contract agree to its application for those contracts solicited or
10 entered into prior to this Procurement Act's effective date.

11 B. Good Faith Participation. This Procurement Act requires all parties involved in the
12 negotiation, performance, or administration of all Navajo Nation Procurements,
13 including Procurement contract formation and execution, to act ethically, in good faith,
14 and in compliance with all Navajo Nation laws, regulations, and policies.

15 C. Application to Navajo Nation Procurements. This Procurement Act shall apply to every
16 expenditure of Public Funds, irrespective of source, by the Navajo Nation when acting
17 through a Procuring Party. This Procurement Act shall not apply to Local Governance
18 Act ("LGA"), 26 N.N.C. §§ 1 et seq., governance certified Chapters that are governed
19 by their respective Procurement policies.

20 D. Exceptions. This Procurement Act shall not apply to the following agreements or types
21 of Procurement:

22 1. Agreements between the Navajo Nation and any federal, state, and local
23 governments, including prime contracts and grants, for the provision of
24 governmental services to Navajos regardless of where they reside and other
25 Persons residing within the Navajo Nation where the other government has
26 allocated the funds for a specific Person or purpose;

27 2. Procurements for permits, licenses, or leases of real estate including appurtenant
28 rights;

29 3. Selection of expert witnesses for litigation on behalf of the Navajo Nation, as
30 selected by the Attorney General or Chief Legislative Counsel for litigation on

1 behalf of the Legislative Branch; or

2 4. Funds appropriated to a specific Person; Navajo Nation Division, Department,
3 Office, or Program; LGA governance certified Chapter; or tribal enterprise,
4 corporation, or authority through an appropriation enacted by Navajo Nation
5 Council for a specific purpose.

6
7 **§ 304. Definitions**

8 A. The words used in this Procurement Act shall have their ordinary meanings unless:

- 9 1. the context in which they are used clearly requires a different meaning; o
10 2. a definition is provided for in Section 307(B) below or in the Procurement
11 Regulations.

12 B. Terms defined in this Procurement Act are:

13 1. “Business” means any legal organization, including but not limited to a
14 corporation, limited liability company, company, partnership, individual, sole
15 proprietorship, joint venture, or non-profit entities. It does not mean a legal
16 organization owned, wholly or in-part, by the Navajo Nation, such as a tribal
17 corporation, enterprise, or authority.

18 2. “Navajo Nation Division, Department, Office, or Program” means any Division,
19 Department, Commission, Council, Board, Bureau, Committee, Institution,
20 Legislative Body, Agency, non-LGA governance certified Chapter, political
21 subdivision, or other establishment or Public Official of the Executive,
22 Legislative, or Judicial Branch of the Navajo Nation government. It does not
23 mean an LGA governance certified Chapter, tribal corporation, enterprise, or
24 authority.

25 3. “Person” means any individual, Business, union, committee, club, other
26 organization, or group of individuals.

27 4. “Procurement” means buying, purchasing, renting, leasing, or otherwise
28 acquiring any Goods or Services, unless explicitly excluded from this
29 Procurement Act or by some other provision of Navajo Nation law. It also
30 includes all functions pertaining to the acquisition of any such Goods or

1 and evaluation; and all enforcement procedures and activities.

2 D. The Procurement Regulations are intended to comply with and supplement the
3 Procurement Act in concert with applicable Navajo Nation laws and regulations,
4 including the NBOA, NBPA, and any underlying rules and regulations for either, as
5 amended from time to time.

6 E. The purpose of the Procurement Regulations is to ensure uniformity, control, efficiency,
7 and fair and open competition of Procurements utilizing all Public Funds regardless of
8 source, such as those:

9 1. appropriated by the Navajo Nation;

10 2. awarded by Federal Agencies;

11 3. awarded by State and Local Agencies; and/or

12 4. from any other source not contemplated above.

13 F. The Procurement Regulations shall be read and interpreted in a manner consistent with
14 the Procurement Act; however, the Procurement Act shall govern with respect to any
15 inconsistency.

16 G. The Procurement Regulations shall be liberally construed in favor of the Navajo Nation
17 and are not intended to limit or repeal any power, authority, right, or immunity possessed
18 by the Navajo Nation or any of its Employees.

19 H. Nothing contained in the Procurement Regulations shall be construed to waive any
20 rights, remedies, or defenses the Navajo Nation has or might have under any laws of the
21 Navajo Nation.

22 I. Nothing in the Procurement Regulations is intended to, nor shall it, waive any right of
23 the Navajo Nation of any nature whatsoever reserved under any treaty or provided for
24 under federal law; limit any rights, powers, or privileges retained by the Navajo Nation
25 under any law; grant; expand; or confirm, in any way whatsoever, the jurisdiction of any
26 State.

27 J. The Procurement Regulations cannot be waived for any Procurement without the
28 express approval of the Budget and Finance Committee through resolution.

29 K. All Navajo Nation employees and elected officials shall adhere to the Procurement
30 Regulations and are subject to disciplinary actions up to termination or NNEGL actions

1 for willful non-compliance with the Procurement Regulations.

2
3 **Subchapter 3. Procurement Department**

4 **§ 330. Navajo Nation Procurement Department**

- 5 A. The Office of the Controller's Procurement Department, currently named as the
6 Purchasing Department, shall be the Procuring Party for the Navajo Nation for
7 Procurements utilizing the Sealed Bidding and Sealed Proposal Procurement methods
8 in so far as the Procuring Department shall be responsible for the Procurements through
9 offer selection as proscribed in the Procurement Regulations.
- 10 B. Procurements by the Procurement Department shall be completed in consultation with,
11 and with the concurrence of, the Navajo Nation Division, Department, Office, or
12 Program requesting, and responsible for the funding of the Procurement as prescribed
13 by the Procurement Regulations.
- 14 C. The Procurement Department shall consult with the Navajo Nation Division,
15 Department, Office, or Program that is the subject matter expert regarding the details of
16 a Procurement when developing and evaluating solicitations.
- 17 D. Procurements utilizing other methods of selection that have not been explicitly made the
18 responsibility of the Procurement Department in Subsection 330(A) above shall be
19 completed by the Navajo Nation Division, Department, Office, or Program, or Office
20 seeking the Procurement.
- 21 E. The Procurement Department shall develop, document, and maintain Internal
22 Procurement Procedures supporting its implementation of the Procurement Act and its
23 Regulations, including prescribing to be used in requisitioning, ordering, and reporting
24 of Goods and Services, unless otherwise provided for in law or regulation.
- 25 1. These Internal Procurement Procedures shall be approved by the Controller
26 and shall not go into effect until published on the Office of the Controller's
27 website.
- 28 2. The Internal Procurement Procedures shall not be more restrictive than what
29 is authorized in this Procurement Act and the Procurement Regulations.
- 30 3. Subject to appropriated funding, the Auditor General shall audit the

1 Procurement Department's Internal Procurement Procedures and the Office
2 of the Controller's written internal policies and procedures every two (2)
3 years for a determination of compliance with the Procurement Act and its
4 Regulations.

5
6 **Subchapter 4. Methods of Selection**

7 **§ 340. Procurement methods**

8 A. The Navajo Nation may use the following types of Procurement methods:

- 9 1. Sealed Bidding;
10 2. Sealed Proposals;
11 3. Simplified Acquisition;
12 4. Micro-Purchase;
13 5. Non-competitive Procurement; and
14 6. Any other procurement method the Budget and Finance Committee shall
15 deem appropriate for the Navajo Nation as provided for in the Procurement
16 Regulations.

17 B. The Procurement Regulations shall provide specific rules and requirements for the
18 implementation of the Procurement methods detailed in this subchapter.

19 C. The Procurement methods in this subchapter and those that may later be provided for in
20 the Procurement Regulations satisfy and comply with and are intended to satisfy and
21 comply with 2 N.N.C. § 223(E) as may be amended from time to time.

22
23 **§ 341. Sealed Bidding**

24 Sealed Bidding is a Procurement method in which bids are publicly solicited through an
25 Invitation for Bid and an award is issued to the Person offering the lowest price.

- 26 A. Sealed Bidding shall be the preferred Procurement method for Procurements of
27 goods exceeding the Simplified Acquisition amount.
28 B. The Procurement Department shall be the Procuring Party for all Procurements
29 using Sealed Bidding subject to the requirements of the Procurement
30 Regulations.

- 1 C. Sealed Bidding is subject to the Maximum Feasible Price as set forth in the
2 Procurement Regulations.

3
4 **§ 342. Sealed Proposals**

5 Sealed Proposals is a Procurement method in which proposals are publicly solicited through
6 a Request for Proposals, and an award is issued to the most qualified vendor, subject to
7 negotiation of fair and reasonable compensation including construction services.

- 8 A. Sealed Proposals shall be the preferred Procurement method for Procurements
9 of services, including construction, exceeding the Simplified Acquisition
10 amount.
- 11 B. The Procurement Department shall be the Procuring Party for all Procurements
12 using Sealed Proposals subject to the requirements of the Procurement
13 Regulations.
- 14 C. Sealed Proposals are subject to the Maximum Feasible Price as set forth in the
15 Procurement Regulations.

16
17 **§ 343. Simplified Acquisition**

18 Simplified Acquisition is a Procurement method in which offers are sought for
19 Procurements not exceeding the amount established in the Procurement Regulations.

- 20 A. The Budget and Finance Committee shall establish the Simplified Acquisition
21 amount in the Procurement Regulations and, upon recommendation by the
22 Controller, may increase or decrease the Simplified Acquisition amount through
23 resolution when it deems it to be in the best interests of the Navajo Nation.
- 24 B. Simplified Acquisition may be used for all Procurements equal to or less than
25 the Simplified Acquisition amount.
- 26 C. The Navajo Nation Division, Department, Office, or Program making the
27 Procurement shall be the Procuring Party for all Procurements using Simplified
28 Acquisitions subject to the requirements of the Procurement Regulations.
- 29 D. Simplified Acquisition is subject to the Maximum Feasible Price as set forth in
30 the Procurement Regulations.

1 E. Priority certified businesses under the NBOA shall receive preference in
2 Simplified Acquisition Procurements to the extent practicable.

3 F. Simplified Acquisition shall not be used for a Procurement lasting more than
4 three (3) years.

5
6 **§ 344. Micro-Purchase**

7 Micro-Purchase is a Procurement method in which offers are sought for Procurements not
8 exceeding the amount established in the Procurement Regulations.

9 A. The Budget and Finance Committee shall establish the Mice-Purchase amount
10 in the Procurement Regulations and, upon recommendation by the Controller,
11 may increase or decrease the Micro-Purchase amount through resolution when
12 it deems it to be in the best interests of the Navajo Nation.

13 B. Micro-Purchase may be used for all Procurements equal to or less than the
14 Micro-Purchase amount.

15 C. The Navajo Nation Division, Department, Office, or Program making the
16 Procurement shall be the Procuring Party for all Procurements using Micro-
17 Purchase subject to the requirements of the Procurement Regulations.

18 D. Mirco-Purchase is subject to the Maximum Feasible Price as set forth in the
19 Procurement Regulations.

20 E. Priority certified businesses under the NBOA shall receive preference in Micro-
21 Purchase procurements to the extent practicable.

22 F. Micro-Purchase shall not be used for a Procurement lasting more than one (1)
23 year.

24 G. Micro-Purchase may be awarded without competitive selection if the Procuring
25 Party considers the price reasonable and explains and documents its conclusion
26 of such in the Procurement file, and as required in the Procurement Regulations.

27
28 **§ 345. Non-Competitive Procurement**

29 A. Non-Competitive Procurement is a Procurement method in which offers are sought for
30 Procurements only if one of the following circumstances apply:

1 order utilized in a Procurement shall receive approval from the Department of Justice.

2 C. Contract Clauses. All Contract clauses shall be consistent with the provisions of the
3 Procurement Act and shall include all clauses necessary to ensure the Navajo Nation's
4 interests are addressed and protected, and that the Navajo Nation's sovereign immunity
5 is not waived or compromised, except when such action is completed through
6 appropriate action authorized under the Navajo Nation Sovereign Immunity Act
7 ("NNSIA"), 1 N.N.C. §§ 551 et seq..

8 1. Any contract provision requiring that litigation, arbitration, or other dispute
9 resolution proceeding arising from the contract be conducted in any state
10 tribunal is against the Navajo Nation's public policy and is void and
11 unenforceable, except when such action is completed through appropriate
12 action authorized under the NNSIA and Navajo Nation Arbitration Act, 7
13 N.N.C. §§ 1101 et seq..

14 2. Contracts shall include provisions noting that when funds are not
15 appropriated or otherwise made available to support continuing performance
16 for a multi-term contract in a current or subsequent fiscal period, the contract
17 shall be terminated, and the contractor shall be reimbursed for the reasonable
18 value of any non-recurring costs incurred up to the date of termination. The
19 cost of termination may be paid from any appropriations available for such
20 purposes at the Navajo Nation's discretion.

21 3. The Navajo Nation may terminate Procurement contracts for cause or
22 convenience.

23 D. Contract Administration. Prior to final execution, and regardless of Procurement
24 Method utilized, all contracts, including supporting and related documentation, shall be
25 reviewed by the Department of Justice or the Office of Legislative Counsel for
26 Legislative Branch contracts or the Judicial Branch Administration for Judicial Branch
27 contracts for legal sufficiency such that the contract and the supporting Procurement are
28 compliant with this Procurement Act, its Regulations, and all Navajo Nation laws,
29 regulations, and policies.

30 E. Purchase Order Reviews. Use of a purchase order does not subject the Procurement to

1 review under 2 N.N.C. § 264(B); rather, the Procurement Regulations may establish
2 review and authorization procedures for the final approval and execution of purchase
3 orders.

4 5 **Subchapter 6. Data Collection, Retention, and Inspection**

6 **§ 360. Procurement file**

7 The Procuring Party initiating a Procurement shall create a Procurement file that shall
8 maintain all records of the Procurement from pre-Solicitation activities through the
9 expiration of any contract or later in time warranties. Updating and storage of the
10 Procurement file is the responsibility of the Procuring Party, including when submitting
11 through a software program for review. A Procurement file may be electronically stored.

12 13 **§ 361. Retention of Procurement records**

14 All Procurement records shall be retained and disposed of in accordance with records
15 retention guidelines and schedules provided for in the Procurement Regulations, which may
16 authorize the development and maintenance of guidelines and schedules by the Procurement
17 Department.

18 19 **§ 362. Public access to Procurement records**

20 Procurement records shall be available to the public to the extent provided for in the Navajo
21 Nation Privacy and Access to Information Act, 2 N.N.C. §§ 81 *et seq.*

22 23 **§ 363. Collection and reporting of Procurement data**

- 24 A. The Office of the Controller is authorized to collect and prepare statistical data
25 concerning the method, usage, and disposition of all procurements by any Procuring
26 Party, to monitor compliance with the requirements of this Procurement Act and its
27 Procurement Regulations, and make reports to, at a minimum, the Budget and Finance
28 Committee and the Office of the Auditor General consistent with the requirements of
29 the Procurement Regulations.
- 30 B. The Department of Justice is authorized to review and utilize all statistical data collected

1 by the Office of the Controller; to monitor and investigate acts of non-compliance with
2 the requirements of this Procurement Act and its Procurement Regulations; and make
3 reports to, at a minimum, the Budget and Finance Committee consistent with the
4 requirements of the Procurement Regulations.

6 Subchapter 7. Compliance

7 § 370. Compliance with Navajo Laws

8 All Persons involved in a Procurement shall adhere to Navajo Nation laws, including those
9 specifically related to financial confidentiality, non-disclosure, and conflict of interest laws
10 and policies of the Navajo Nation. Nothing in this Procurement Act or the Procurement
11 Regulations is intended to prohibit the Navajo Nation Office of the Prosecutor from
12 pursuing criminal action against any Person, when warranted, for violation of Navajo Nation
13 criminal laws during a Procurement.

15 § 371. Compliance with federal, state, county, and municipal requirements

16 Where a Procurement involves the use of external assistance or funds and the agreement for
17 such use requires compliance with Procurement laws of another jurisdiction, the Navajo
18 Nation shall comply with the laws of the other jurisdiction only such that compliance does
19 not contradict this Procurement Act or infringe on the Navajo Nation's sovereignty,
20 including its sovereign immunity.

22 § 372. Failure to comply

23 A. All Navajo Nation employees and elected officials shall adhere to this Procurement Act
24 and its Regulations. If an employee or elected official fails to comply with this
25 Procurement Act and Regulations, they shall be subject to disciplinary actions,
26 including, but not limited to, action under the NNEGL.

27 B. Verbal or written authorization or promise to pay any Person to proceed with delivery
28 under a Procurement without following the methods or procedures herein or in the
29 Procurement Regulations shall be deemed to be willful non-compliance with the
30 Procurement Act.

1
2 **§ 373. Undue Influence**

3 Attempts by any Person, employee, or official, to force, influence, or persuade the Office of
4 the Controller, Department of Justice, Office of Legislative Counsel or any Procuring Party
5 to override this Procurement Act or its Regulations, change internal procedures in a manner
6 that results in noncompliance with this Procurement Act or its Regulations; or otherwise
7 harass such into noncompliance with this Procurement Act or its Regulations shall be
8 deemed non-compliance with this Procurement Act and shall be reported to the Office of
9 Ethics and Rules for investigation under the NNEGL, and as required in the Procurement
10 Regulations for actions affecting responsibility or debarment or suspension.

11
12 **§ 374. Anti-Competitive Practices**

- 13 A. Void for Collusion or other anti-competitive Practices. In the event the Procuring Party
14 determines that collusion or other anti-competitive practices have occurred in a
15 Procurement, the Procuring Party, in consultation with the Department of Justice, or the
16 Office of Legislative Counsel for Legislative Branch Procurements, or the Judicial
17 Branch Administration for Judicial Branch Procurements, may cancel or void any
18 Procurement, including terminating the contract for such Procurement.
- 19 B. If a Procuring Party determines that collusion or other anti-competitive practices have
20 occurred according to Section 374(A) above, it shall report the incident to the Office of
21 Ethics and Rules for investigation under the NNEGL, and as required in the Procurement
22 Regulations for actions affecting responsibility or debarment or suspension.

23
24 **Subchapter 8. Enforcement**

25 **§ 380. Authority to resolve protested solicitations and awards**

- 26 A. Right to Protest. Any Person aggrieved in connection with a solicitation or award of a
27 Procurement contract may protest in writing to the Procuring Party within fourteen (14)
28 days after such aggrieved Person knows or should have known of the facts giving rise
29 thereto following the procedures provided by the Procurement Regulations.
- 30 B. Authority to Resolve Protests. The Procuring Party, with the approval of the Department

1 of Justice, or Office of Legislative Counsel for Legislative Branch procurements, or the
2 Judicial Branch Administration for Judicial Branch procurements, shall have the
3 authority to investigate, resolve, and make a determination regarding a timely protest in
4 accordance with the Procurement Regulations.

5
6 **§ 381. Actions affecting responsibility**

7 The Business Regulatory Department is authorized to receive, investigate, and maintain for
8 review written complaints from Navajo Nation Divisions, Departments, Offices, and
9 Programs, regarding a Person's past performance, contract non-compliance, and other
10 actions likely to affect findings of a Person as one of integrity and reliability and capable of
11 good faith performance, pursuant to procedures established in the Procurement Regulations.

12
13 **§ 382. Debarment or Suspension**

14 A. Authority. The Controller, with concurrence from the Department of Justice, shall have
15 the authority to debar or suspend a Person for cause from contracting with or otherwise
16 receiving a business opportunity from the Navajo Nation pursuant to the conditions and
17 procedures established in the Procurement Regulations.

- 18 1. The Controller shall issue a written decision of debarment or suspension,
19 including the length of such, to the Person.
- 20 2. To avoid the appearance of any conflicts, employees of the Procurement
21 Department shall not participate in disbarment or suspension investigations
22 except as a witness, nor shall the Procurement Department have a role in
23 decisions concerning a Person's disbarment or suspension
- 24 3. The Procurement Regulations shall explicitly provide the causes for
25 debarment or suspension, which shall apply to the Person in its current and
26 any other identifiable capacities.

27 B. Debarment and Suspension List. The Office of the Controller shall maintain on its
28 publicly available website a list of all debarred and suspended Persons, including
29 providing the date on which the action expires.

30 C. Right to Protest. Any aggrieved person in connection with being debarred or suspended

1 may protest such action in writing within thirty (30) days of the date of the written notice
2 of debarment or suspension according to procedures established in the Procurement
3 Regulations.

4 D. Authority to Resolve Protests. The Business Regulatory Department shall have the
5 authority to investigate and make a determination regarding the protest in accordance
6 with requirements of the Procurement Regulations.

7
8 **§ 383. Administrative review**

9 The Office of Hearings and Appeals shall have the jurisdiction to hear and decide appeals
10 of protest decisions under this Procurement Act.

11
12 **§ 384. Scope of administrative review & presumed finality of decisions**

13 A. The Office of Hearings and Appeals shall have jurisdiction to review and determine *de*
14 *novo*:

15 1. any protest of a solicitation or award of a procurement contract by an
16 aggrieved Person;

17 2. any appeal by an aggrieved Person from a determination by the Procuring
18 Party related to actions in the Procurement Act, or a determination by the
19 Office of the Controller related to actions in the Procurement Act.

20 B. Time Limitation on Filing an Appeal. The Aggrieved Person shall file an appeal within
21 twenty (20) calendar days of receipt of a decision.

22 C. Decision. The Office of Hearing and Appeals shall make a determination based on the
23 preponderance of the evidence on the issue of whether the actions of the Procuring Party
24 or the Office of the Controller were consistent with the provisions of this Procurement
25 Act. The Solicitation or award of a Contract shall be upheld unless it is shown by a
26 preponderance of the evidence that the actions of the Procuring Party or the Office of
27 the Controller violated a specific provision of this Procurement Act.

28
29 **§ 385. Presumed finality of decisions**

30 Determinations by the Office of Hearings and Appeals shall be final and conclusive.

1
2 **Subchapter 9. Severability and Amendment**

3 **§390. Amendments**

4 This Procurement Act may be amended by the Navajo Nation Council subject to action by
5 the President of the Navajo Nation pursuant to 2 N.N.C. § 221(B) and 2 N.N.C. §
6 164(A)(17).

7
8 **§ 391. Severability**

9 If any provision of this Procurement Act is held invalid, such invalidity shall not affect other
10 provisions or the application of this Procurement Act which can be given effect without the
11 invalid provision or application; and to this end, the provisions of this Procurement Act are
12 declared to be severable.

13
14
15 **SECTION FOUR. CODIFICATION**

16 The provisions of this resolution that amend or adopt new sections of the Navajo Nation
17 Procurement Act, as set forth in the Navajo Nation Code, shall be codified by the Office of
18 Legislative Counsel. The Office of Legislative Counsel shall arrange for the incorporation
19 of all such provisions in the next codification of the Navajo Nation Code.

20
21 **SECTION FIVE. SAVING CLAUSE**

22 If any portion of this resolution is determined to be invalid by the Navajo Nation Supreme
23 Court or by a District Court of the Navajo Nation, without appeal to the Navajo Nation
24 Supreme Court, the remainder of this Act shall remain the law of the Navajo Nation.

25
26 **SECTION SIX. EFFECTIVE DATE**

27 The provisions of this resolution shall be enacted in accordance with 2 N.N.C. § 221(B) and
28 2 N.N.C. § 164(A)(17) and shall become effective when the Budget and Finance Committee
29 has promulgated the Procurement Regulations.