

**NAVAJO NATION  
PROCUREMENT &  
CONTRACTING  
SESSION 2**

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# AGENDA

## Session 1

1. Navajo Nation Procurement
2. Document Review Process

## Session 2

1. Services Contracts/Modifications
2. Legally Sufficient Contract Packet (Checklists)

# SERVICES CONTRACT

NNDOJ1-26

Contract's "Consultant" = NNPA's "Contractor"

*K. "Contractor" means any Person, including Vendors, having a procurement Contract with a Division, Department, Office, or Program of the Navajo Nation.*

## KEY TERMS ONLY

This presentation addresses updated and main terms only

You are responsible for reading the contract, knowing, and enforcing **all** terms





## SERVICES CONTRACT BETWEEN THE NAVAJO NATION AND




Consultant's Legal Name as shown on Form W-9 & Certificate of Insurance

Consultant's physical address, state, and zip code

Consultant's telephone number

### Navajo Nation Administrative Purposes Section

*The Parties acknowledge that the terms within this section, while referenced in the Contract, are noted here for Navajo Nation administrative purposes only. Except for the Begin Date, End Date, and Original Contract Amount, changes to the terms shown within this box do not require Modification of this Contract.*

**Contract Number:**

**Begin Date:**  Date OOC Contract Letter      **OR**  Specific Date:

Select one

**End Date:**  Specific Date:       **OR**   months from Begin Date

Select one

**Payments to be made from:**

Account:  -

Account:  -

Account:  -

**Amount to Encumber**

Fees: \$

Expenses: \$

Taxes: \$

Original Contract Amount: \$

Employer Identification No./Consultant's SSN:

this number must match Form W-9

### Mutual Promises and Agreements

IT'S FILL IN  
THE BLANK!

# WHAT MAKES UP THE CONTRACT?

## Required:

- Services Contract
- Exhibit A
- Exhibit B

## As Needed w/NNDOJ Review:

- Exhibit C
- Exhibit D
- Exhibit E

- 1. Documents Constituting the Contract.** The following documents, along with the term Contract, whenever used, shall constitute the Contract:
  - .1 this Services Contract;
  - .2 Exhibit A – Scope of Work;
  - .3 Exhibit B – Budget & Accounting Codes;
  - .4 Exhibit C – Consultant Additional Terms & Conditions;
  - .5 Exhibit D – \_\_\_\_\_
  - .6 Exhibit E – \_\_\_\_\_

Reference: [REDACTED]

Dear [REDACTED]:

Attached, please find your executed Services Contract, CC [REDACTED]. This agreement is with the Navajo Nation [REDACTED]. This Services Contract is approved in the amount of [REDACTED] (\$ [REDACTED]).

This Services Contract will commence on [REDACTED] and will terminate on [REDACTED]. Contract, CC [REDACTED] must be referenced on all invoices, documents, and correspondences as it relates to this contract.

Should you have any questions, please contact [REDACTED]

Sincerely,

THE NAVAJO NATION



Valerie Bitsilly, Accountant  
Contract Administration  
Navajo Nation Office of the Controller

# CONTRACT NUMBER

- 4. Contract Number.** After this Contract's execution, the Office of the Controller ("OOC") shall assign this Contract a Contract Number, which it shall provide to the **PARTIES** via Notice ("OOC Contract Letter"). Additionally, the Contract Number shall be shown in the Navajo Nation Administrative Purposes Section on page 1 of this Contract ("Administrative Purposes Section"), once established.

# WHAT IS THE CONTRACT TERM?

- Set to address processing time of government
- Contract Term: Starts Effective Date, includes Begin Date, and expires on End Date

## Effective Date.

The date of execution by the Navajo Nation President

## Begin Date.

The date of the OOC letter notifying the Authorized Representatives of the assigned Contract Number

## End Date.

The number of months for which the Contract Term shall remain open

**5. Contract Term.** The Contract Term from the Effective Date, inclusive including either the Begin Date or requirements of this Contract.

**.1 Effective Date.** The Effective Date of the Contract, as shown in the signatures of the Navajo Nation President, or other branch chief

**.2 Begin Date.** The Contract Term described in Article 4 above.

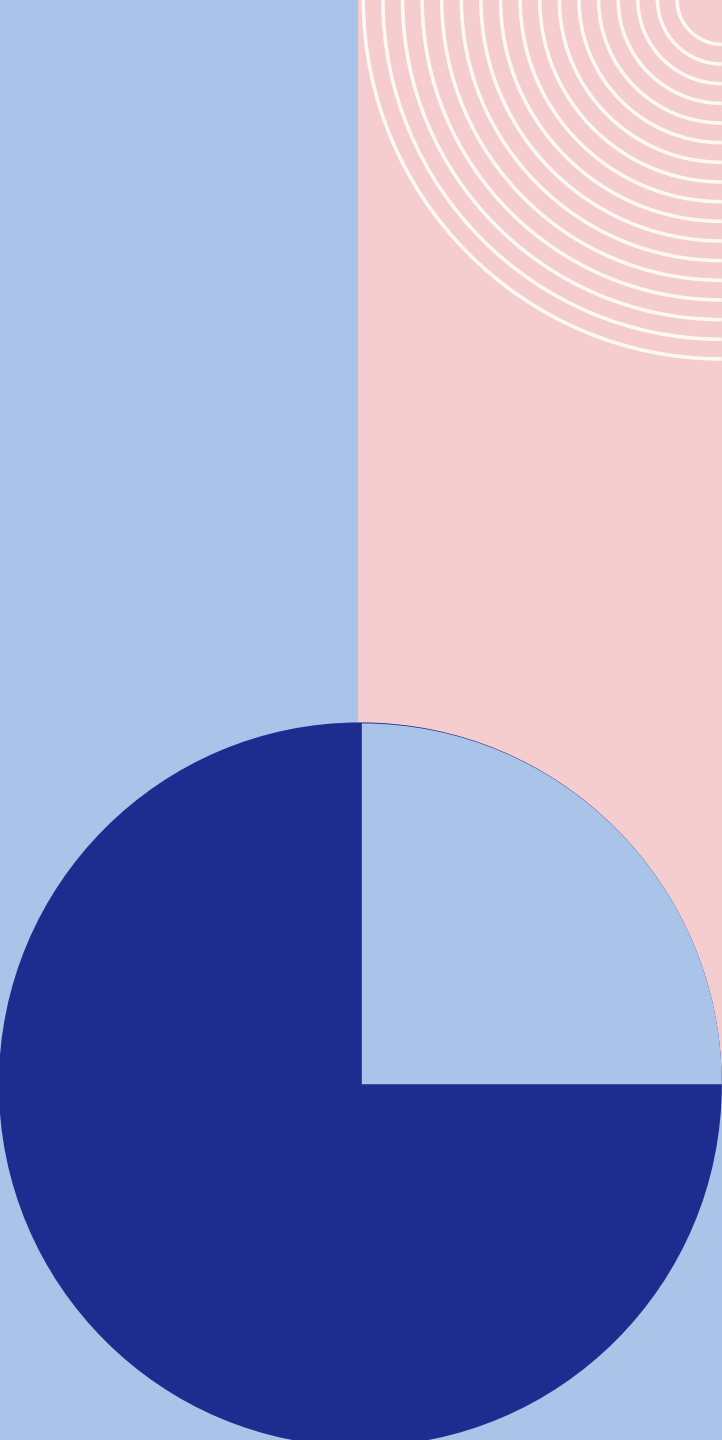
**.3 End Date.** The Contract Term's duration shall be the number of months from the Begin Date. This Contract shall

# ORIGINAL CONTRACT AMOUNT

## 6. Compensation.

- .1 **Original Contract Amount.** The **NATION** shall compensate the **CONSULTANT** for the Work performed under this Contract by paying a sum not to exceed \$ \_\_\_\_\_ (“Original Contract Amount”), as detailed in Exhibit B – Budget & Accounting Codes, which includes the applicable Navajo Nation and local government sales tax amounts for Work performed within the territorial jurisdiction of the **NATION**, as described in Article 23 below.
- .2 **Full consideration.** The **CONSULTANT** hereby acknowledges and agrees that payment of the Original Contract Amount constitutes full and adequate consideration for all Work fully and satisfactorily performed and for all applicable taxes, permit fees, licensing fees, registration fees, surety costs, insurance, or any other expenses necessary or convenient for the **CONSULTANT** to perform under this Contract.

**BREAK**



# AUTHORIZED REPRESENTATIVES?

- Required for both Parties
- Oversees the day-to-day work and administration of the project
- Generally, best practice: Not the Division Director
- Important for Correspondence and Notice

7. **Authorized Representatives.** The **CONSULTANT** shall work with the \_\_\_\_\_ (Contracting Program), in performing Work under this Contract and shall be the **NATION'S** Authorized Representative. The Authorized Representative shall be:

Navajo Nation Authorized Representative	Consultant's Authorized Representative
<input type="text"/>	<input type="text"/>
<i>Name</i>	<i>Name</i>
<input type="text"/>	<input type="text"/>
<i>Title</i>	<i>Title</i>
<input type="text"/>	<input type="text"/>
<i>Phone</i>	<i>Phone</i>
<input type="text"/>	<input type="text"/>
<i>E-mail</i>	<i>E-mail</i>
<input type="text"/>	<input type="text"/>
<i>Mailing Address</i>	<i>Mailing Address</i>

# ARE LICENSES, BUSINESS REGISTRATION, INSURANCE REQUIRED?

- Required in Contract Packet, not as an Exhibit
  - Risk Management Letter & Certificate of Insurance
  - Business operation on Navajo Nation
  - Work where license required by the state
- Must be kept up to date during Contract Term
- Subcontractors must be licensed, copies not required



**10. Reimbursable Expenses.** The Work under this Contract, provided the Budget and noted as part of the reimbursable expense in writing, shall be reimbursed for expenses incurred and compensated at the CONSULTANT'S discretion.

**11. Travel Expenses.** The CONSULTANT'S services to the NATION under this Contract, to Article 10, the NATION'S Authorized Expenses are incurred.

## **DO WE ALLOW REIMBURSABLE, PRE-CONTRACT, & TRAVEL EXPENSES?**

- Yes, with restrictions:
  - Reimbursement at cost, no profit or fees
  - Pre-Contract Costs permitted at Nation's Discretion
  - Travel costs approved in writing in advance
- Must be a part of the Budget (in the Original Contract Amount) prior to execution

# WHAT'S THE DIFFERENCE BETWEEN CORRESPONDENCES & NOTICES?

<u>Sent</u>	<u>Correspondence</u>	<u>Notice</u>
To	Authorized Representatives	Authorized Representatives & NNDOJ
How	E-mail	E-mail & Hand delivery or USPS
For	day-to-day work and administration of the contract work	official actions related to Contract—e.g., termination, record inspection, dispute resolution

### 13. Correspondence; Notices.

- .1 **Correspondence.** All correspondence sent by e-mail to the PARTY'S
- .2 **Notices.** Any Notice relating to mail to the PARTY'S Authorized paper copy, hand delivered or States Postal Service mailing
- .3 **Correspondence and Notices** receiving PARTY as of, which transmittal; (b) if hand delivered a member or officer of the C delivery date by the United Sta



# WHO OWNS WORK PRODUCT?

Navajo Nation owns everything created for the work under the contract:

“intangible and tangible . . . [WP, IP, and] creative work . . . which is embodied in any medium of expression, now known or later developed”

Sole rights to Navajo Nation: Consultant shall not sell, transfer, market, or otherwise distribute.

## 15. Ownership & Use of Work Product.

- .1 Navajo Nation Ownership of Work Product  
intellectual property, and creative work pro  
medium of expression, now known or later de  
estimations, plans, designs, handouts, preser  
including the overall form as well as the ar  
medium, is and shall remain the sole property

# WHAT ABOUT THE NAVAJO NATION'S CURRENT INTELLECTUAL PROPERTY?

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## 16. Navajo Nation Intellectual Property.

- .1 **Ownership.** The **CONSULTANT** agrees that any intellectual property, regardless of form, in which the word "NAVAJO;" and such ownership. The **CONSULTANT** shall have no title, or interest in any intellectual property of the **NATION** to any of its intellectual property.
- .2 **Separate Trademark License Required.** If the **CONSULTANT** requires a trademark, it will enter into a separate license with the Department of Justice ("NNDNJ"), and such license shall be cause for the **NATION** to terminate the contract.
- .3 **Publicity.** The **CONSULTANT** shall not use the **NATION**'s name in any License Agreement, the **NATION**'s name in any publicity matter without the prior written permission of the **NATION**. The **CONSULTANT** shall not be permitted to use the **NATION**'s name in any publicity matter without the prior written permission of the **NATION**.

Affirms Navajo Nation owns its IP unrelated to the Contract

- Consultant will not infringe; Considered breach

Requires separate Trademark license for use

Publicity not allowed without prior written permission

- Can name Navajo Nation as a client (non-public use)

# DID THE NAVAJO NATION TAX PROVISION CHANGE?

- No. Still taxed at current rate for all work performed *within* the territorial jurisdiction of Navajo Nation
- Must be identified in Budget
- OOC to withhold from payments
  - or paid to local government

**Navajo Nation taxes.** The **CONSULTANT** to and shall be liable for payment of the tax. This tax may be amended from time to time, and shall be amended from time to time, at the discretion of the territorial jurisdiction of the Navajo Nation Government ("Tuba City Chapter") or the local government. It may be amended from time to time. It is subject to local sales tax on gross receipts. The local government imposes a local sales tax pursuant to the Navajo Nation Code, §§ 150-56, as may be amended from time to time.

**.1 Consultant responsibility.** The **CONSULTANT** shall be responsible for the tax.

**.2 Identification of taxable activity.** The **CONSULTANT** shall identify the taxable activity within and outside the territorial jurisdiction of the Navajo Nation Government within and outside the jurisdictions of the local government.

# HOW DO WE MODIFY THE CONTRACT?

Only effective if in writing, signed by *signatories*

- NOT Authorized Representatives, w/o delegation
- Authorized Representatives must approve

Equitable Adjustment. Changes to the work shall be compensated at costs or rates not already in the contract

- Generally, if scope does not cover changes to the work, then the new work = a new procurement, not a modification

**25. Modifications.** Any Modifications to this Contract shall be signed and executed by the signatories of the Contract or by a representative with authority in a separate, written instrument. A representative without authority is prohibited from executing any Modification.

**.1 Prior approval required.** The NATION'S BRD must approve any Modification reasonably related to the Work; all Modifications must be approved by the BRD Representative prior to consideration and execution.

**.2 Equitable Adjustment.** Any equitable adjustment to the Work resulting from changes to the Work that are not specifically described in this Contract shall be made in accordance with the provisions of this Contract.

**.3 20% Limitation if bid used.** If the Original Contract was awarded pursuant to the Act and Regulations submitted by the C 223(F), all Modifications shall not exceed 20% of the Original Contract Amount.

**.4 BRD approval required.** Regardless of whether a bid was used, pursuant to the Navajo Nation Business Regulatory Act, from time to time, any Modification that exceeds the Original Contract Amount or that substantially exceeds the Navajo Nation Business Regulatory Act shall require BRD approval. Should BRD determine a Modification is necessary, the content of the Modification solicited separately shall be subject to BRD approval.

# MODIFICATIONS LIMITED

- Cost limited above 20% of Original Contract Amount
  - Prohibited for Competitive Sealed Bidding
  - BRD approval all Modification under NBOA
- Limitation to changes of the scope of work
  - BRD approval all Modification under NBOA

**25. Modifications.** Any Modifications to this Contract shall be signed and executed by the signatories of the Contract in the authority in a separate, written instrument. The Contract Representative is prohibited from executing

- .1 Prior approval required.** The NATION'S Representative shall not execute any Modification reasonably related to the Work; all Modifications shall require BRD Representative prior to consideration and execution.
- .2 Equitable Adjustment.** Any equitable adjustment resulting from changes to the Work that are not a Modification to this Contract according to the provisions specifically described in this Contract.
- .3 20% Limitation if bid used.** If the Original Contract is awarded by Act and Regulations submitted by the Contract Representative under 223(F), all Modifications shall not exceed 20% of the Original Contract Amount.
- .4 BRD approval required.** Regardless of whether a bid was used, pursuant to the Navajo Nation Business Regulatory Code, from time to time, any Modification that exceeds the Original Contract Amount or that substantially increases the Navajo Nation Business Regulatory Code shall require BRD approval. Should BRD determine a Modification is not in the best interest, the content of the Modification solicited shall be null and void.

# CAN WE TERMINATE THE CONTRACT?

26. Termination. The **NATION** may terminate the **CONSULTANT**, in the event that the **CONTRACT** provides that the **CONSULTANT** is in breach of the **CONTRACT**, which the **NATION** bases its decision to terminate on the following:

- .1 **Non-compliance or violation of law** determines in writing that the **CONSULTANT** is in breach of the **CONTRACT** non-compliance or violation's connection to the **CONTRACT**.
- .2 **Falsification, lack of documentation**
  - .1 it determines that any statements, insurance coverage, or debts owed by the **CONSULTANT** are false or incomplete.
  - .2 the **CONSULTANT** fails to submit documents within the defined time schedules in the **CONTRACT**.
  - .3 the **CONSULTANT** fails to submit documents as required by the **NATION**.
- .3 **Financial responsibility, solvency.**

- Yes. Process:
  - 10 days written Notice
  - 30 calendar days to cure
- Termination for:
  - Breach, failure to comply, debarment, suspension, convenience
- No Right to cure termination for Navajo Nation's convenience

# WHAT ARE THE GOVERNING LAW, JURISDICTION, & SOVEREIGN IMMUNITY TERMS?

Have not changed.

- Navajo Nation law governs
- Consultant consents to Navajo Nation jurisdiction
- No express or implied waiver of sovereign immunity

## 29. Governing Law.

- .1 Navajo Nation law governs. The CONSULTANT shall consent to Navajo Nation law governing the Work to be performed under this Agreement. This Agreement shall be governed by the laws of the Navajo Nation and shall be construed according to the customs and practices of the Navajo Nation. This Agreement shall be subject to the jurisdiction of the Navajo Nation courts.
- .2 Navajo Preference in Employment. The CONSULTANT will perform Work primarily on the Navajo Nation. The CONSULTANT shall give priority to Navajo Preference in Employment in the performance of the Work.
- .3 Other laws. The CONSULTANT shall comply with all applicable laws, regulations, and orders of the Navajo Nation and the United States in the performance of the Work.

## 30. Navajo Nation Jurisdiction

# HOW DO WE RESOLVE DISPUTES?

Negotiation between parties

- If not resolved, Navajo Nation may pursue legal action

Exclusive remedy – no other options

**32. Dispute Resolution.** Any and all c  
Contract will be resolved first throug  
negotiation does not resolve a claim

**.1 Exclusive Remedy.** The dispu  
exclusive remedy to any dispute  
to any suit, claim, action, or proc  
falls outside the scope of these p

**.2 Post-termination; post-expirat**  
dispute resolution provisions he

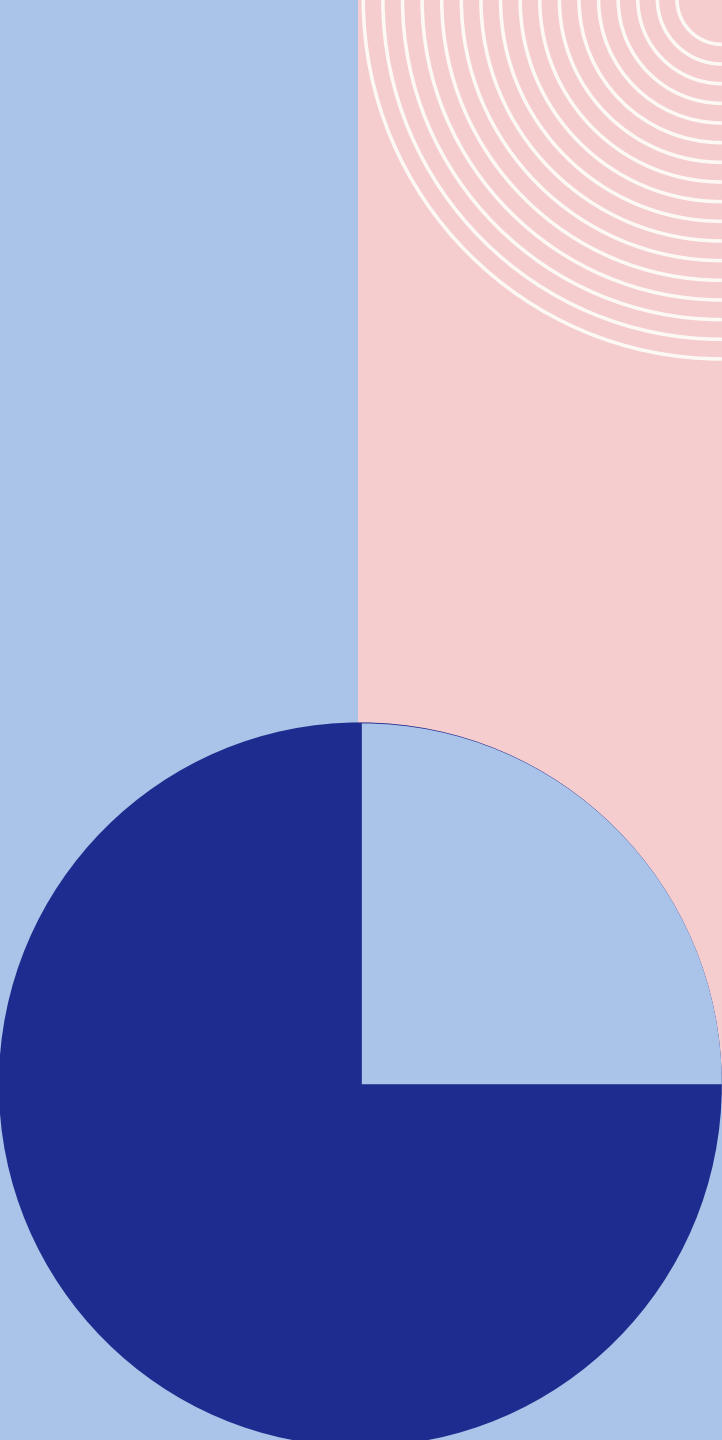
**.3 Challenges limited.** By entering  
and agrees that it shall not cor  
judicial jurisdiction of the Navajo  
the Navajo Nation as an Indian t  
general jurisdiction, or that the N  
to legislate and regulate for the  
transactions, or occurrences wit

# WHAT HAPPENS WHEN THE CONSULTANT TERMS CONFLICT WITH THE CONTRACT?

**33. Conflicting & Additional Terms.** Any additional terms and conditions incorporated into this Contract as Exhibits B and C, the Mutual Promises and Conditions, and any other terms and conditions not explicitly included in this Contract and approved by the Client shall have no force or effect.

- All attached additional terms and conditions subordinate to Contract's Mutual Terms and Conditions
- Attached as Exhibit C.

**BREAK**





# **BUILDING A LEGALLY SUFFICIENT CONTRACT PACKET**

# NNDOJ REVIEW CHECKLIST:

## Services Contract



### NNDOJ REVIEW CHECKLIST: SERVICES CONTRACT

Review requested:  Document Review (164/EOR)  
 Contract Pre-Review (RFS)

NNDOJ INTERNAL USE  
NNDOJ Intake Date: \_\_\_\_\_  
NNDOJ Tracking #: \_\_\_\_\_

Selected Consultant: \_\_\_\_\_  
Business Name \_\_\_\_\_  
Authorized Agent Name \_\_\_\_\_ Authorized Agent Title \_\_\_\_\_  
Phone \_\_\_\_\_ Email \_\_\_\_\_

Procuring Department: \_\_\_\_\_  
Project Sponsor: \_\_\_\_\_  
(if different from Procuring Department)

Procuring Employee: \_\_\_\_\_  
Name \_\_\_\_\_ Title \_\_\_\_\_  
Phone \_\_\_\_\_ Email \_\_\_\_\_

Packet Organization: Are the packet materials ordered the same as the checklist?  Yes If not, reorder  
Comments to NNDOJ: \_\_\_\_\_

#### Section 1: 164-Reviewer Documentation

- 164 Review Signature Form**, with reviewer signatures (*Exec. Order No. 06-2023 & Guidelines § 107 ("Guidelines"*)
  - Either the 164 Review Form or the Executive Official Review Form
  - For re-submissions, include prior Document Review Form with NNDOJ legally insufficient finding
- OOB Memo to Reviewers/Sign-Off Sheet**, if any (*2 N.N.C. § 164; 12 N.N.C. § 360(E); Guidelines § 110*)
  - Review documentation issued by the Office of the Controller
- OMB Review Documentation**, if any (*2 N.N.C. § 164; 12 N.N.C. § 360(E); Guidelines § 110*)
- Navajo Business Opportunity Act Clearance** (*5 N.N.C. § 207(A); Procurement Rules & Regs. § IV(F) ("NNPRR")*)
  - Issued by Business Regulatory Department, a.k.a. "Blue Sheet"
- this Contract Review Checklist**, completed

#### Section 2: Navajo Nation Issued Clearances and Forms

- Procurement Clearances**, current as of NNDOJ submission (*12 N.N.C § 1505; Memo BRD-24-0028*)
  - 2.1.1 **Office of the Controller** Dated: \_\_\_\_\_  Compliant  Not Compliant
    - Issued no more than thirty (30) days prior to the date of submission to NNDOJ
  - 2.1.2 **Office of the Navajo Tax Commission** Dated: \_\_\_\_\_  Compliant  Not Compliant
    - Issued during the fiscal year quarter for the date of legal review submission to NNDOJ  
e.g., if submitting in Quarter 2, must be issued in Jan., Feb., or Mar. of that fiscal year
- Estimated Cost Form**, or other documentation showing how established price (*12 N.N.C. § 331; NNPR*)
  - Must be created by the Procuring Party before issuing solicitation

# IDENTIFYING INFORMATION

Select review requested:  Document Review (164/EOR)  
 Contract Pre-Review (RFS)

<small>NNDOJ INTERNAL USE</small>	
NNDOJ Intake Date: <input type="text"/>	
NNDOJ Tracking #: <input type="text"/>	

**Selected Consultant:**   
*Business Name*

<input type="text"/> <i>Authorized Agent Name</i>	<input type="text"/> <i>Authorized Agent Title</i>
<input type="text"/> <i>Phone</i>	<input type="text"/> <i>Email</i>

**Procuring Department:**   
**Project Sponsor:**   
*(if different from Procuring Department)*

**Procuring Employee:**   
*Name*

<input type="text"/> <i>Phone</i>	<input type="text"/> <i>Title</i>	<input type="text"/> <i>Email</i>
--------------------------------------	--------------------------------------	--------------------------------------

**Packet Organization:** Are the packet materials ordered the same as the checklist?  Yes If not, reorder packet

**Comments to NNDOJ:**

# SECTION 1

## Section 1: 164-Reviewer Documentation

- 1.1: **164 Review Signature Form, with reviewer signatures** *(Exec. Order No. 06-2023 & Guidelines § 107 (“Guidelines”))*
  - Either the 164 Review Form or the Executive Official Review Form
  - For re-submissions, include prior Document Review Form with NNDOJ legally insufficient finding
- 1.2: **OOB Memo to Reviewers/Sign-Off Sheet, if any** *(2 N.N.C. § 164; 12 N.N.C. § 360(E); Guidelines § 110)*
  - Review documentation issued by the Office of the Controller
- 1.3: **OMB Review Documentation, if any** *(2 N.N.C. § 164; 12 N.N.C. § 360(E); Guidelines § 110)*
- 1.4: **Navajo Business Opportunity Act Clearance** *(5 N.N.C. § 207(A); Procurement Rules & Regs. § IV(F) (“NNPRR”))*
  - Issued by Business Regulatory Department, a.k.a. “Blue Sheet”
- 1.5: **this Contract Review Checklist, completed**

# SECTION 2

## **Section 2: Navajo Nation Issued Clearances and Forms**

- 2.1: Procurement Clearances, current as of NNDOJ submission** *(12 N.N.C § 1505; Memo BRD-24-0028)*
  - 2.1.1 Office of the Controller**                      Dated: \_\_\_\_\_  Compliant  Not Compliant  
→ Issued no more than thirty (30) days prior to the date of submission to NNDOJ
  - 2.1.2 Office of the Navajo Tax Commission**                      Dated: \_\_\_\_\_  Compliant  Not Compliant  
→ Issued during the fiscal year quarter for the date of legal review submission to NNDOJ  
e.g., if submitting in Quarter 2, must be issued in Jan., Feb., or Mar. of that fiscal year
- 2.2: Estimated Cost Form, or other documentation showing how established price** *(12 N.N.C. § 331; NNPRR § I(KH))*
  - Must be created by the Procuring Party before issuing solicitation

# SECTION 3

## Section 3: Contract



- 3.1: Primary Contract: Mutual Terms and Conditions** *(12 N.N.C. § 360; NNPRR § IV(G),(I))*
  - If Exhibits C-E not pending NNDOJ review, provide four (4) final, authorized agent signed copies
  - If Exhibits C-E need NNDOJ Review, submit Contract for Pre-Review (Request for Service)
- 3.2: Exhibits to Primary Contract** *(12 N.N.C § 331(D), 360; NNPRR § IV(G)(II))*
  - Shall be clearly marked with exhibit letter and title—e.g., “Exhibit A-Scope of Work”—and show the page number of total number of pages on each page within the exhibit
  - 3.2.1: Exhibit A – Scope of Work**
    - Includes description/specifications of goods or services sought as detailed in the solicitation
  - 3.2.2: Exhibit B – Budget & Accounting Codes**
    - Includes exhaustive list of all costs, including allowed reimbursements, for each element or phase of the work, including services, labor, fees, and other per item costs
  - 3.2.3: Exhibit C – Consultant’s Additional Terms & Conditions, if provided**
  - 3.2.5: Exhibit D -**
  - 3.2.5: Exhibit E -**

# VS. CONSTRUCTION CHECKLIST § 3

## **Section 3: Contract**

- 3.1: Primary Contract** *(12 N.N.C. § 360; NNPRR § IV(G),(II))*
  - If Exhibits C-E not pending NNDOJ review, provide four (4) final, authorized agent signed copies
  - If Exhibits C-E need NNDOJ Review, submit Contract for Pre-Review (Request for Service)
- 3.2: Exhibits to Primary Contract** *(12 N.N.C § 331(D), 360; NNPRR § IV(G)(II))*
  - Shall be clearly marked with exhibit letter and title—e.g., “Exhibit A-Scope of Work”—and show the page number of total number of pages on each page within the exhibit
  - 3.2.1: Exhibit \_\_ – Scope of Work**
    - Includes description/specifications of goods or services sought as detailed in the solicitation
  - 3.2.2: Exhibit \_\_ – Project Budget/Schedule of Values**
    - Includes exhaustive list of all costs, including allowed reimbursements, for each element or phase of the work, including services, labor, fees, and other per item costs
  - 3.2.3: Exhibit \_\_ – ONLRB Established Labor Rates**
  - 3.2.4: Exhibit \_\_ – Construction Documents**
  - 3.2.5: Exhibit \_\_ – Project Manual Specifications**
  - 3.2.6: Exhibit \_\_ – \_\_\_\_\_**
  - 3.2.7: Exhibit \_\_ – \_\_\_\_\_**
- 3.3: If using an AIA model contract, also include:**
  - 3.3.1: Primary Contract Additions and Deletions Report**
    - Include the AIA Certification of Document Authenticity signed by the party generating the final contract
  - 3.3.2: AIA Exhibits, including the Additions and Deletions Reports, if any**
    - Include the AIA Certification of Document Authenticity signed by the party generating the final contract
  - 3.3.3: Exhibit \_\_ – Navajo Nation Supplemental General Conditions**
    - Use the version specific to the AIA contract model number and year
    - NNDOJ reviewing attorney to sign for Navajo Nation Sovereign Immunity Act limited Waiver for arbitration

# SECTION 4

## Section 4: Consultant Documents

- 4.1: Consultant's Complete Offer, signed by authorized agent** *(12 N.N.C § 311, 330; NNPRR §§ III(G)(8), IV(D)(6))*  
→ Examples: Bid, Proposal, Statement of Qualification, Quote
- 4.1.1: Certification Regarding Debarment & Suspension** *(12 N.N.C § 366)*
- 4.1.2: Certification Regarding Non-collusion** *(12 N.N.C. § 303(B); 2 N.N.C. §§ 3741-58)*
- 4.1.3: IRS form W-9** *(Rev. March 2024)*
- 4.1.4: NBOA Priority Certificate, if applicable** *(5 N.N.C. § 205)*      Expiration Date:
- Issued less than 1 year prior to the date of the offer opening
- 4.1.5: Certificate of Good Standing** *(5 N.N.C. §§ 3175, 3630, 3892)*      Dated:
- Check here if Consultant is a sole proprietor; no Certificate of Goods Standing is necessary  
→ Issued less than 1 year prior to the document review packet submission to DOJ
- 4.1.6: Certification Regarding Subcontractors, if Consultant is Prime Contractor** *(5 N.N.C. § 206(E))*  
→ Required if work relates to management, coordination, completion, or supervision of contract project
- 4.1.7: Consultant License(s)/Credential(s)/Resume(s) for project staff** *(NNPRR § IV(A)(4))*  
→ Must be valid at contract execution and match the services, goods, or construction sought
- 4.1.8: Joint Venture/Partnership/Teaming Agreement, if applicable**  
→ Used when two or more entities agree to work on the project as a single, named entity

# SECTION 4 CONT'D

**4.2: Insurance Documentation** *(NNPRR § XIX(A))*

**4.2.1: Risk Management Program Review Letter**

→ Must note the Consultant meets minimum insurance requirements

**4.2.2: Certificate of Insurance**

Expiration Date:

→ Insurance shall name the Navajo Nation as an additional insured party

# SECTION 5

## Section 5: Funding Documents



### 5.1: Budget Verification Sheets and Forms *(NNPRR § IV(H))*

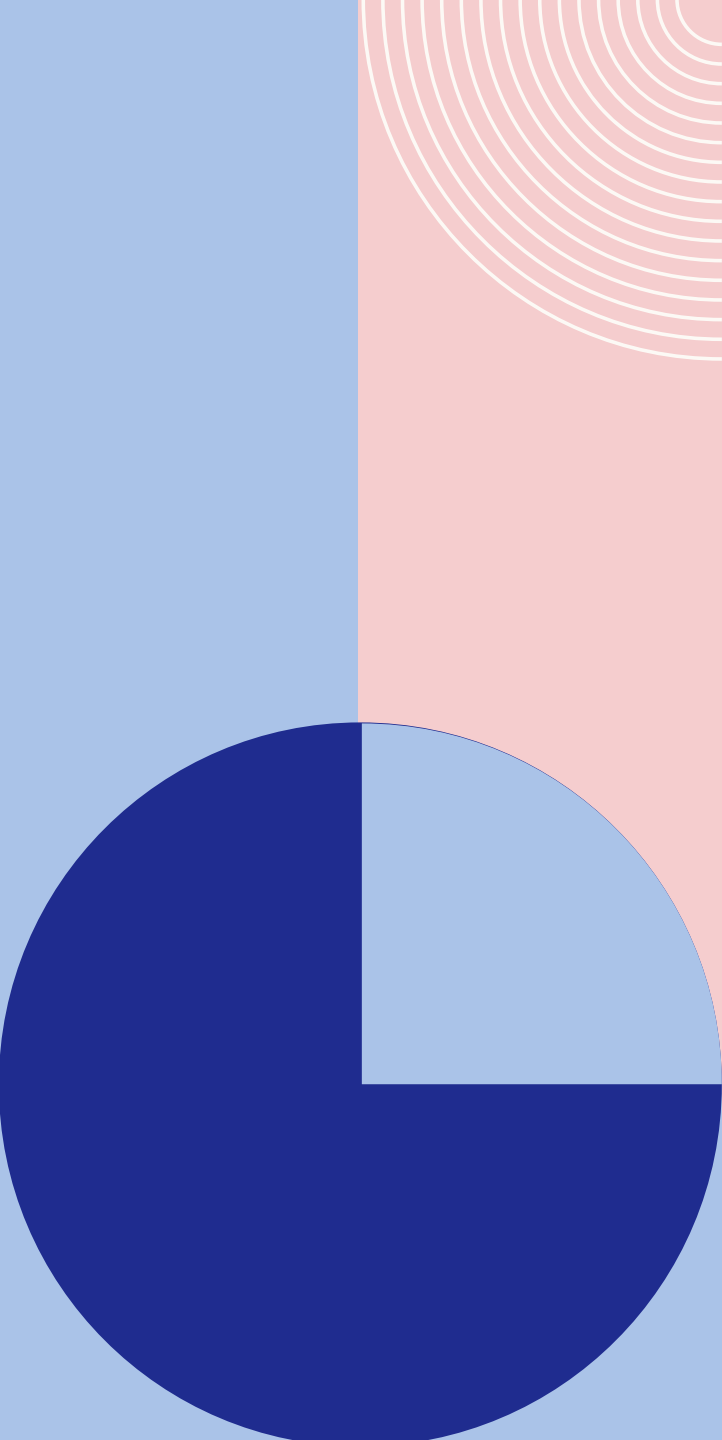
→ Must show verification of allowable costs, funds availability, and funds encumbrance

### 5.2: Job Status Inquiry Prints *(12 N.N.C. §§ 304(B), 370)*

### 5.3: Funding Source Documentation *(See 12 N.N.C. §§ 304(B), 370)*

→ Examples: Navajo Nation Council Resolution appropriating the funds; executed IGA, executed funding agreement

**BREAK**



# SECTION 6

## Section 6: Offer Solicitation and Selection Documents

- 6.1: **Notice of Contract Award** *(12 N.N.C. §§ 342(H), 343(H); NNPRR § III(H), IV(E))*

→ Usually a letter or email sent to the selected Contractor

- 6.2: **PROVIDE DOCUMENTS ONLY FOR THE PROCUREMENT METHOD USED**

# SECTION 6.A

- A: If used Competitive Selection Methods Procurement** *(12 N.N.C. §§ 342-44, NNPRR §§ III-IV)*
  - Used when the procurement selection method requires use of: Invitation for Bid, Request for Proposals, or Request for Statement of Qualifications
- 6.2.1: Offer Opening attendance sheet** *(12 N.N.C. §§ 342(F), 343(G); NNPRR §§ III(F), IV(G))*
- 6.2.2: Offer Evaluation tabulation sheet(s)** *(12 N.N.C. §§ 342(G), 343(H); NNPRR §§ III(G), IV(D))*
  - Include one per evaluator for every offer reviewed
- 6.2.3: Proof of Public Notice** *(12 N.N.C. § 341; NNPRR §§ III(D)(3), IV(A)(6))*
  - Examples: Saved pdf of advertisement webpage; copy of newspaper or other publication advertisement
- 6.2.4: Solicitation** *(12 N.N.C. § 330-31(F))*
  - Must include evaluation criteria for assessment of all Offers received
  - Include any issued corrections, amendments, or addendums
  - Examples: Invitation for Bids, Request for Proposals; Request for Statements of Qualification; direct requests for quotes from vendors
- 6.2.5: List of Vendors Directly Notified, if applicable** *(NNPRR §§ III(E)(3), IV(B)(3))*
  - Name all vendors directly contacted including the date and manner of contact

# SECTION 6.B

B: If used **Small-Purchases Procurement** *(12 N.N.C. § 345, NNPRR § VI)*

→ Used when the procurement's MFP is \$50,000.00 or less

6.2.1: **Small Purchase Solicitation Attempt** documentation

PROVIDE ONE OF THE FOLLOWING:

for first attempt, copies of at least two (2) Offers received; OR

for second or later attempts, evidence of prior solicitation(s)

6.2.2: **Offer Evaluation** documentation *(NNPRR § VI(D)(4))*

→ May be informal, shall be written, and note an offer's responsiveness to the written request for quote

6.2.3: **Notice and Competition** documentation *(NNPRR § VI(D)(3))*

Provide ONE of the following:

request for quote sent to Vendors, including all relevant NBOA Priority vendors on Source List; OR

proof of public notice

→ Examples: Saved pdf of the advertisement webpage, newspaper, or other publication

6.2.4: **Solicitation Document** *(12 N.N.C. § 330-31(F))*

→ Must include criteria by which all Offers are to be evaluated and any issued corrections or amendments

→ Example: Requests to vendor for quotes



# SECTION 6.C

- ❑ **C: If used Emergency Purchases Procurement** *(12 N.N.C. § 347; NNPRR § VIII)*
  - Used when seeking to procure directly from a vendor in an emergency
- ❑ **6.2.1: Justification memo, approved by NNDOJ and the Purchasing Manager** *(NNPRR § VIII(C))*
- ❑ **6.2.2: Solicitation Documentation** *(12 N.N.C. § 330-31(F))*
  - Must include criteria by which all Offers are to be evaluated and any issued corrections or amendments
  - Examples: Requests to vendors for quotes

# SECTION 6.D

- D: If used Direct Source Procurement** *(12 N.N.C. § 348)*

- Used when seeking to procure directly from one of many vendors able to provide the goods, services, or construction sought

- 6.2.1: Justification memo, approved by NNDOJ** *(12 N.N.C. § 348(C))*

- 6.2.2: Solicitation Documentation** *(12 N.N.C. § 330-31(F))*

- Must include criteria by which all Offers are to be evaluated and any issued corrections or amendments

- Examples: Requests to vendors for quotes

# SECTION 6.E

- E: If used Solo Source Procurement** *(12 N.N.C. § 349)*

- Used when seeking to procure directly from the only vendor able to provide the goods, services, or construction sought

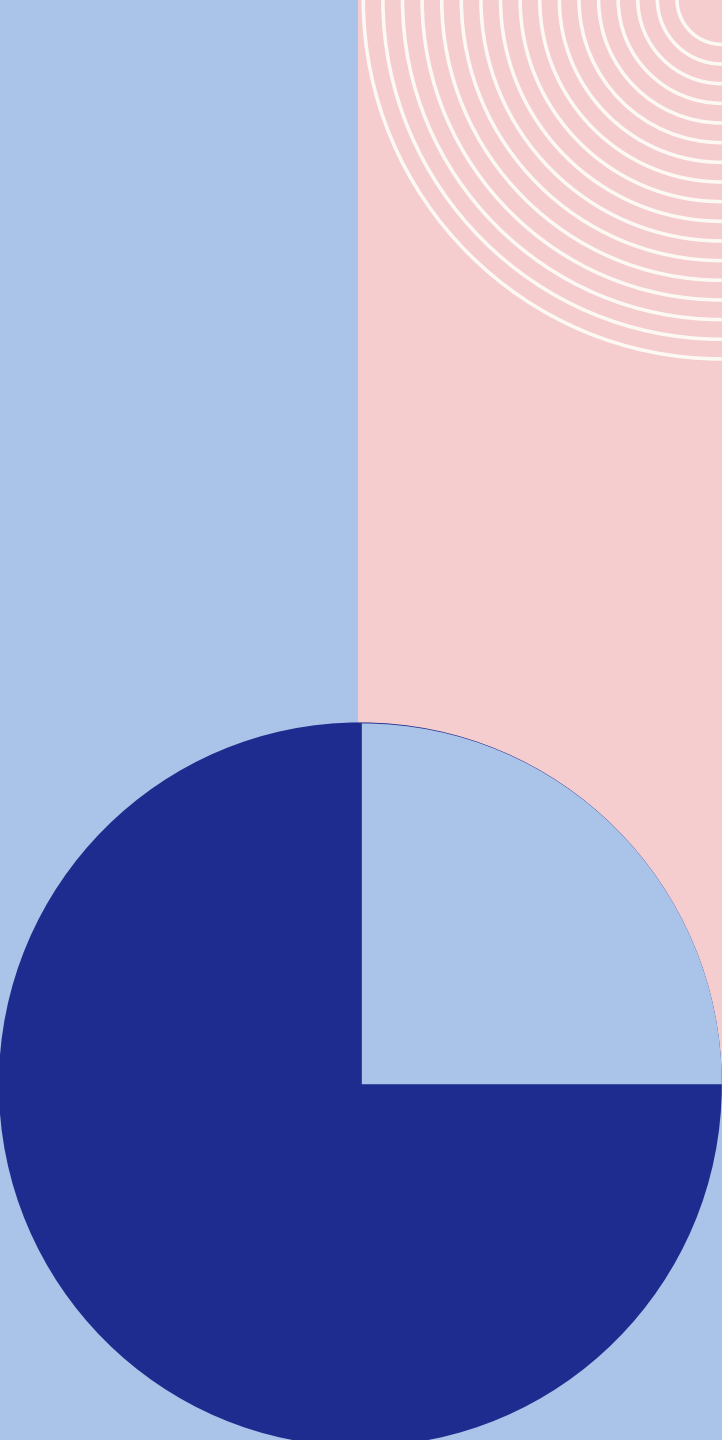
- 6.2.1 Justification memo, approved by DOJ and the Purchasing Manager** *(12 N.N.C. § 349(B))*

- 6.2.2: Solicitation Documentation** *(12 N.N.C. § 330-31(F))*

- Must include criteria by which all Offers are to be evaluated and any issued corrections or amendments

- Examples: Requests to vendors for quotes

**BREAK/PRACTICE**



# **CONTRACT MODIFICATIONS**



# NAVAJO NATION MODIFICATION FORM

## Navajo Nation Contract Modification

Current  
Modification  
Information

CONTRACT NO.:   
BUSINESS UNIT NO.:   
CONTRACT MOD. AMT.: \$   
NEW ORIGINAL CONTRACT AMT.: \$

PROGRAM:   
ADDRESS

Modification No.:   
Date:   
Mod. Effective Date:

CONSULTANT:   
ADDRESS

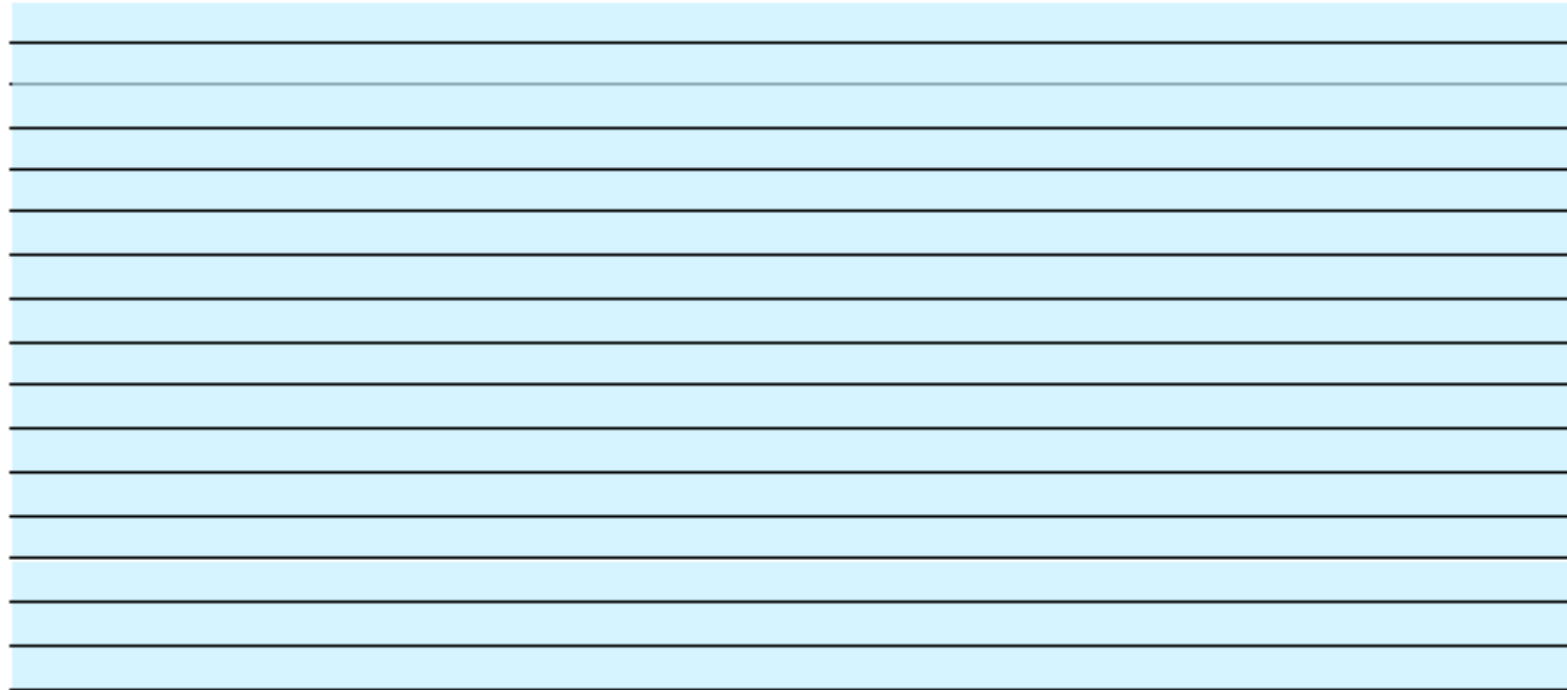
Contract Effective Date   
Contract Begin Date:   
Contract End Date

Original Executed  
Contract Information

# NAVAJO NATION MODIFICATION FORM

The Services Contract ("Contract") consistent with the details noted above is being modified as follows:

1.



2. All provisions of the Contract not specifically amended in this Modification shall remain unchanged.
3. Attached find supporting documents for this Modification, any prior executed Modifications, and the original Contract and all Exhibits thereto.

Detail the  
Modification(s)



# NAVAJO NATION MODIFICATION FORM

### Summation

The Original Contract Amount at the Contract Effective Date was:

Net change by previously authorized contract Modifications:

The Original Contract Amount prior to this Modification was:

The Original Contract Amount will be  increased  decreased  unchanged  
by this Modification in the amount of:

The new Original Contract Amount, including this Modification, will be:

The Contract End Date will be  increased  decreased  unchanged to:

\$ Amount At Execution

\$ Amount Changed for all Mods

\$ Amount after previous Mod/Execution

\$ Amount changed in this Mod

\$ New Total Contract Amount

Contract End Date, changed or unchanged

CONSULTANT

NAVAJO NATION AUTHORIZED REPRESENTATIVE

NAVAJO NATION SIGNATORY

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

# RESUMING EXPIRED CONTRACTS

If:

- Contract expired by < 9 months,
- Work not complete
- Consultant not at fault

Then

- MAY execute modification to extend Contract Term ONLY

# MODIFICATION CHECKLIST

NCTE: No Cost; Time Extension

- If no change to Original Contract Amount but extending Contract Term, Budget forms are not required



## NNDNJ REVIEW CHECKLIST: CONTRACT MODIFICATION

Modification No.:	<input type="text"/>	NNDNJ INTERNAL USE	
		NNDNJ Intake Date:	<input type="text"/>
		NNDNJ Tracking #:	<input type="text"/>
Selected Consultant:	<input type="text"/>		
	<small>Business Name</small>		
	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<small>Authorized Agent Name</small>		<small>Authorized Agent Title</small>
Procuring Department:	<input type="text"/>		
Procuring Employee:	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<small>Name</small>		<small>Title</small>

### Section 1: 164-Reviewer Documentation

- 1.1: 164 Review Signature Form, with reviewer signatures (Exec. Order No. 06-2023 & Guidelines § 107)
- 1.2: OOC Memo to Reviewers/Sign-Off Sheet, if any (2 N.N.C. § 164; 12 N.N.C. § 360; Guidelines § 110)
- 1.3: OMB Review Documentation, if any (2 N.N.C. § 164; 12 N.N.C. § 360(E); Guidelines § 110)
- 1.4: Navajo Business Opportunity Act Clearance (5 N.N.C. § 207(A); Procurement Rules & Regs. § IV(F) (\*NNP))
- 1.5: this Contract Review Checklist, completed

### Section 2: Procurement Clearances (12 N.N.C. § 1505; Memo BRD-24-0028)

- 2.1: Office of the Controller Dated:   Compliant  Not Comp  
→ Issued no more than thirty (30) days prior to the date of submission to NNDNJ
- 2.2: Office of the Navajo Tax Commission Dated:   Compliant  Not Comp  
→ Issued during the fiscal year quarter for the date of legal review submission to NNDNJ

### Section 3: Contract (12 N.N.C. § 360; NNPRR § IV(G),(I))

- 3.1: Proposed Contract Modification, including attachments/exhibits
- 3.2: Prior Contract Modifications, including attachments/exhibits, if applicable
- 3.3: Original Contract, including exhibits
- 3.4: OOC Letter providing Contract Number, if establishes contract Begin Date
- 3.5: Notice to Proceed, if construction contract

### Section 4: Updated Forms & Certifications (Updated Forms Required)

- 4.1: Certification Regarding Debarment & Suspension (12 N.N.C. § 366)
- 4.2: Certification Regarding Non-collusion (12 N.N.C. § 303(B); 2 N.N.C. § 3741-58)
- 4.3: IRS form W-9 (Rev. March 2024)
- 4.4: Certificate of Good Standing (5 N.N.C. §§ 3175, 3630, 3892) Dated:
- 4.5: Certificate of Insurance, current for Modification (NNPRR § XIX(A)) Expiration Date:
- 4.6: Risk Management Program Review Letter, if Mod changes scope of work (NNPRR § XIX(A))

### Section 5: Funding Documents

(Not Required if Modification is No-Cost; Time Extension)

- 5.1: Budget Verification Sheets and Forms (NNPRR § IV(H))
- 5.2: Job Status Inquiry Prints (12 N.N.C. §§ 304(B), 370)



# MODIFICATION CHECKLIST

## **Section 3: Contract** (12 N.N.C. § 360; NNPRR § IV(G), (I))

- 3.1: Proposed Contract Modification, including attachments/exhibits
- 3.2 Prior Contract Modifications, including attachments/exhibits, if applicable
- 3.3 Original Contract, including exhibits
- 3.4 OOC Letter providing Contract Number, if establishes contract Begin Date
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## **Section 4: Updated Forms & Certifications** (Updated Forms Required)

- 4.1 Certification Regarding Debarment & Suspension (12 N.N.C § 366)
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# MODIFICATION CHECKLIST

## **Section 5: Funding Documents**

(Not Required if Modification is No-Cost, Time Extension)

- 5.1: Budget Verification Sheets and Forms *(NNPRR § IV(H))*
- 5.2: Job Status Inquiry Prints *(12 N.M.C. §§ 304(B), 370)*

# PRACTICE TIPS

## DOCUMENTS MUST BE *CURRENT* AT TIME OF NNDOJ SUBMISSION

- **Except: NBOA  
Priority Certificate  
valid at time of Offer  
opening**
- Budget extra time
- Double Check document dates
- Reach out to NNDOJ early
  - Ask for assistance with solicitation, determining contract type
  - Submit contract and packet for Pre-review
- Use the checklist!
- Ask NNDOJ attorney to collaborate with you to keep document review open while you correct outstanding errors
- Contract Reviews work best when communicate directly with NNDOJ throughout the process

# RESOURCES

# RESOURCE: STATUTE & REGS

- Navajo Nation Privacy Act. 2 N.N.C. §§ 81-92.
- Navajo Nation Council and Committee Legislative Process. 2 NNNC § 164
- Contracts. 2 NNNC § 222-23.
- Navajo Nation Ethics in Government Law. 2 N.N.C. §§ 3741-93.
- Navajo Business Opportunity Act. 5 N.N.C. §§ 201-15.
- Navajo Nation Corporation Code. 5 N.N.C. §§ 3100-3425.
- Navajo Nation Limited Liability Company Act. 5 N.N.C. §§ 3600-3759.
- Navajo Nation Uniform Partnership Act. 5 N.N.C. §§ 3800-3919.
- Navajo Nation Procurement Act. 12 N.N.C. §§ 301-80.
- Navajo Nation Procurement Regulations. BFD-192-03.
- Navajo Nation Business and Procurement Act. 12 N.N.C. §§ 1501-16.
- Navajo Preference and Employment Act. 15 N.N.C. §§ 601-19.

# RESOURCES: OTHER

- Document Review. Exec. Order No. 06-2023 & Guidelines.
- Procurement Clearances. Memo BRD-24-0028.
- Certificate of Good Standing Requirements. Memo BRD-26-0150
- Reimbursables/Mileage. ONTC Public Ruling, Navajo Salex Tax (Dec. 24, 2012).
- Construction. ONTC Public Ruling, Taxability Pre-Construction (Nov. 6, 2013).

**THANK YOU**

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## **REMINDER:**

This presentation is intended for general information purposes only and should not be considered legal advice or opinion on any specific facts or circumstances.

Consult the Navajo Nation code and regulations for specific information and submit questions to the Purchasing Services Department and the Navajo Nation Department of Justice.