

# **COQUILLE INDIAN TRIBAL CODE**

Chapter 160

**Part 1 – General Governmental Affairs**

Fiscal Management

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Fourth Restated Coquille Indian Tribe Fiscal Management Ordinance

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**160.010 Purpose**

This Ordinance sets forth uniform standards, procedures, responsibilities and authorities for financial management for all Tribal government operations and activities. This Ordinance does not and is not intended to provide a specific response for every situation or question that may arise. All officers and employees of the Coquille Indian Tribe are expected to comply with the provisions of this Ordinance and to act in the best interest of the Tribe. In carrying out the Tribe's business, all persons are expected to use sound judgment and to act in a reasonable and prudent manner.

Targets and deadlines set forth within this Ordinance are intended to guide the development of sound institutional fiscal management processes. It is recognized that unforeseen events and priorities will take precedence over specific targets and deadlines from time to time. The Tribal Council expects to be advised regarding such events.

**160.020 Jurisdiction and Background**

The Tribal Council, as the governing body, exercises fiduciary care for all assets of the Coquille Indian Tribe. This fiduciary care includes appropriate management and protection of all assets to obtain for the Tribe the highest and best benefit from all Tribal assets.

The Tribal Council has determined that uniform policies and standards are required to ensure that all Officers and employees of the Tribal government exercise proper care in the use and management of assets of the Tribe.

It is the intent of the Tribal Council that all Officers and employees of the Tribal government take responsibility to exercise appropriate fiduciary care in the use and management of all resources of the Tribe.

This Fourth Restated Fiscal Management Ordinance replaces entirely all previously adopted Tribal law governing Tribal fiscal management.

**160.030 Definitions**

Account Group - Financial reporting device designed to provide accountability for certain assets and liabilities that are not recorded in the funds because they do not directly affect net expendable available financial resources.

Agent of the Tribe – A person authorized by the Tribe to act on its behalf.

Audit Team – The Tribal Executive Director, Chief Financial Officer and Controller.

Best Execution Based Trading – Securities transactions that are executed in such a manner that

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the clients' total cost or proceeds in each transaction is the most favorable under the circumstances.

Capital Equipment – Tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

Chief Financial Officer – The senior official within the Tribal government with delegated responsibility of managing all financial systems and procedures.

Conflict of Interest – A situation in which financial or other personal considerations have the potential to compromise or bias the professional judgment and objectivity of an officer, employee or agent of the Tribe, such that a reasonable person might question whether an officer, employee or agent of the Tribe is acting in his/her own self-interest to the detriment of the Tribe's best interests.

Coquille Indian Tribe or Tribe – The government of the Coquille Indian Tribe, a federally recognized Indian Tribe. For the purposes of this Ordinance, the Coquille Indian Tribe (Tribe) does not include Tribal Subordinate Organizations.

Cost Center – A set of balance sheet, revenue and/or expense accounts for a specific organizational unit, department, program, project, activity, function, grant, contract or other cost objective. Separate Cost Centers are used for management and budget control and fiscal accountability.

Custodian – A bank or financial institution where the Tribe holds an investment or investment account.

Executive Director – The senior management position within Tribal government.

Fund – Separate accounting entity with a self-balancing set of accounts, recording assets and resources, and related liabilities, reserves, and equities, which are segregated for the purpose of carrying out specific activities or objectives in accordance with legal restrictions, special regulations or other limitations.

Immediate Family – An individual's parents, grandparents, brother, sister, spouse, parents-in-law, brothers and sisters-in-law, stepparents, children, stepchildren, and members of the individual's household.

Indian-owned Business – A business of which more than 50% of the ownership interest or stock is held by one or more members of a federally recognized Indian tribe.

Indirect Costs – Those management, administrative, facilities and other support costs, which are shared in common by other Cost Centers and cannot be allocated to such other Cost Centers without efforts disproportionate to results achieved. Indirect costs shall be further defined by the Chief Financial Officer, consistent with applicable federal requirements.

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Non-recurring Program Enhancement – One time funding for a specific project or need. A Non-recurring Program Enhancement may not be used to fund ongoing program operational costs and may not be used to fund permanent staff positions.

Officer of the Tribe – Any person holding an office of trust, command or authority in the Tribe, including, but not limited to Tribal Council members, the Tribal Executive Director, Tribal Chief Financial Officer and Tribal Attorney.

Pooled Costs – Organization-wide costs not considered directly allocable to individual programs or objectives because the effort to do so is disproportionate to the results achieved. Pooled costs are allocated equally to programs that benefit from them based on a defined rate and allocation base. Examples of pooled costs include fringe benefits and Indirect Costs.

Portfolio – Monetary assets of the Tribe invested for a common purpose and administered under a common investment policy statement.

Procurement Authority – The right to obligate the Tribe for the acquisition and purchase of goods and services.

Procurement Officer – The staff position(s) within Tribal government with delegated authority to obligate the Tribe for the acquisition of goods and services.

Program – A functional area of Tribal government with related activities intended to fulfill a common objective.

Soft Dollar Transactions – Arrangements whereby a discretionary investment adviser (or money manager) is allowed to pay for and receive research, research-related or execution services from a broker-dealer or third-party provider, in addition to the execution of transactions, in exchange for the brokerage commissions from transactions for client accounts.

Subordinate Organizations – Distinct legal entities, that may include, limited liability companies, corporations, commissions, authorities and non-profit organizations chartered by the Tribal Council to carry out specific purposes under delegated authority of the Tribal Council and that have the authority to receive and disburse funds.

Tribal Council – The governing body of the Coquille Indian Tribe.

Tribal Employee – Any regular or part time employee of the Tribe as defined in the Tribal Personnel Manual or Employee Handbook.

Tribal Member-Owned Business – A business of which more than 50% of the ownership interest or stock is held by one or more members of the Coquille Indian Tribe.

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**160.100      General Policy**

1.     Appropriate Protection and Management. Every Tribal Council Member, committee member, employee and individual who serves the Tribe in any capacity shall be expected to ensure appropriate protection and management of all Tribal resources in accordance with the standards established by this Ordinance.
  
2.     Inapplicability to Subordinate Organizations. This Ordinance shall not apply to the Tribe's Subordinate Organizations. However, financial records of Subordinate Organizations shall be available to the Tribal Council at all times. Tribal Council may delegate this authority to Tribal Administrative staff. Subordinate Organizations must adopt their own financial standards that do not conflict with this Ordinance.
  
3.     Ethical Conduct. All officers, employees and agents of the Tribe shall conduct themselves to high ethical standards in carrying out the business of the Tribe. Such individuals shall not:
  - (a)    Participate in any activity in which such individual has, or reasonably appears to have, a Conflict of Interest, unless such Conflict of Interest has been fully disclosed to and waived by the Tribal Council by motion; *provided* that the Executive Director may waive in writing any disclosed conflicts involving transactions less than \$5,000, and report the waiver at the next scheduled Tribal Council meeting.
  
  - (b)    Hold him/herself out to any entity as having any official capacity other than those roles and duties that are officially assigned.
  
  - (c)    Seek personal gain or influence with any third party through the use of their title, their access to Tribal information or their decision-making authority.
  
  - (d)    Interfere with any authorized person carrying out a fiscal management responsibility under this Ordinance.
  
  - (e)    Obligate the Tribe for any purpose or amount not specifically authorized within the scope of their position, duties or authority.
  
  - (f)    Obtain, use or disclose information of the Tribe in any manner not in the best interest of the Tribe.
  
  - (g)    Engage in any occupation, pursuit, or endeavor that interferes with his/her duties or is contrary to the best interests of the Tribe.
  
  - (h)    Solicit gifts, gratuities, favors or anything of monetary value from vendors, contractors or parties to subagreements for personal gain.

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- (i) Retain unsolicited gifts from vendors, contractors or parties to subagreements of value greater than one hundred dollars (\$100) or any gifts of cultural significance without approval from the Tribal Council by motion.
  - (j) Participate in or act on, in his/her official capacity, any transaction involving a member of his/her Immediate Family without Tribal Council approval by motion.
4. **Penalties.** Any officer, agent or employee of the Tribe who violates any provisions of this Ordinance shall be subject to disciplinary action, up to and including termination, and civil and criminal liability, depending on the severity of the offense. The Tribe shall have authority to bring criminal or civil action to enforce this paragraph.
5. **Implementation.** The Chief Financial Officer shall implement this Ordinance and observe all requirements imposed. The Chief Financial Officer shall review this Ordinance periodically and recommend any necessary revisions to the Tribal Council. The Executive Director, with input from the Chief Financial Officer, may adopt such regulations he/she deems necessary to carry out the requirements under this Ordinance.
6. **Waiver.** Unless otherwise provided for under this Ordinance, the provisions of this Ordinance may be waived by resolution of the Tribal Council when, in its judgment, the circumstances warrant.

**160.200 Financial Standards**

1. **Revenues and Depositories**
- (a) All funds of the Tribe, not otherwise invested or employed, shall be deposited in banks or other reliable depositories or investment accounts insured under the FDIC or otherwise insured in a manner equivalent to FDIC coverage. No such account or depository shall exceed the amount of FDIC or comparable coverage, unless such uninsured excess is secured by a class or type of assets approved by the Tribal Council. Each such deposit and account shall be in the name of the Tribe.
  - (b) Primary signature authority over all depository accounts shall be held by Tribal Council members. The Tribal Council may delegate its signature authority by resolution, as necessary, to provide for the efficient conduct of Tribal businesses.
  - (d) All revenues shall be credited to such funds as are established by the Tribe for which they are received, provided that any revenues not designated to be credited to any other fund shall be credited to the General Fund of the Tribe.

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2. Disbursements

- (a) Unless the Tribal Council directs otherwise, disbursements of Tribal funds must conform to the approved Tribal budget, and must comply with all applicable Tribal laws.
- (b) All disbursements in excess of \$50 shall be made by check or electronic payment systems, unless otherwise authorized by the Tribal Council Chairman or the Executive Director.
- (c) Disbursements by check
  - (1) Checks shall be prepared by accounting personnel not associated with the approval of expenditures or invoices.
  - (2) Checks shall be made payable pursuant to approved vouchers or invoices and shall not be made payable to “Cash” or “Bearer.”
  - (3) Checks shall be issued under numerically controlled sequence. Spoiled or voided checks shall be stamped “void,” the signature portion of the check shall be destroyed, and the voided check shall be maintained for record purposes. Unused checks shall be secured and available only to accounting personnel.
  - (4) Check signers must be individuals independent of accounting, purchasing or receiving functions. Tribal Council may authorize the use of facsimile signatures to affix their signatures to checks in lieu of original signatures, subject to such limitations as the Tribal Council may deem appropriate.
  - (5) All checks must be completely filled out before signed. Signers shall not sign blank checks.
- (d) Disbursements by electronic payment systems. Electronic payment systems may be used to liquidate Tribal obligations provided that the systems are approved by the Tribal Council. The Chief Financial Officer shall establish internal control procedures and appropriate segregation of duties associated with electronic payments.
- (e) Cash Disbursements
  - (1) Petty cash funds may be established for making change and small disbursements of \$50 or less.
  - (2) Each petty cash fund must be authorized in writing by the Executive

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Director. Such authorization shall specify the specific custodian, location, amount, allowable uses and procedures for maintaining each petty cash fund.

3. Accounting

All financial resources and other assets of the Tribe shall be accounted for and reported on in accordance with Generally Accepted Accounting Principles (“GAAP”) as applicable to Indian tribal governments and promulgated by the Governmental Accounting Standards Board (“GASB”). Tribal accounting standards shall also include the following:

- (a) The accounting records of the Tribe shall be maintained within the Tribal offices, and shall be the property of the Coquille Indian Tribe.
- (b) The accounting year for the Tribe shall be the calendar year.
- (c) All resources over which the Tribal Council exercises any form of governmental, fiduciary or agent responsibility shall be accounted for within Tribal accounting records.
- (d) The financial statements of the Coquille Indian Tribe shall be prepared in conformity with GAAP as applied to tribal governments and promulgated by GASB.
- (e) Within 45 days after the end of each calendar quarter, the Chief Financial Officer shall submit interim financial reports to the Tribal Council for review. Such interim financial statements shall include appropriate balance sheets and/or revenue and expense statements, but are not required to contain extensive notes necessary for audited year-end financial statements. The Chief Financial Officer may include explanatory notes on any major transactions for the period or any other issues which should be considered by the Tribal Council.
- (f) Within 120 days after the end of each calendar year, the Chief Financial Officer shall submit completed financial statements to the independent auditor selected by the Tribal Council. Such financial statements shall contain all necessary notes, disclosures and schedules to allow the independent auditor to render an opinion on said statements.
- (g) Annual audits shall be conducted and audited financial statements shall be published in accordance with CITC 160.200(8).
- (h) Use of Fund Accounting

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- (1) Consistent with GAAP the Coquille Indian Tribe shall employ the use of self-balancing sets of accounts (i.e., Funds) for the purpose of accounting for all resources and activities administered by the Tribal government.
- (2) The Tribal Council may also establish Funds to separately account for resources it wishes to designate or earmark for special purposes, requirements or uses, provided such Funds comply with GAAP. Any Fund established by the Tribal Council shall be governed by an ordinance adopted by Tribal Council to provide accountability over resources and ensure that the monies are used for approved purposes.
- (3) Except as provided herein, all resources and activities not required by GAAP or Tribal law to be accounted for within a separate Fund shall be accounted for and administered within the Tribal general fund.
- (4) The Chief Financial Officer shall provide for the implementation of all Funds required by GAAP or authorized by the Tribal Council, as well as the periodic review of all authorizing Fund ordinances.
- (5) Fund ordinances shall incorporate all needed provisions to ensure administration of the Fund(s) authorized therein, including, but not limited to:
  - (A) Fund Name.
  - (B) Fund Purpose: The intent of the Tribal Council in establishing the Fund.
  - (C) Fund Description: A description of the Fund, including any background, history and circumstances which led to the creation of the Fund, as well as the expectations and intentions of the Tribal Council regarding the Fund's future and long-term management.
  - (D) Fund Authorization: A statement authorizing the creation of the Fund and identifying the specific fund-type for accounting purposes.
  - (E) Fund Contributions: A statement identifying the expected source(s) of contributions or revenues to the Fund, including a statement regarding the use of any Fund earnings.
  - (F) Fund Custody: If applicable, a statement regarding the type of depository(ies) authorized to hold the Fund's cash assets and

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whether the Fund's assets may be commingled with other Tribal Fund assets to facilitate efficient management.

- (G) Fund Uses: A statement regarding the authorized uses of Fund assets, including the types of allowable expenditures, any spending restrictions, and the process for appropriating amounts from the Fund for expenditure, if separate from the Tribal budget.
- (H) Reporting Requirements: A description of any reporting requirements that are in addition to those set forth within this Fiscal Management Ordinance.
- (I) Target Fund Balance: A statement regarding any minimum Fund balance targets or other Fund balance objectives, as applicable.
- (J) Fund Ordinance Review: Instructions regarding implementation and review of the Fund ordinance, if any, in addition to those requirements set forth herein.

- (6) Whenever resources are received by the Tribe for a special purpose for which the Tribe has not previously authorized a separate Fund ordinance, but for which a separate Fund ordinance is necessary, the Chief Financial Officer shall establish a new Fund for the purpose of accounting for such resources until such time as the Tribal Council adopts an ordinance providing direction for the new Fund. The Chief Financial Officer shall provide temporary written direction for administration of the Fund and shall draft a recommended ordinance for Tribal Council consideration.

4. Cost Allocation

- (a) All costs shall be allocated based on the purpose for which they were incurred. All programs, separate portions thereof or separate cost objectives shall be accounted for within separate Cost Centers to allow for an accounting of all revenues and expenditures associated with those programs or cost objectives.
- (b) Indirect Costs shall be accounted for within Cost Centers established to account for indirect cost functions. The Chief Financial Officer shall prepare the Tribe's Indirect Cost proposals annually, consistent with applicable federal requirements. The Tribal Council shall approve by resolution all Indirect Cost agreements negotiated with the federal government.
- (c) Costs shall be allocated in accordance with approved Tribal budgets and Tribal laws.

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- (d) All programs shall pay their respective shares of any Pooled Costs associated with their operations. The method used to allocate Pooled Costs shall be prepared by the Chief Financial Officer and reviewed by the Executive Director.
- (e) Cost Allocation to Grants and Contracts
  - (1) Costs shall be allocated to federal and other grants and contracts or other agreements on the same basis as provided by this Ordinance in a fair and uniform manner.
  - (2) No costs shall be allocated to any federal or other grant or contract or other form of agreement that would in any way violate the applicable agreement or the laws or regulations of the funding source. Any costs which are associated with, but are not appropriate to allocate to such funding source shall be allocated to the appropriate Tribal fund as shall be directed by the Tribal Council through budget, or as otherwise approved. To the extent that no Tribal Council direction has been provided, such costs shall be allocated to the General Fund and reported to the Tribal Council by the Chief Financial Officer.

5. Budgets

All revenues and expenditures of the Tribe shall be authorized pursuant to budgets approved by the Tribal Council by resolution.

Unless the Tribal Council provides otherwise by resolution, general fund revenues and gaming distributions may only be budgeted for expenditure in the fiscal year following the year such revenues and distributions are recognized. Unless the Tribal Council provides otherwise by resolution, at least half of gaming distributions shall be budgeted for deposit into long-term investments.

Tribal budgets are to be developed and recommended to the Tribal Council by the Executive Director in collaboration with the Chief Financial Officer as follows:

- (a) By September 1, the Chief Financial Officer shall submit revenue estimates for the succeeding year to the Executive Director.
- (b) By November 1, the Executive Director shall submit a proposed budget to the Tribal Council, for the succeeding calendar year. Such budget shall include all anticipated revenues and expenditures for the calendar year. The budget shall be provided in such detail as to clearly identify the resources available for all programs and purposes and shall include the following:
  - (1) A narrative for each function or program which indicates the goals and

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objectives for the coming year.

- (2) A breakdown of the sources of revenue for each program or purpose.
  - (3) A summary of the anticipated expenditures for each program or purpose.
  - (4) A clear presentation of funding sources for new costs.
  - (5) Any commitments requiring future year appropriations.
- (c) The Tribal Council shall make such modifications as it shall deem appropriate, and shall adopt such budget not later than December 15 of each year for the succeeding calendar year.
- (d) Budget Implementation and Management

(1) Budget Authority

The Executive Director has overall management authority over the adopted Tribal budget, and shall be authorized to approve the expenditure of funds pursuant to the approved budget. The Executive Director may delegate all or any portion of his/her budget authority to employees and Officers of the Tribe, provided that such delegation shall be in writing specifying the specific individual delegated and the scope of the delegate's authority.

(2) Budget Variances

(A) Managers may adjust budgets for Cost Centers under their authority within the total amount of funds available for each Cost Center, provided that:

- (i) The Executive Director shall authorize any modifications from the original approved budget that involve the internal shifting between line items in excess of 10% of the total budget for the cost center, cumulative, for each year.
- (ii) Such budget adjustments for a grant or contract do not violate the terms and conditions of said grant, compact, or contract.

(B) At any time that a manager has reason to believe that the total amount to be expended for a given Cost Center will exceed the total approved budget for that Cost Center, including under-

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collection of projected revenues, that manager shall immediately bring the matter to the attention of the Executive Director, in writing, and propose strategies for alleviating such negative budget variances. Based on the situation and strategy proposed, the Executive Director may request additional budget authority from the Tribal Council. Absent additional budget authority, the manager shall take appropriate action to reduce expenses to the amounts authorized.

(3) Budget Transfer

Transfer of budget authority from one Cost Center to another requires approval of the Executive Director.

(4) Budget Adjustment

Unless otherwise prohibited, the Executive Director may adjust the overall adopted annual budget within the total amount appropriated for any Fund. The total cumulative adjustment(s) must not exceed 5% of the total appropriations for each year. Any adjustments, cumulative or otherwise, exceeding 5% of the overall adopted annual budget require approval by Tribal Council resolution. Absent express Tribal Council approval, no adjustment may exceed the total amount appropriated.

(e) Availability of Appropriations

(1) The authority to spend funds appropriated pursuant to the annual budget shall begin on January 1 and lapse on December 31 of the budget year, subject to the following exceptions:

(A) Prior year carryover funds from grants or contracts awarded for the accomplishment of particular work or projects within a grant period other than the Tribal fiscal year will be carried over for the completion of approved grant objectives within the grant period.

(B) Unexpended prior year funds whose source are Self-Determination, or Self-Governance funds which are available for multiple programs or projects to be allocated at the Council's discretion, will be pooled for rebudget in the new year. One carryover pool will be established for each funding source. The Council will allocate carryover funds on the basis of current year needs and priorities.

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- (C) Tribal funds appropriated for a specific project or purpose, other than ongoing operations, shall remain available for expenditure until that specific project or purpose is completed. The Chief Financial Officer shall determine the availability of appropriations for incomplete projects or purposes under this Ordinance.
  - (D) The Chief Financial Officer shall report to the Tribal Council any undesignated general fund balances or other resources available for expenditure, but not appropriated in the annual budget. At any time during the year, the Tribal Council may authorize expenditure of these funds through supplemental appropriations.
- (2) Approval by the appropriate authority of grants or contracts awarded during the year, but not included in the adopted budget, shall constitute appropriation and authority to modify the budget accordingly, when such award is available for expenditure. The Tribal Council reserves the authority to approve grant or contract agreements requiring an appropriation of matching or other funds not included in the adopted budget. The Executive Director shall have the authority to reduce any appropriations of supplemental Tribal funding for that program in an amount equal to the additional grant revenue received so that the overall spending authority for that program remains unchanged.
  - (3) In no event shall the total amount appropriated for any Fund be exceeded for any calendar year, unless approved through supplemental appropriations of the Tribal Council.
- (f) Budget Revisions
    - (1) Only Tribal Council may authorize revisions to the total amount of budget authorized in a given year. Any such change in total appropriations must be done by resolution.
    - (2) The Chief Financial Officer shall maintain the official record of budget appropriations and revisions.
    - (3) The Chief Financial Officer shall report on the original and final adopted budgets as part of the year-end financial reporting to the Tribal Council.
  - (g) Authority for expenditures is limited to appropriations pursuant to budget as set forth herein. The Chief Financial Officer shall establish procedures to assure that expenditures do not exceed the adopted Tribal budget.

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6. Procurement

The acquisition of all goods and services by the Coquille Indian Tribe shall conform to the provisions contained herein.

- (a) In general, procedures set forth pursuant to this policy shall conform to applicable federal procurement standards (e.g., 43 CFR § 12.76). In addition, any official responsible for authorizing procurement using federal funds shall be responsible for compliance with any other rules and regulations that are a condition of the funding source.
- (b) Each employee or official authorized to acquire goods and services on behalf of the Coquille Indian Tribe shall take all due care to ensure that all costs incurred are reasonable and that all procurement actions are taken in a fair and equitable manner, and in compliance with this Ordinance.
- (c) Tribal Preference
  - (1) In the acquisition of goods and services, preference up to 5% above or below the bid price shall be afforded to Indian Owned Businesses that have the ability to provide the necessary quality and quantity of goods or services within required time frame(s).
  - (2) In the acquisition of goods and services, preference up to 10% above or below the bid price shall be afforded to Coquille Tribal Member-Owned Businesses that have the ability to provide the necessary quality and quantity of goods or services within the required time frame(s).
  - (3) A business shall be eligible for no more than one of the preferences described in CITC 160.200(6)(c)(1) or (2).
  - (4) Goods and services to be acquired shall, when practical, be specified in sufficient detail to make price the deciding factor in selection of the successful bidder.
- (d) Procurement Authority vests with Tribal Council. Procurement Authority does not include the authority to waive Tribal sovereign immunity.
  - (1) Procurement Authority vested with the Tribal Council is hereby delegated to the Executive Director for all procurement actions needed for Tribal government operations not exceeding \$100,000 for which budget authority has been provided, with exception of the following items for which the Tribal Council reserves approval authority to itself:
    - (A) Selection and engagement of Legal Counsel.

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- (B) Selection and engagement of Independent Auditors.
  - (C) Selection and engagement of other professional advisors to the Tribal Council for contracts exceeding one year.
- (2) All procurement actions exceeding \$100,000 shall be authorized by resolution. All procurement actions between \$50,000 and \$100,000 shall be reported in writing to the Tribal Council at the next regularly scheduled Tribal Council meeting.
  - (3) The Executive Director may delegate his or her Procurement Authority to a Procurement Officer who shall be responsible to acquire necessary goods and services for the Tribe. The Procurement Officer shall maintain a requisition process to enable operating departments and programs access to goods and services.
  - (4) Procurement Authority vested with the Tribal Council is hereby delegated to the Tribal Attorney, subject to authorized appropriations in the Tribal budget, for the exclusive purpose of allowing the Tribal Attorney to contract confidential services integral to fulfillment of that position's duties.
  - (5) Except as otherwise authorized by the Tribal Council, only the Tribal Council, Executive Director and Procurement Officer have Procurement Authority under this Ordinance. No other employee, officer or agent of the Tribe may obligate the Tribe for the acquisition of goods or services.
- (e) Procurement Procedures
- (1) Simplified purchasing procedures not requiring formal bids or proposals may be used for procurements under \$100,000 as follows:
    - (A) Procurements of up to \$2,500 may be awarded on the basis of verbal quotations without competition.
    - (B) Procurements over \$2,500 and up to \$100,000 may be awarded on the basis of competitive quotations documented in writing and provided to the Procurement Officer.
    - (C) The Executive Director or Procurement Officer shall have the authority to approve sole source awards up to \$50,000 when the circumstances dictate and it is in the best economic interest of the Tribe to do so, except when applicable laws, funding conditions or

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regulations require a different procedure. Tribal Council shall approve sole source awards in excess of \$50,000 by motion.

- (2) Formal bidding procedures must be used for procurements of \$100,000 or more. Under formal bidding procedures, the Tribe will:
  - (A) Solicit written proposals from an adequate number of qualified sources based on requests for proposals that include descriptions of minimum acceptable standards or requirements, and proposal evaluation factors.
  - (B) Award contracts to responsible bidders based on the factors identified in CITC 160.200.6.e (3), below.
- (3) All procurement decisions shall be based on the best interests of the Tribe. Lowest price is not required to be the deciding factor in selecting the awardee. Other factors may be considered, including but not limited to, Tribal member or Indian preference, vendor or product performance history, and vendor or product availability.
- (f) The Procurement Officer shall maintain records of all procurements indicating the sources or potential bidders solicited, quotations or proposals received, other factors considered and the reason(s) for selecting the awardees. The Procurement Officer shall be responsible to ensure that the record of each procurement justifies the selection and award on the basis of fairness, efficient use of resources and the factors identified in CITC 160.200.6.e(3), above.
- (g) To ensure the protection of the Tribe's interests and the appropriate conduct of business, the Executive Director shall determine those goods and services for which formal written contracts shall be required and the form of such contracts.
- (h) All procurement actions shall be made consistent with appropriate and accepted business practices and shall ensure that all suppliers of goods and services are treated fairly, efficiently and professionally.
- (i) No individual shall participate in or act upon any procurement in which he/she has a Conflict of Interest as defined by this Ordinance and applicable federal laws.
- (j) Tribal Council must approve any contracts with amounts extending beyond the existing budget authority.
- (k) The Executive Director shall establish dispute resolution procedures to ensure that disputes arising from procurement actions are resolved timely and with fairness to all parties, while preserving the Tribe's interests.

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(l) Administrative Waiver

(1) The Executive Director may waive the procurement provisions of this Ordinance:

(A) To the extent that an emergency exists involving the need for protection of life or property.

(B) In the event that the Chief Financial Officer certifies that the Tribe received goods or services from a bona fide seller in good faith.

(2) The Chief Financial Officer shall ensure that any waiver made under this section is justified, documented and reported to Tribal Council at the next regularly scheduled Tribal Council meeting.

7. Borrowing and Leasing

(a) Notwithstanding any other provision of this Ordinance, leases and borrowing obligations requiring total payments less than \$50,000 may be approved by the Executive Director. Any other lease, borrowing or other financing arrangement must be authorized by the Tribal Council.

(b) No lands or other assets held in Trust by the United States for the benefit of the Coquille Indian Tribe shall ever be given as collateral for any loan or other financing arrangement.

(d) The Chief Financial Officer shall maintain a comprehensive record of all debts and financing arrangements and shall ensure that provisions are made for meeting obligations of such agreements.

8. Audits

(a) The Chief Financial Officer shall conduct internal examinations or reviews of financial records and procedures as deemed necessary to ensure the financial integrity of Tribal operations.

(b) A firm of independent certified public accountants shall conduct an annual audit of all of the financial operations and records of the Tribe for each calendar year.

(1) Such audits shall be conducted in accordance with Generally Accepted Auditing Standards and shall provide for all financial statements and other reports required by the Tribe, the Federal Government and any other funding source.

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- (2) When the Tribal Council determines that the best interest of the Tribe will be served by seeking audit proposals, but not less than once every five (5) years, the Audit Team shall obtain proposals from qualified audit firms and recommend selection to the Tribal Council. Multiple year engagements or annual extensions of existing agreements with audit firms may be used where practical to provide efficiency and continuity in performance of audits.
  - (3) Independent auditors may coordinate and collaborate with the Audit Team while conducting the audit, but shall take formal direction from the Tribal Council.
  - (4) The Audit Team shall ensure that the audit report for the preceding calendar year is completed by June 30, unless the Tribal Council approves otherwise by motion.
  - (5) The report of the auditors shall be addressed to the Tribal Council. At the request of the Tribal Council, the auditors shall present their report in person to afford members of the Council the opportunity to question the auditors regarding the report, audit findings or any auditor recommendations.
- (c) To the extent that any disagreements exist during the audit regarding any audit finding or the presentation of information within the audit report, such matters shall be resolved by the Audit Team and the independent auditor as soon as practical to ensure a timely completion of the audit and delivery of the report. While resolving any disputes, the Audit Team is not authorized to approve a qualified opinion or serious adverse finding, such as a finding of material weakness or material questioned cost. Audit reports containing qualified opinions or serious adverse findings shall not be issued without prior written notice to and, if requested, discussion with the Tribal Council.

9. Internal Control

- (a) The Chief Financial Officer shall establish procedures to safeguard all Tribal assets and provide for an accurate and consistent accounting of all financial transactions of the Tribe.
- (b) Each officer, employee or agent of the Tribe assigned responsibility for the implementation of activities and functions under this Ordinance shall be responsible to implement effective internal controls over such functions to properly segregate duties and establish effective written procedures and instructions for the assigned functions.

10. Financial Planning

As required by the Tribal Council as part of its five year planning process, the Chief Financial Officer shall routinely report information including revenue and budget forecasts.

**160.300 Investment Management**

1. Scope

This section applies to the investment of all Tribal monetary assets, excluding those assets held in depositories for immediate disbursement.

2. Guidance for Investment Management Processes

(a) General Guidance. The Tribal Council has considered authoritative guidance available for the investment of fiduciary assets. Guidance includes the Restatement of the Law Third, Trusts, of the American Law Institute, ERISA guidance provided for pension trustees by the Internal Revenue Service, guidance from the U.S. Department of Labor, and other industry guidance. Such guidance was considered in setting standards and delegating duties through this section (CITC 160.300), and should be considered in its implementation.

(b) Risk Guidance. The Tribal Council recognizes that there are a variety of risks inherently encountered when investing the Tribes' financial assets. It also recognizes the need to make conscious decisions regarding acceptable levels of risk, consistent with the goals, time horizon, cash flows, liquidity requirements, earnings needs and legal or regulatory constraints for each Portfolio. This section (CITC 160.300) provides processes to ensure that, in the management of Tribal Portfolios, there is a process for determining and measuring appropriate levels of risk when establishing the asset allocations for Tribal Portfolios.

3. Delegation of Authority and Responsibilities

(a) Chief Financial Officer. Responsibility and authority to invest Tribal monetary assets and manage the Coquille Indian Tribe's investment program is delegated to the Chief Financial Officer, who shall act in accordance with this Ordinance and the written investment policy statements adopted by the Tribal Council for each Portfolio. No person may invest Tribal monetary assets or manage the Tribe's investment program except as provided under the terms of this Ordinance and the procedures established by the investment policy statements. The Chief Financial Officer shall follow a system of controls that is designed to protect the invested

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assets of the Coquille Indian Tribe from misappropriation, theft or misuse.

- (b) Committee. The Tribal Council may establish a committee under the Tribal Council Committees Ordinance, Chapter 144, as amended or restated, to provide investment management advice, oversight, analysis and/or guidance to the Tribal Council and Chief Financial Officer, *provided* that the duties and powers of any such committee do not conflict with this Ordinance.

4. Standards of Care

- (a) Prudence. Officers, employees, agents, consultants and money managers involved the Tribe's investment process shall apply the "prudent person" standard in the context of managing the Tribe's investment program. The "prudent person" standard states that investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. Officers and employees acting in accordance with this Ordinance and the investment policy statements, and exercising the "prudent person" standard shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided that:
  - (1) Any significant deviations from portfolio performance expectations are reported in a timely fashion to the Tribal Council;
  - (2) Purchases and sales of investments are carried out in accordance with the terms of this Ordinance; and
  - (3) All relevant investment decisions are made in good faith after performing due diligence to gather all reasonably available material facts related to the investment.
- (b) Ethics and Conflicts of Interest. In addition to the provisions of CITC 160.100.3, officers, employees, agents, consultants and money managers involved in the Tribe's investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. These individuals shall further disclose to Tribal Council any material personal financial or investment positions that they or their immediate family have, which are related to the performance of the investment Portfolio(s). For the purpose of this section, any material personal interest in a company representing or being considered for use as a custodian, money manager, mutual fund, investment pool or investment asset by the Coquille Indian Tribe in its investment Portfolios is considered a Conflict of Interest and shall be addressed in accordance with the process set forth in CITC 160.100.3.

5. Investment Policy Statements

Guidance, plans and strategies for each Portfolio, as well as common control procedures, shall be documented within a written investment policy statement (IPS) approved by the Tribal Council by resolution for each Portfolio. To the extent that the Tribal Council does not direct a specific investment policy statement for Tribal monetary assets, such assets shall be invested in accordance with the investment policy statement for the general working capital portfolio until such time as the Tribal Council adopts an IPS for said assets.

The Chief Financial Officer may provide copies of approved investment policy statements to Tribal members upon request. Investment policy statements shall, at a minimum, include:

- (a) Background information regarding the purpose, goals and use of the Portfolio and any information pertinent to Portfolio planning, including Portfolio time horizon, liquidity needs, timing and amounts of expected receipts and expenditures, legal and regulatory constraints, and Portfolio return requirements.
- (b) The specific risk adopted for the Portfolio, the anticipated average annual rate of return, and the anticipated range of potential returns for any one year and projected for five year periods.
- (c) The diversification strategy of the Portfolio.
- (d) The strategic and/or tactical allocation strategy adopted for the Portfolio and the permitted variance by asset class.
- (e) Provisions for utilization of appropriate benchmarks against which the performance of the Portfolio will be measured.
- (f) A list and description of the eligible securities for the Portfolio and the specific standards and constraints related to the eligible securities.
- (g) Reference to and attachment of any analysis, including Portfolio modeling, capital market assumptions, census data, management estimates, etc. used in supporting decisions regarding investment strategies and directives for the Portfolio.
- (h) Common control procedures for investment Portfolios that include:
  - (1) Minimum monitoring requirements.
  - (2) Criteria for the selection of securities, money managers, institutional pools and/or mutual funds.
  - (3) Duties and responsibilities of money managers, investment management

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consultants, the Chief Financial Officer and Tribal Council.

(4) Specific asset class constraints.

(i) Date of adoption and/or amendment, and the schedule and process for review and a delegation of review responsibilities.

6. Pooling of Funds

Unless otherwise provided by the Tribal Council for any specific investment Portfolio, the various Tribal funds shall be invested in common (pooled) with the assets of other Tribal funds having similar investment time horizon, liquidity requirements and risk constraints. Such pooling of cash and reserve balances from investment funds will be used when prudent to maximize investment earnings and increase efficiencies with regard to investment pricing, safekeeping and administration. Unless otherwise directed by the Tribal Council, investment income and/or losses generated by fund assets invested in common will be allocated to the various individual Tribal funds based on their proportionate share of the pooled Portfolio as of the end of each calendar month, unless otherwise equitably allocated by the Chief Financial Officer based on the CFO's determination that some other method more equitably allocates earnings.

7. Selection and Management of Asset Classes

Each investment policy statement shall establish certain asset classes to fulfill the strategic allocation strategy of the Portfolios. Other asset classes may be used from time to time based on ongoing capital market developments and the requirements of the Portfolios. The Tribal Council may modify an investment policy statement's strategic allocation strategy if other asset classes are chosen in the future. Permitted asset classes will be separately stated in the investment policy statement for each Portfolio. In selecting asset classes, every attempt will be made to maintain marketability and liquidity of the investments consistent with the investment policy statement for that Portfolio.

8. Custody

All securities held in the Portfolios will be custodied with an institutional custodian bank or trust company, or an institutional discount brokerage company account properly registered to the Coquille Indian Tribe and the designated appropriate Portfolio account(s). If requested, all such financial institutions and broker/dealers must supply the Tribe or its agent with information necessary to reasonably ascertain the entity's financial condition and authority to conduct business under appropriate law, including without limitation:

(a) Audited financial statements demonstrating compliance with state and federal capital adequacy guidelines.

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- (b) Proof of state registration.
- (c) Evidence of adequate insurance coverage.

9. Access to Invested Assets

Access to invested assets will be limited to Tribal Council members and other individuals the Tribal Council authorizes as signers on the accounts. Funds may only be transferred from investment accounts as follows:

- (a) One authorized signature. One authorized signature is required for funds transferred to the Tribe's general disbursement account, or between separate investment accounts custodied with a single custodian. Normally, funds withdrawn from an investment account(s) must first be deposited directly to the Tribe's general disbursement account before being disbursed for any expense or other investment outside of the fund's custodian.
- (b) Two authorized signatures. Two signatures shall be required for funds transferred to a third party or any account, other than the Tribe's general disbursement account, not custodied with the same custodian.

10. Trading

All trading will be on a Best Execution Basis and Soft Dollar Transactions will not be allowed. All trading fees and costs will be disclosed.

11. Reporting

- (a) Monthly. The Chief Financial Officer shall maintain monthly summaries of all investment activity.
- (b) Quarterly. The Chief Financial Officer shall submit to Tribal Council quarterly and year-to-date performance reports for the investment Portfolios, which include all information required by the investment policy statements.
- (c) Annually. Within 60 days of the end of the calendar year, the Chief Financial Officer shall submit to Tribal Council a comprehensive annual performance report and overall summary of the Tribe's investment program and activity for the previous year.

12. Annual Review

Within 180 days after the end of the calendar year, the Chief Financial Officer shall

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review the overall investment program, including the policies and strategies for each Portfolio, updated Portfolio modeling, and pertinent market information, and shall recommend to the Tribal Council any policy changes or Portfolio allocation revisions that he/she deems appropriate to meet the goals and objectives of the investment program and each Portfolio.

13. Investment Management Consultants

The Tribal Council may contract the services of investment management consultant(s) by resolution to assist the Chief Financial Officer with the management of the Tribe's investment program, implementation of approved investment policy statements, and other duties as assigned by contract, *provided* that no contracted duties conflict with this Ordinance. All such consultant(s) shall be required to disclose any information requested by the Chief Financial Officer that is reasonably necessary to demonstrate the consultants' financial condition and authorization to conduct business under appropriate law. All such consultants shall provide certification of having read, understood and agreeing to comply with the Coquille Indian Tribe's laws and policies regarding investment management.

**160.400 Property Management**

1. The Executive Director shall establish regulations to provide for the safeguarding and maintenance of all real and personal property owned or in the possession and care of the Tribe. These regulations shall, at a minimum, address custody, appropriate use, disposal, and procedures for preventing damage, loss or theft.
2. The Tribe shall hold ownership and title to all property acquired through purchase, donation, or gift until disposed of, or otherwise transferred.
3. Records shall be maintained on all real property and Capital Equipment and shall include for each item: description, funding source, acquisition date, acquisition cost, depreciated value, physical location, any disposition data and other information to provide for effective management. The Chief Financial Officer shall take a physical inventory of all real property and Capital Equipment at least once every two years and reconcile the results to the property records.
4. No Tribal property shall be taken by any Tribal Council Member or committee member for personal use without express written consent of the Tribal Council.
5. No Tribal property shall be taken by any employee or volunteer for personal use without express written consent of the Executive Director.

**160.500      Records Management**

The Executive Director shall establish regulations for the effective organization, maintenance, storage, retrieval and safeguarding of all Tribal records. Special care shall be given any records determined to have any present or future cultural or historical significance to the Tribe. The Tribal Council shall have access to any and all Tribal records.

**160.600      Insurance and Risk Management**

1. The Chief Financial Officer shall provide for reasonable insurance coverage at limits necessary to protect the interests of the Tribe. Such insurance coverage shall include, at a minimum, the following policies:
  - (a) General liability covering Tribal operations.
  - (b) Errors and omissions liability covering Tribal officers in conducting Tribal business.
  - (c) Employee fidelity bond or crime policy covering all employees having access to monies and other assets of the Tribe.
  - (d) Property and casualty coverage providing for the replacement of assets lost due to fire, theft or other casualty.
  - (e) Other policies the Chief Financial Officer considers reasonable, necessary and appropriate to protect Tribal interests.
2. The Tribal Council may establish self-insurance programs, where such programs will reduce the overall cost of insuring against losses, without significantly increasing risks.
3. At reasonable intervals, but not less than once every five years, the Executive Director shall arrange for independent risk management assessments to evaluate the Tribe's risk exposures, ability to withstand losses and adequacy of existing insurance coverage.

**160.980      Applicability of Federal Funding Requirements and Regulations**

The Executive Director shall establish regulations necessary to enforce this Ordinance and any applicable Federal laws. As a matter of contract, the Tribe may observe specific funding requirements that conflict with, or are more restrictive than, this Ordinance.

**160.985      Sovereign Immunity**

Nothing in this Ordinance waives the sovereign immunity of the Coquille Indian Tribe or any of its

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representatives, officers or employees.

**160.990 Severability**

If a court of competent jurisdiction finds any provision of this Ordinance to be invalid or illegal under applicable tribal and or federal law, such provision shall be severed from this Ordinance and the remainder of this Ordinance shall remain in full force and effect.

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