# COQUILLE INDIAN TRIBAL CODE

## Chapter 160

## Part 1 – General Governmental Affairs

## Fiscal Management Regulations

## Purpose

These regulations further describe and specify processes and controls necessary to implement the requirements described in CITC 160 – Fiscal Management Ordinance and should be read and interpreted in conjunction with CITC 160.

## Definitions

Terms used within these policies have the same meanings as defined in CITC 160 – Fiscal Management Ordinance, inclusive of the following additional definitions:

Contract – a written agreement describing terms and conditions between the Tribe and another person or entity, made in conjunction with a Purchase Order.

Indian-owned Business – A business of which more than 50% of the ownership interest or stock is held by one or more enrolled 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.

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. An example of pooled costs include Indirect Costs.

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

## General Regulation

1. Appropriate Protection and Management

    a. 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 CITC 160 – Fiscal Management Ordinance and these further regulations.

2. Prohibition on Override

    a. No person who serves the Tribe in any capacity shall purposefully design or otherwise manipulate contracts, agreements, or any other transaction to override these regulations or any processes or controls that have been implemented to comply with the requirements of CITC 160.

3. Where possible, no financial transaction for the Tribe should be processed from start to finish without the involvement of at least two individuals with appropriate authority and full knowledge of the transaction.

4. Implementation and Periodic Review

    a. The Highest Executive Officer and Chief Financial Officer shall implement the Fiscal Management Ordinance and these regulations and observe all requirements imposed. The Chief Financial Officer shall review the Fiscal Management Ordinance and these regulations at least once every three years and recommend any necessary revisions to the Tribal Council and the Highest Executive Officers.

## Ethical Conduct Regulation

1. Disclosure of a Conflict of Interest must be made in writing.

    a. Conflict of Interest involving a member of Tribal Council or an employee or contractor reporting directly to the Tribal Council – the Tribal Council shall vote by Resolution, which shall include as an exhibit a description of the Conflict of Interest, to acknowledge the Conflict of Interest.

    b. Conflict of Interest involving all other employees of the Tribe – a written description of the Conflict of Interest shall be submitted to the Highest Executive Officer, who shall acknowledge the Conflict of Interest in writing; both the description and acknowledgement of the Conflict of Interest shall be maintained with the employment records of the Tribe. The Highest Executive Officer shall report to the Tribal Council whenever they have acknowledged a Conflict of Interest.

## Timing Regulation

1. Targets and deadlines set forth within this regulation 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.

## Budget Regulation

1. No later than two months prior to the end of the current Budget Period, the Highest Executive Officer and Chief Financial Officer shall submit a proposed budget to the Tribal Council for the succeeding Budget Period.

2. No more than 75% of the expected earnings of any Permanent Fund for any Budget Period shall be budgeted to be spent in the same Budget Period.

## Accounting Regulation

1. Use of Fund Accounting

    a. Consistent with GAAP, the Coquille Indian Tribe shall employ the use of Funds for the purpose of accounting for all resources and activities administered by the Tribal government.

b. 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.

c. 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.

d. 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.

e. The Tribal Council may adopt Fund ordinances that incorporate all needed provisions to ensure administration of the Fund(s) authorized therein, including, but not limited to:

i. Fund Name

ii. Fund Purpose: The intent of the Tribal Council in establishing the Fund.

iii. 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.

iv. Fund Authorization: A statement authorizing the creation of the Fund and identifying the specific fund-type for accounting purposes.

v. 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.

vi. Fund Custody: If applicable, a statement regarding the type of depository(ies) authorized to hold the Fund's cash assets and whether the Fund's assets may be commingled with other Tribal Fund assets to facilitate efficient management.

vii. 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.

viii. Reporting Requirements: A description of any reporting requirements that are in addition to those set forth within these regulations.

ix. Target Fund Balance: A statement regarding any minimum Fund balance targets or other Fund balance objectives, as applicable.

x. Fund Ordinance Review: Instructions regarding implementation and review of the Fund Ordinance, if any, in addition to those requirements set forth herein.

xi. Whenever resources are received by the Tribe for a special purpose for which a separate Fund ordinance is necessary, but no appropriate fund ordinance exists, 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.

2. Revenues, Receivables and Deposits

a. All revenues and receipts of the Tribe shall be deposited in accounts held by the Tribe directly or through contract in a timely manner.

i. Accounts managed through contract by Agents shall be monitored by the CFO, who shall ensure that any excess funds above the minimum amount needed for the efficient conduct of the Tribe's business is promptly deposited into an account directly controlled by the Tribe.

b. The Chief Financial Officer shall designate Employees responsible for the issuance of invoices and collection of outstanding amounts owed to the Tribe.

c. For the efficient conduct of business, primary signature authority over all depository accounts shall be held by Employees designated by the Tribal Council by resolution. Such designations shall consider the number of signers necessary to conduct business efficiently and provide for continuity in the absence or termination of any designee until a replacement can be appointed by the Tribal Council.

i. The Tribal Council shall authorize by resolution the opening or closing of any financial account in the name of the Tribe.

ii. The Chief Financial Officer shall quarterly report to the Tribal Council on all financial accounts that are in use, were opened, or were closed in the name of the Tribe since the previous report.

d. 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.

3. Purchases, Payables and Disbursements

a. The Chief Financial Officer shall design processes and designate Employees responsible for the acceptance and payment of invoices related to authorized obligations of the Tribe.

b. 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.

c. All disbursements shall be made by check or electronic payment systems, unless otherwise authorized by the Tribal Council Chairman or the Tribal Government CEO.

d. Unless payments are specifically exempted under Tribal or other applicable law, the Tribe will not disburse funds to any vendor who in the Chief Financial Officer's opinion is likely to receive more than the minimum threshold requiring reporting to the Internal Revenue Service without having received from the vendor a completed and signed IRS Form W-9.

e. Disbursements by check

i. Checks shall be prepared by accounting personnel not associated with the approval of expenditures or invoices. Check stock not currently in use for preparation of checks shall be appropriately secured at all other times.

ii. 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.

iii. Checks shall be made payable pursuant to approved vouchers or invoices and shall not be made payable to "Cash" or "Bearer."

iv. Facsimile signatures may be used in place of wet signatures, subject to internal controls established by the Chief Financial Officer.

v. All checks must be completely filled out before signed. Signers shall not sign blank checks.

f. Disbursements by electronic payment systems, such as wire transfers, may be used to liquidate Tribal obligations. The Chief Financial Officer shall establish internal control procedures and appropriate segregation of duties associated with electronic payments to ensure that all disbursements by electronic payment systems have the same level of review and other controls as have been implemented for disbursements by check.

g. Cash Disbursements

i. Petty cash funds may be established for making changes and small disbursements of nominal amounts.

ii. Each petty cash fund must be authorized in writing by the Tribal Government CEO. Such authorization shall specify the specific custodian, location, amount, allowable uses, and procedures for maintaining each petty cash fund.

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.

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 Tribal Government CEO.

e. Cost Allocation to Grants and Contracts

i. Costs shall be allocated to federal and other grants and contracts or other agreements on the same basis as provided by these regulations in a fair and uniform manner.

ii. 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.

iii. 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 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.

iv. Costs allocated to any grant, compact, or contract funding source must be allowable for that funding source per the terms of the award agreement; all applicable allowability principles articulated in the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards will be followed, along with all of the applicable requirements of 2 CFR 200.

## Procurement Regulation

1. Applicability

   This Policy applies to all procurement actions that are funded either by Tribal Council appropriations or by grants or other funding agreements. Any procurement actions not currently funded must be approved in advance by Resolution of the Tribal Council.

2. Requisitions

   a. To ensure budget compliance, as well as necessity, allowableness and reasonableness of costs, the Tribe shall use a requisition or other process that provides for the pre-approval, recording, and monitoring of all procurement actions, unless otherwise authorized by the Chief Financial Officer. The establishment of credit accounts with vendors may not be used to circumvent this requirement to pre-approve purchases through a requisition or equivalent process. Pre-approval is not required for the following transactions:

      i. Credit Cards: Tribal credit cardholders are not required to obtain pre-approval before making purchases with their Tribal credit cards, provided such purchases comply with the credit cardholder's use agreement.

      ii. Utilities and Other Recurring Administrative Services: Pre-approval is not required for recurring payments for utilities, property taxes, recurring benefit payments such as the Elder Benefit, communications, software subscriptions, bank fees, insurance premiums, or other routine and necessary administrative services as determined by the Chief Financial Officer.

3. Purchase Orders

   a. The Tribe may issue Purchase Orders to vendors to obligate the Tribe for the purchase of goods and services.

4. Procurement Thresholds

   a. Micro Purchases: Procurements up to the Micro Purchase Threshold (MPT) may be awarded without obtaining competitive quotes, provided the price is fair and

reasonable. The MPT is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and adjusted from time to time. The MPT is currently set at $10,000.

b. Simplified Acquisitions: Procurements up to the Simplified Acquisition Threshold (SAT) may be awarded on the basis of price or rate quotations obtained from an adequate number, but not less than two, qualified sources. The SAT is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and adjusted from time to time. The SAT is currently set at $250,000.

c. Sealed Bids and Competitive Proposals: Any procurement may be awarded on the basis of sealed bids or competitive proposals. The Chief Financial Officer shall determine which method is appropriate based on the facts and circumstances of the procurement and the procurement standards in 2 CFR 200.320.

d. Sole-Source: Procurements by noncompetitive proposals (sole-source procurement) is procurement through solicitation of a quote, bid, or proposal from only one source and may be used only when one or more of the following circumstances apply:

   i. The item is available only from a single source;

   ii. A public exigency or emergency exists that will not permit a delay resulting from competitive solicitation;

   iii. If the procurement is funded by a grant or other award, the awarding agency or pass-through entity expressly authorizes non-competitive proposals in response to a written request from the Tribe; or

   iv. After solicitation of a number of sources, competition is determined inadequate.

e. The Chief Financial Officer (or designee) must approve in writing all sole-source procurements at or below the SAT. The Tribal Council must approve by Resolution all sole-source procurements exceeding the SAT. All sole-source procurement approvals shall include an explanation of the allowable circumstance(s) (listed above) that justify the sole-source procurement, documentation of the attempt to obtain sealed bids or competitive proposals (except in the case of item B in the above list), and a certification that the cost is reasonable based on the facts and circumstances.

f. The Chief Financial Officer shall report to the Tribal Council in writing on a quarterly basis all sole-source procurements that have been approved that are at or below the SAT.

5. Procurement Decisions

   a. All procurement decisions shall be based on the best interest of the Tribe, and lowest price is not necessarily required to be the deciding factor in selecting an awardee. Other factors may be considered, including but not limited to, Tribal

preference, Indian preference, vendor or product performance history, and vendor or product availability.

b. Except for micro purchases, all procurement decisions shall be documented to justify selection and award were based on the factors identified in this policy. The Chief Financial Officer shall maintain all records of procurement decisions.

c. Procurement decisions of the Tribe are final and not subject to review or dispute unless contractually required by a funding agency, consented to by the Tribal Council, or as a matter of Tribal law.

6. Tribal Preference

a. Until regulations or policies described in CITC 188 – Tribal and Indian Preference in Employment have been adopted and implemented, the following regulations apply to the application of Tribal Preference in contracting:

i. 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).

ii. 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).

iii. A business shall be eligible for no more than one of the preferences described in this section.

iv. 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.

7. Disqualified Vendors

a. The Chief Financial Officer may disqualify vendors from doing business with the Tribe based on poor past performance, loss of licensure or other required credentials, competitive advantage or strategic reasons, or other factors the Chief Financial Officer determines are in the Tribe's best interests.

b. The Tribe shall not procure goods or services from vendors debarred from doing business with the Federal government. The Chief Financial Officer (or designee) shall maintain a list of any vendors he/she has disqualified, including the reason(s) for disqualification.

8. Service Contract Extensions

a. Service contracts may be extended without obtaining competitive bids, quotes, or proposals if it is in the Tribe's best interests and all of the following conditions apply:

i. The contract was initially awarded based on a competitive procurement process, not a sole-source procurement;

ii. The reason for the extension relates to an unanticipated change in scope, and all other unaffected deliverables have or will be delivered without extending the contract.

iii. The entire contract term, including the initial term and all extensions, does not exceed three years;

iv. Fees for services are paid on a per unit basis (hour, day, acre, piece, etc.) and the per unit rate(s) does not increase from the rate(s) authorized under the initial contract;

v. Aggregate fees, compensation, and expense reimbursements paid during the entire contract term, including the initial term and all extensions, do not exceed the SAT; and

vi. Extending the contract without competition does not violate any applicable funding or other agreement(s).

9. Procurement Records

a. The Chief Financial Officer (or designee) shall maintain records of all procurements, as required under this policy indicating the sources or potential bidders solicited, quotations or proposals received, other factors considered and the reason(s) for selecting awardees.

b. The Chief Financial Officer (or designee) shall be responsible to ensure that the record of each procurement justifies the selection and award based on the factors identified in this policy.

c. The Tribe's procurement records are confidential and not available to the general public, unless contractually required by a funding agency, consented to by the Tribal Council, or as a matter of Tribal law. Tribal members may access the Tribe's procurement records following the Access to Financial Records and Other Information Regulations.

10. Procurement Dispute Resolution

a. There may be limited circumstances where a dispute pertaining to the Fiscal Management Ordinance or these regulations is raised that is not also addressed by other dispute resolution procedures established by the Tribe. In such cases where a dispute is allowed, the following dispute regulation procedures will be followed:

i. If the matter cannot be resolved between the purchaser acting on behalf of the Tribe and the third-party vendor, the vendor may appeal the decision in writing to the Chief Financial Officer.

ii. Appeals will be considered valid if received by the Chief Financial Officer in writing prior to the non-cancelable commitment of Tribal resources.

iii. Upon receipt of a valid dispute, the Chief Financial Officer shall suspend the purchasing process until a review of the dispute submitted by the vendor and the Tribe's Financial Records has been completed.

iv. The decision of the Chief Financial Officer will be based solely on the information included in the written appeal and the Tribe's Financial Records.

v. The Chief Financial Officer shall issue a written decision addressing the appeal to the vendor prior to the reinstatement of the procurement process.

## Audit Regulation

1. Within 180 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.

## Internal Control Regulation

1. The Chief Financial Officer shall contract with an independent third-party to provide anonymous whistleblower reporting services.
2. The Whistleblower Response Team shall:
    a. Ensure that all whistleblower complaints, regardless of how they are received, are assessed for merit and applicability to the requirements of the Fiscal Management Ordinance and these regulations.

    b. For those complaints found to have merit, investigate the complaint in a timely manner using appropriately independent and qualified persons.

    c. Report on whistleblower complaints to the Tribal Council, in aggregate for complaints received and found to be without merit, and in detail for complaints having merit that are being or have been investigated by the Whistleblower Response Team.

    d. Recommend appropriate action to the Highest Executive Officer and/or to the Tribal Council for each complaint investigated by the Whistleblower Response Team.

## Access to Financial Records and Other Information Regulation

1. Electronic Financial Records

    a. For all electronic systems that process, store, or report Financial Records:

        i. Records shall be organized and structured to allow for timely reporting of the information individually and in aggregate.

        ii. Access to electronic systems containing Financial Records shall be restricted by unique passwords.

        iii. Access rights for all users of such systems will be restricted to those rights necessary to perform official job duties.

        iv. Access rights for users of all such systems will be reviewed for appropriateness on an annual basis by the Chief Financial Officer or their delegate.

        v. All such systems, including the applications and data, shall be backed up daily and technical maintenance (e.g. installation of necessary updates, repair/replace components as needed, etc.) shall be performed on a timely basis.

        vi. No less frequently than annually, the Continuity of Operations Plan or other business continuity plan shall be reviewed by the Chief Financial Officer to ensure that appropriate plans are in place to continue or restart the processing, storing and reporting of Financial Records within an acceptable time frame to support the continued operation of the Tribe during an emergency.

2. Non-electronic Financial Records

    a. Records shall be organized and structured to allow for timely reporting of the information individually and in aggregate.

    b. Except as otherwise provided under Tribal Law, Access to Financial Records shall be restricted to those persons needing access to the Financial Records to perform their official duties.

    c. Records shall be appropriately secured when not in use.

    d. Retention schedules for categories and classes of records shall be periodically reviewed by the Chief Financial Officer or their delegate, who shall ensure on an annual basis that records no longer required to be maintained are destroyed or otherwise securely disposed.

    e. Any Tribal member may inspect Financial Records, including audit reports, budgets, procurement records, contracts, workshop materials, subsidiary ledgers and other supporting records, subject to the procedures and restrictions of these Regulations.

    f. All requests for Tribal members to access Financial Records shall be made to the Chairperson.

g. Prior to inspecting such Financial Records, Tribal members must sign an agreement limiting their use and distribution of the Financial Records.

h. Financial Records specifically identified by legal counsel to the Tribe as relevant or relating to threatened or pending litigation or otherwise subject to nondisclosure or limited disclosure may be placed under a legal hold and not available to Tribal members until legal counsel to the Tribe has determined that the matter has been resolved and the legal hold should be lifted, or unless specifically authorized by the Tribal Council.

i. Any Financial Record that includes information protected from disclosure under Federal law, such as Protected Health Information, shall not be made available to any Tribal member, unless (i) such Financial Record pertains solely to the Tribal member who has requested the Financial Record, (ii) the Financial Record pertains solely to the Tribal member whose duly authorized legal guardian has requested the Financial Record; or (iii) the requested disclosure is authorized by applicable Federal law.

j. Any Financial Record that pertains to the compensation or performance of any individual Employee of the Tribe or that could allow for the information of an individual employee to be inferred, along with any other employment information considered to be personal confidential records by the HR Director shall not be made available to any Tribal member.

    i. This restriction does not apply to information about the Tribe's Employees generally that is aggregated in such a way that it cannot be used to infer information about an individual Employee.

k. Any Financial Record that pertains to a topic discussed as part of a Tribal Council Executive Session or Closed Workshop under CITC Chapter 140 shall not be made available to Tribal member unless such disclosure is specifically authorized by Tribal Council motion.

l. Any Financial Record whose disclosure would cause the Tribe to breach an agreement, to violate a law, that would result in the actual or likely violation of an order of a court of competent jurisdiction, or that would otherwise subject the Tribe or its employees to civil or criminal liability shall not be made available to any Tribal member.

m. At its sole discretion and at any time, the Tribal Council may designate information as confidential and such information shall not be made available to any Tribal member, provided that the Tribal Council identifies the information being declared confidential (to the extent that doing so does not disclose confidential information), the reason for declaring the information, and the time period for which the designation is applicable.