

TITLE 34
ADMINISTRATIVE AND FINANCIAL ACCOUNTABILITY ORDINANCE
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CHAPTER 1 – FINDINGS AND GENERAL PROVISIONS

Section 34-1-1. Summary of Findings.

A. Substantially all activities of the Tribe require or result in the receipt, management, and expenditure of funds. These financial transactions are made within a variety of different authorities delegated by the Flandreau Santee Sioux Constitution and By-laws, and the Flandreau Santee Sioux Tribe Law and Order Code, to the President and Treasurer.

B. The Executive Committee intends that all fiscal management activities of the Tribe will be guided by appropriate standards, and that processes and systems for carrying out the Executive Committee's responsibility under the Constitution will be properly integrated to ensure the quality management, integrity, and accountability.

C. The Executive Committee also intends that the Tribe meet and/or exceed standards established through applicable federal laws and regulations, and will follow prudent business practices consistent for fiscal management.

D. Through this Title, the Executive Committee intends to institute the development and maintenance of effective fiscal management capacities and practices which will create financial stability and serve the Tribe on an ongoing basis in the future.

Section 34-1-2. Definitions.

A. "Chief Financial Officer" or "CFO": The Chief Financial Officer of the Tribe responsible for development, implementation and operation of fiscal management systems and procedures.

B. "Constitution": The Constitution of the Tribe.

C. "Director". The employee who is oversees the activities of a certain department, enterprise, or other instrumentality of the Tribe.

D. "Executive Committee": The Executive Committee of the Tribe, as defined in the Constitution.

E. "Financial Management Oversight Committee": A committee appointed by the Executive Committee that shall be responsible for general oversight of all financial management activities and will, at a minimum, provide ongoing review, oversight, and recommendations for the Tribe's investment processes.

F. "Fiscal Year": Fiscal year shall mean the fiscal year of the Tribe which shall begin on October 1, and end on September 30.

G. "Fund": A fund can also mean a fiscal and accounting entity with a self-balancing set of accounts recording cash and other assets, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on

specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

H. “Governmental funds”: Funds used to account for all or most of a government’s general activities, including the general fund, the collection and disbursement of earmarked (special revenue funds) and the acquisition or construction of general fixed assets (capital project funds), the accumulation of resources to pay and retire debt (debt service funds), and the accumulation of invested assets for long-term revenue generation (permanent funds). The general fund is used to account for all activities of the general government not accounted for in some other fund.

I. “Minutes”: The formal record of the Tribe’s proceedings, approved, (as corrected, if necessary) by the Executive Committee.

J. “President”: The President of the Tribe. The President is the principal Executive Officer of the Tribe, elected by the General Council and the Presidents duties and responsibilities are defined in the Tribe Constitution and By-Laws.

K. “Procurement Director”: The Director responsible for the purchasing of all goods and services required by the tribal government.

L. “Secretary”: The Secretary of the Executive Committee, an Executive Officer as defined in the Constitution, elected by and from the General Council.

M. “Subordinate Organization”: Business operations, commission, authorities, committees, and non- profit organizations chartered by the Executive Committee to carry out specific purposes under responsibilities and authorities delegated by the Executive Committee.

N. “Treasurer”: The Treasurer of the Tribe, who is appointed by the Executive Committee.

O. “Tribe”: The Flandreau Santee Sioux Tribe of South Dakota.

P. “Vice-President”: The Vice-President of the Tribe.

Section 34-1-3. Constitutional Powers.

The Constitution provides that the Executive Committee is authorized to adopt resolutions, consistent with this Constitution, regulating the procedure of the Executive Committee itself and of other tribal agencies, tribal officials, or tribal organizations, and to set financial directives for the Treasurer to carry out.

Nothing in this Ordinance is intended to create or alter the Constitutional authority of the Executive Committee, or any officer of the Tribe.

Section 34-1-4. Financial System Objectives.

It is the policy of the Executive Committee to ensure an adequate system of checks and balances is in place for the administration of the Tribe's fiscal management responsibilities. The system shall provide for clear roles, effective tools to properly administer programs and services, and shall be efficient in its administration. The system will be based on modern accounting principles, software, and processes.

Section 34-1-5. Executive Committee Reserved Authority.

The following authorities are expressly reserved to the Executive Committee in addition to other powers expressed in the Constitution not discussed in this Title:

- A. Approval of overall fiscal management policies.
- B. Adoption of financial plans, strategies, and priorities for use of available financial resources.
- C. Adoption of budgets that appropriate funds for investment, expenditures, and other use of the Tribe.
- D. Adoption of official positions with respect to Federal funds and programs available to serve the Tribe.
- E. Approval of contracts with attorneys, independent auditors, other professionals having ongoing relationships with the Tribe, and other procurement agreements exceeding the amount of \$50,000.
- F. Approval of grants and government-to-government agreements between the Tribe and federal, state and local governments, unless the Executive Committee adopts a resolution or ordinance expressly delegating authority to submit grant applications in amounts no greater than \$50,000.
- G. Approval of borrowing and financing arrangements.

Nothing in this section is intended to create or alter the Constitutional authority of the Executive Committee.

Section 34-1-6. President.

The President shall:

- A. Represent the Tribe by name, title and signature, and execute all agreements with the federal, state and other governments, and other entities as authorized by the Constitution.
- B. Represent the Tribe on issues related to financial resources and programs available to serve the Tribe from the federal and other governments.

C. Sign agreements and other documents authorizing disbursement and fund transfers authorized pursuant to tribal policies and budget.

D. Make available reports and correspondents on funds authorized in the absence of the Treasurer upon request of the Executive Committee.

E. Have all day-to-day authority over the Tribe when the Executive Committee is not in session.

Nothing in this section is intended to create or alter the Constitutional authority of the President.

Section 34-1-7. Vice-President.

The Vice-President shall:

A. In the absence and with the approval of the President, represent the Tribe by name, title and signature with the exception of those documents only the President may execute.

B. Carry out the duties of the President when called upon to do so. Except for the disbursement of funds as stated in the Constitution.

Nothing in this section is intended to create or alter the Constitutional authority of the Vice-President.

Section 34-1-8. Secretary.

The Secretary shall:

A. Create minutes of all official action of the Executive Committee, and make the minutes available in a timely manner. Unofficial minutes should be distributed to the Executive Committee within two (2) business days after the meeting they are recording. The minutes must be read, corrected, and certified by the next regularly called meeting.

B. Certify all actions of the Executive Committee.

C. Maintain the list of all resolutions and minutes of the Executive Committee and General Council, including a digital copy of each.

D. Advise the Executive Committee and Directors regarding budget actions.

E. Make available all subordinate committee reports, minutes, budgets to the Executive Committee upon request.

F. Notify relevant parties of actions of the Executive Committee.

G. Schedule and attend relevant training relevant to their position.

Nothing in this section is intended to create or alter the Constitutional authority of the Secretary.

Section 34-1-9. Treasurer.

The Treasurer shall:

- A. Review financial activities and report any concerns to the Executive Committee or relevant authority.
- B. Except where delegated to others in accordance with this chapter, act as primary authorizing signature for all checks, money wires, fund transfers or other transactions involving Tribal funds.
- C. Participate with the CFO in the solicitation, interview and recommendation of independent auditors to appoint subject to approval of the Executive Committee.
- D. Certify budget changes and amendments as authorized by the Executive Committee in accordance with this chapter.
- E. Provide oversight, through review and analysis of all fiscal management activities and reports to the Executive Committee any matters of concern.
- F. Provide general recommendations regarding budget and financial planning.
- G. Coordinate Tribal investment activities with the CFO.
- H. Respond to inquiries of the Executive Committee regarding financial matters within a reasonable timeframe.
- I. Carry out other duties of the Treasurer as outlined in this Title.
- J. Assist the Executive Committee with development and administration of the budget for the operation of the Tribe.
- K. Supervise the CFO and oversee the Finance Department.
- L. Recommend the selection of independent auditors to audit Tribal financial systems and records for authorization by the Executive Committee.
- M. Conduct special audits or reviews as considered necessary to assure protection of Tribal financial resources.
- N. Make financial reports to the Executive Committee, and General Council.
- O. Release of financial information to outside entities as necessary for Tribal business.
- P. Establish fiscal management standards and provide oversight and review of fiscal management operations of subordinate organizations.
- Q. Safeguard tribal confidential information from unauthorized access or release.

Nothing in this section is intended to create or alter the Constitutional authority of the Treasurer.

Section 34-1-10. CFO.

The CFO shall be primarily responsible for the operation of Tribal accounting, budgeting, and other fiscal management and internal control systems, as provided in the its job description which may be changed from time-to-time. The CFO shall be fully qualified in all aspects of financial management, and shall be hired by the Executive Committee.

The CFO shall:

A. Provide for the implementation and maintenance of accounting systems and procedures to process and account for all Tribal financial matters.

B. Review annually and make recommendations to the Treasurer regarding accounting systems and procedures.

C. Participate in Financial Management Oversight Committee meetings to review and make recommendations regarding the operation of Tribal accounting, budgeting, and other fiscal management and internal control systems and the investment of Tribal portfolio assets.

D. Monitor the management of cash and investment of funds in accordance with Tribal policies.

E. Establish and maintain support systems for budgeting and financial planning.

F. Participate in the development and recommendations of financial plans, strategies, and budgets.

G. Establish written procedures for all assigned functions.

H. Publish written instructions as needed for use by the Tribal organization in the implementation of budgets and the conduct of Tribal business.

I. Maintain the official budget of the Tribe and a record of all actions and prepare for certification of the Treasurer such budget actions as are authorized by the Executive Committee or the President pursuant to this chapter.

J. Provide for the proper and timely payment of all financial obligations.

K. Oversee the preparation and release of payments for all Tribal obligations, pursuant to budget and Tribal policies.

L. Provide technical assistance and oversight to Tribal government organizations in the development and maintenance of fiscal management capacity and ensure the adequacy of fiscal management policies and systems implemented by them.

M. Provide for review of all major financial transactions, including, but not limited to, contracts, grants, agreements, and financing arrangements and provide on such matters.

N. Prepare and certify in writing all financial reports, payroll tax reports, and other documents required by funding, lending and taxing agencies.

Section 34-1-11. Financial Management Oversight Committee.

A. Membership. The Committee shall consist of all members of the Executive Committee as voting members: The President shall serve as the Chair of the Committee, and the Tribal Treasurer and the CFO of the Tribal Government shall be non-voting ex officio Committee members.

B. Duties and Responsibilities. The Executive Committee shall approve bylaws that shall govern the actions and procedures of the Committee. Those by-laws must provide, at a minimum, that the Committee:

1. Review reports presented by the finance department and make inquiries regarding issues to be addressed by the Tribal organization, and make recommendations as deemed appropriate;
2. Review annual audited financial statements and meet with independent auditors to review reports on compliance, internal controls and management recommendations;
3. Review financial status and revenue projections, and make recommendations regarding long-term financial planning, savings and annual spending levels;
4. Review budget proposals and make recommendations regarding priorities and options;
5. Review Financial Policies, annually with the CFO and provide input and guidance to recommendations for changes and additions;
6. Review banking relationships with the CFO and make recommendations as appropriate;
7. Review major financing and economic development proposals and provide recommendations in line with overall Tribal finances.
8. Provide for ongoing review of investment processes for Tribal portfolio assets; and
9. Carry out other duties assigned by the Executive Committee.

Section 34-1-12. Procurement Director.

The Procurement Director shall:

A. Provide for the implementation and supervision of Procurement management systems and processes.

B. Oversee the official receipt of all Tribal property and ensure distribution of the property to its correct destination.

C. Establish written procedures for all assigned functions.

D. Publish written instructions as needed for use by the Tribal organization in the purchasing process.

E. Maintain a record of all purchases and copies of all documents.

F. Maintain an inventory of all tribal property.

G. Produce regular reports on tribal property that has been disposed of in accordance with applicable tribal and federal requirements.

Section 34-1-13. Ethical Conduct.

A. Executive Committee members, employees, and agents of the Tribe shall be expected to conduct themselves to the highest ethical standards appropriate to fiduciaries in carrying out the business of the Tribe.

B. In addition to any tribal title, resolution, policy or other legislation regarding ethical conduct, individuals shall not:

1. Participate in any activity in which such individual has a conflict of interest.

2. Hold him/herself out to any entity as having any official capacity other than those roles and duties that are officially assigned.

3. Seek personal gain or influence with any third party through the use of such title by giving access to Tribal information or decision making authority.

4. Interfere with the carrying out of appropriate fiscal management role of anybody or official outlined within this chapter.

Section 34-1-14. Disciplinary Action for Violations.

Any Executive Committee member, officer, employee or agent of the Tribe who knowingly violates any provisions of this chapter or who obligates the Tribe for any purpose or amount not specifically authorized, or who obtains, uses or discloses information of the Tribe in any manner not in the best interest of the Tribe shall be subject to disciplinary action, including reprimand, probation, suspension and termination, and civil or criminal action, as provided in any Tribal Employee Handbook or Tribal law, depending on the severity of the offense.

Section 34-1-15. Implementation.

Implementation of this title and any regulations and procedures adopted pursuant hereto and all required systems and procedures shall be provided at the direction of the Treasurer. The CFO shall review this Title from time-to-time, and shall make recommendations to the Executive Committee on any recommended amendments.

Section 34-1-16. Effective Date.

The effective date of this Ordinance shall be October 1, 2023.

CHAPTER 2. FINANCIAL ACCOUNTING AND REPORTING

Section 34-2-1. Conformance with Generally Accepted Accounting Principles.

The provisions of United States Generally Accepted Accounting Principles (GAAP), including applicable governmental fund accounting and reporting principles and standards, as are promulgated and amended by the American Institute of Certified Public Accountants (“AICPA”), the Governmental Accounting Standards Board (“GASB”) are hereby adopted for the Tribe government and all its subordinate organizations. If the subordinate business or organization requires different accounting standards because of applicable law, it is acceptable to follow those standards.

Section 34-2-2. Financial Resources and Other Assets of the Tribe.

All resources over which the Executive Committee exercises any form of governmental, fiduciary or agent responsibility shall be accounted for within Tribal accounting records and reports, provided that certain enterprises and subordinate units may maintain independent accounting and reporting systems.

Section 34-2-3. Interim Financial Reports.

Within 30 days after the end of each fiscal quarter, interim financial reports shall be submitted to the Executive Committee for review. Such interim financial statements shall include balance sheets and appropriate statements of revenue or income for each fund, but shall not be required to contain extensive notes that are required for audited year-end financial statements. The CFO will include explanatory notes on any major transactions for the period or any other issues that should be considered by the Executive Committee.

Section 34-2-4. Year-End Financial Statements.

Within 90 days after the end of each Fiscal Year, the CFO will submit completed Financial Statements to the Executive Committee, and to Independent Auditors selected by the Executive Committee. Such financial statements shall contain all necessary notes, disclosures and schedules for publication upon certification by the Independent Auditor. The President shall schedule a review of the final statements with the Executive Committee and shall together, with the Treasurer and CFO, present a discussion of any issues requiring attention of the Executive Committee.

Section 34-2-5. Audited Financial Statements.

Upon completion of work by Independent Auditors, the CFO will make those adjustments to the final financial statements as recommended by the auditors with which the CFO concurs and resubmit them to the Independent Auditors as expeditiously as possible. Applicable provisions of the Audit will be submitted to relevant financial institutions, and governmental agencies in accordance with loan or financial requirements, or federal law.

CHAPTER 3 – TRIBAL BUDGETS

Section 34-3-1. General Policies.

A. Budgets shall be prepared on an annual basis for a one-year period the first year of which shall begin on October 1st of each year. Budgets shall be required for all Tribal. All Tribal governmental and business operations are required to prepare budgets.

B. Responsibility for recommending, administering, executing and making expenditures pursuant to Tribal budgets is vested in the Treasurer for all governmental operations and those business operations operating under the direct line authority of that office.

C. Budgets are intended to support and reflect short and long range financial plans for the organization and to facilitate the appropriation and authorization of expenditures for the purpose of carrying out the organization's business.

D. The Executive Committee shall adopt standard written procedures, time frames, responsibilities and authorities for preparation and administration of budgets and various related activity. Budgets are the responsibility of management and are intended to function as a tool to assist in financial management, without unnecessarily inhibiting the management decision-making process or the efficient conduct of Tribal business.

E. If a budget of the Executive Committee is not approved by October 1st of the year, the budget of the prior fiscal year shall continue for up to three months.

F. Budgets must also be prepared for any, and all, expenditures from the Tribe to its Members.

Section 34-3-2. Authority to Expend Funds.

Each Director who is responsible for preparing budgets shall have the authority to authorize obligation and expenditure of funds, pursuant to Tribal policies, from such budgets effective October 1 of each fiscal year, or as soon as budget allocations have been provided, following the appropriation of such funds.

Section 34-3-3. Budget Variances.

A. Budgets for the operations assigned to each Director are plans. As such, they may be adjusted within the total amount of funds provided for within each cost center.

B. Provided that any variance from the approved budget which involves the internal shifting in excess of 10%, or such amount as determined by the Treasurer, of the total of such cost center shall require approval of the Treasurer.

C. When federal funding is received pursuant to a contract or grant exceeds the amount which was reflected in the budget for a program and increase in overall expenditures, or of tribal funding, shall require authorization by the Executive Committee.

D. Variances involving the transfer of budget authority from one budget to another shall require approval of the Treasurer.

E. Variances involving the transfer of budget authority from one fund to another shall require approval of the Executive Committee.

F. Reports and requests for budget transfers made pursuant to this section shall be submitted to the Treasurer through the CFO.

Section 34-3-4. Availability of Appropriations.

A. Funds appropriated pursuant to annual budget may be expended only during the fiscal year for which they are appropriated, unless they are encumbered at the end of that fiscal year.

B. Funds appropriated outside the annual budget process, which are appropriated for a specific purpose, shall remain available for expenditure only for that specific purpose until expended, or until that purpose is completed. When the purpose has been completed, the authority to expend any funds so appropriated shall lapse.

C. Funds appropriated for transfer to other funds shall be transferred, effective the beginning of the Fiscal Year, unless otherwise directed by the Executive Committee, provided that funds not transferred effective the beginning of the Fiscal Year shall remain available until transferred, and shall be automatically carried forward unless otherwise directed by the Treasurer.

D. Approval by the Executive Committee of specific contracts or grants shall constitute appropriation and the President shall modify the budget accordingly, when such award is available for expenditure.

E. To the extent that funds are available from Tribal and non-Tribal sources for the same programs or purposes, the non-Tribal sources funds shall be expended first before Tribal funds are expended.

Section 34-3-5. Reports.

A. Monthly Reports. The CFO shall provide a written monthly report to the Executive Committee on or before the 20th day of each month, which shall reflect the amounts provided for in the adopted budget, as adjusted by additions, carryovers and other adjustments, in detail, and the amounts of expenditures made against such appropriations. CFO shall provide such other information on a monthly basis as is considered necessary for the proper administration of budgets.

B. Quarterly Reports. CFO shall present a formal financial and budget status report through the President within 30 days after the end of each fiscal quarter. Recommended budget modifications requiring Executive Committee actions and reports of other budget actions shall be submitted as part of quarterly budget reports.

Section 34-3-6. Reports of Variances.

Any Director, who is responsible for administering budgets, shall report, in writing, on any significant variances, (over or under expenditures) at the end of each fiscal month. At any time that a Director has reason to believe that the total amount to be expended will exceed the total amount appropriated for any budgeted cost center, such Director shall immediately bring the matter to the attention of the Treasurer, in writing.

CHAPTER 4 - BANKING

Section 34-4-1. Tribal Depositories.

A. All receipts of the Tribe shall be receipted for by official Tribal receipt and shall be deposited, intact, in such depository or custodial account as shall be selected by the Treasurer. The CFO shall make provisions to ensure that all funds are deposited timely.

B. Unless otherwise provided by policy of the Executive Committee, all monies of the Tribe that are held in bank accounts shall be insured by the Federal Government as to both principle and interest or otherwise collateralized by the bank to the extent provided by law.

C. All revenues shall be credited to such funds as are established by the Executive Committee 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.

D. No accounts may be opened with any bank or financial institution in the name of the Tribe, its enterprises, or any of its subordinate organizations without the approval of the Executive Committee by resolution.

Section 34-4-2. Disbursements.

The Treasurer shall provide written directives for the appropriate control over all disbursements, including provisions for timely payment of all Tribal obligations.

Section 34-4-3. Accounts Receivable and Collections.

The CFO shall make provisions for the timely collections of all sums owed to the Tribe and shall maintain accurate and up-to-date records of all accounts receivable. The CFO and department directors shall recommend and the Treasurer shall initiate collection actions as necessary to provide for the timely collections of all amounts owed to the Tribe.

Section 34-4-4. Cash and Fund Management.

The CFO shall be responsible for establishing appropriate cash and fund management procedures and controls to ensure that all the earnings on all available Tribal funds are maximized. Daily records shall be maintained reflecting the balances of all Tribal accounts.

Section 34-4-5. Borrowing and Financial Arrangements.

A. No borrowing shall be made or entered into without the authorization of the Executive Committee which shall be done through resolution.

B. No leases in excess of \$50,000 shall be entered into without the approval of the President. Except as otherwise provided in this chapter, lease agreements requiring total payments in excess of \$100,000 over the lease term and all leases of real property of the Tribe, shall require the approval of the Executive Committee.

C. Collateral for financing arrangements shall be limited to the assets acquired or leased unless specifically authorized by the Executive Committee.

D. The CFO shall provide a comprehensive record of all debts and financing arrangements and shall ensure that provisions are made for meeting obligations of such agreements.

Section 34-4-6. General Fund Authorization

Whenever resources are received by the Tribe for a special purpose that the Tribe has not previously authorized a separate fund, but for which a separate fund is necessary, the CFO shall, in consultation with the Treasurer, establish a fund for the purpose of accounting for such resources. If a separate account is necessary for that specific funding, the CFO shall advise the President of its necessity, and the Executive Committee shall approve a resolution for the account.

Organizational charters for subordinate organizations shall be considered fund authorizations for the purposes of this Article. Agency funds shall not require fund authorizing titles, but shall be established whenever the Tribe acts as an agent for the funds of any third party.

CHAPTER 5 – FINANCIAL PLANNING AND INVESTMENTS

Section 34-5-1. Financial Planning System.

The financial management planning system shall be a formally maintained system that shall incorporate written directives of the President providing for documentation and standards to ensure the quality of forecasts. The presentation of updated financial and budget estimates within 30 days following the end of each calendar quarter and at such other times as major financial decisions are placed before the Executive Committee. Formal processes shall be established to evaluate the performance of all investment portfolios, mutual funds and money managers, if any, selected to oversee the investment of such funds.

Section 34-5-2. Investment Management.

Tribal funds shall be invested in accordance with approved investment policy statements adopted by the Executive Committee and fund source restrictions, if applicable.

Section 34-5-3. Investment Policy Statements.

Each investment policy statement shall incorporate all pertinent information related to the purpose and intent of the fund(s), and in addition shall set forth:

- A. The expected liquidity requirements of the investment account.
- B. The anticipated time horizon over which the fund will be invested.
- C. The types of securities in which the assets of the fund may be invested.
- D. The specific risk tolerances of the fund.
- E. The strategic allocation between differing classes of investment instrument in which the fund will normally be invested and allowable variances.
- F. The anticipated yield of the fund expressed in comparison to appropriate indexes.
- G. The nature of account (i.e.: custodian or brokerage accounts) within which the securities of the fund will be held.
- H. Names and responsibilities of all parties to the management of the assets.

CHAPTER 6 - PROCUREMENT

Section 34-6-1. Conformance with Federal Regulations

In general, procedures set forth pursuant to this Article shall conform to applicable federal regulations. The provisions of 2 CFR Chapter II, Part 200 as it pertains to procurement activities, except those provisions which are not applicable to Indian tribes, are hereby adopted and incorporated in the Article by reference. In addition, any official responsible for authorizing procurement utilizing federal funds shall be responsible for assurance with any other applicable rules and regulations that are a condition of the funding source.

Section 34-6-2. Tribal Preference in Procurement.

A. In the acquisition of goods and services, the Tribe shall apply the following order of preference:

1. To businesses or enterprises of the Tribe;
2. To businesses and enterprises owned by enrolled members of the Tribe;
3. To businesses and enterprises owned by spouses of enrolled Flandreau Santee Sioux tribal members; and
4. To other organizations, businesses and enterprises owned by enrolled member of other Indian tribes who have the ability to provide and deliver the necessary quality and quantity of goods and services within required time frames(s).

B. Preference requirements prescribed by fund sources, e.g. Department of Housing and Urban Development shall be followed.

C. 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. All prospective bidders shall be put on notice of the bidding preference policy.

D. Contracts awarded on price shall be awarded under preference to a qualified organization or enterprise when its bid is responsive to all other conditions and does not exceed the lowest bid by the following percentages, when the lowest bid is:

1. \$0 to \$10,000: 6%
2. \$10,001 to \$250,000: 4%
3. Over \$250,000: 2%

E. Preference is not required to be afforded to businesses having a poor record of performance or where the costs are not reasonable in light of prevailing market pricing.

F. Contracts awarded on factors other than price shall be awarded to a qualified organization or enterprise when its bid is responsive to all other conditions not exceeding \$100,000

for which budget authority has been provided with exception of the following items for which the Executive Committee reserves approval authority to itself.

Section 34-6-3. Procurement Authority.

Procurement authority is delegated to the Treasurer for all procurement actions needed for Tribal government operations not exceeding \$50,000 for which budget authority has been provided with exception of the following items for which the Executive Committee reserves approval authority to itself.

- A. Selection and engagement of Legal Counsel.
- B. Selection and engagement of Independent Auditors.
- C. Selection and engagement of other professional advisors to the Executive Committee for which an ongoing relationship is anticipated.
- D. Any contract or procurement, including a purchase order that is made by or on behalf of the Tribe's gaming operations as defined in Section 7.6 below or other enterprise which may be subsequently authorized by Tribal law, provided that the Executive Committee may adopt laws delegating such authority to the applicable board of directors or employees of such enterprises.
- E. The Executive Committee reserves to itself approval of all contracts and agreements exceeding \$50,000 except as otherwise provided in Section 7.6 or other subsequently enacted resolution or ordinance.

Section 34-6-4. Waiver of Procurement Policies.

The President or his authorized designee shall have the authority to waive the provisions of any policies and procedures established to carry out this Article to the extent that:

- A. An emergency exists involving the need for protection of life, property and the reputation and integrity of the Tribe, or
- B. When in the opinion of the President such waiver will result in more efficient use of Tribal resources without violating this Title or any other laws applicable laws or regulations.

Section 34-6-5. Procurement Department, and Procedures.

The Treasurer shall establish a "Procurement Department" that shall be responsible to acquire for use of the organization such goods and services as are needed on an ongoing basis and are common to the organization. The Department shall be capable and expected to coordinate procurement actions. The Department shall develop a Procurement Policy that addresses procedures for purchasing, sole source contracting, procurement records retention, disposal of property, and other relevant procedures for the Executive Committee's review.

Section 34-6-6. Contractual Agreements.

A. Relevant parties shall determine those goods and services for which formal written contracts shall be entered into, and the form of such contracts to ensure the protection of the Tribe's interests. Contracts and subcontracts associated construction, repair and renovation shall include requirements for compliance with the applicable provisions of the federal Davis Bacon Act.

B. The Office of the Attorney General shall provide standardized contracts and contract clauses for the employees who have been delegated authority under Procurement Authority. The Office of the Attorney General shall routinely review and update the standardized contracts and contract clauses periodically.

C. The Office of the Attorney General shall review and approve as to form any contract with a total value greater than \$25,000, and/or that contains an indemnity provision, an obligation for the Tribe to assure the costs of defending another party, a provision stipulating to the entry of damages against the Tribe, or waiver of sovereign immunity. Only the Executive Committee may authorize a decision regarding a procurement action that conflicts with the advice and recommendation of the Office of the Attorney General.

D. For purposes of this section the total value of any contract shall include all payments made, or to be made, pursuant to the contract throughout its term, including during any automatic or other renewal period.

E. The Tribe's sovereign immunity shall not be waived except by an ordinance enacted by the Executive Committee in accordance with the laws of the Tribe.

Section 34-6-7. Conflicts of Interest in Procurement.

No individual shall participate in or act upon any procurement in which he/she has a conflict of interest as described within 43 CFR 12.76(b)(3) or as shall be otherwise defined by the Executive Committee, the Employee Handbook, or in this Title.

CHAPTER 7 - PROPERTY MANAGEMENT

Section 34-7-1. General Provisions.

The Treasurer shall adopt policies for the effective management, efficient utilization and safeguarding of Tribal owned personal property, while conforming to applicable federal laws and regulations.

Section 34-7-2. Use of Tribal Property.

A. Any property owned, leased, or rented by the Tribe shall be used only for its intended purpose and in the performance of Tribal activities.

B. Property owned, leased, or rented by the Tribe may not be used by any individuals, organizations, or employees for personal use, except with prior written permission by the Executive Committee.

C. Executive Committee Members, or employees of the Tribe shall not loan any personal property owned by the Tribe to any other person either gratuitously or for consideration without the consent of the Treasurer or President. In the event of public emergency such as fire, flood, earthquake or other public disaster, the President and or Treasurer may act for the Executive Committee, and may permit property to be used for appropriate purposes. Such authorization shall be reported promptly to the Executive Committee.

Section 34-7-3. Disposal of Property.

Property that is determined to be no longer needed or usable by the Tribe shall be disposed of by the Procurement Director, following written procedures adopted by the President and Treasurer.

Property having an approximate value of \$500 or more shall be sold through advertisement, at public auction, sealed bid, negotiated sale, trade or exchange or other means in the best interests of the Tribe, including donation. Property having an approximate value of less than \$500 shall be disposed of by the most expedient method considering the cost of handling and sale. Such property may be gifted to local organizations or individuals.

Items purchased with Federal funds shall be disposed of consistent with the applicable awards or regulation. The Procurement Director shall prepare and present a report to the Treasurer regarding the property that is disposed of in accordance with this section on a monthly basis. The Treasurer shall provide these reports, as requested, to the Executive Committee.

Section 34-7-4. Lost or Stolen Property.

Loss or theft of tribal property shall be reported in writing immediately to the custodian of the property and to the CFO. The CFO shall report thefts to the appropriate law enforcement officials and insurance carrier as applicable. To the extent that tribal property is located and is not claimed or identified with a particular department or program, such property shall be turned over to the CFO for disposition.

Section 34-7-5. Financial Responsibility for Property

Tribal employees, officials, and tribal members are expected to take personal responsibility for the care and safekeeping of Tribal property under their control and use. To the extent that loss, damage or destruction of property is determined to be due to the neglect of an employee or official, such employee or official may be determined liable up to the value of the property, or may be otherwise disciplined in accordance with Tribal policies.

Section 34-7-6. Insurance.

Property shall be insured at its replacement value pursuant to Tribal insurance programs, and subject to such deductibles and self-insured limits as may be established. The insurance carrier, if any, shall be provided with the property inventory on an annual basis or at such other intervals as are required. Property insurance shall be the responsibility of the CFO.

CHAPTER 8 – AUDIT AND INTERNAL CONTROL

Section 34-8-1. Internal Control.

To the greatest extent practicable, each officer, Director, or supervisor assigned responsibility for implementation of activities and functions under this chapter shall be responsible to implement effective internal controls over such functions, to properly segregate duties and to establish effective written procedures and instructions for assigned functions.

Section 34-8-2. Insurance and Risk Mitigation.

A. The CFO shall incorporate internal control systems of the Tribe to include insurance and risk management procedures that are appropriate to protect and safeguard Tribal assets. Procedures shall include the selection of insurance policies considered necessary to protect the interests of the Tribe.

B. The following policies and activities shall be required, at a minimum:

1. A policy of liability insurance that shall insure the Council and other directors of the Tribe for errors and omissions in carrying out Tribal business.
2. An employee fidelity bond covering all employees having access to, or responsibilities over, monies and other assets of the Tribe.
3. Property and casualty policies providing for the replacement of assets lost due to fire, theft or other casualty.
4. Such liability policies as are considered appropriate to Tribal business.
5. Self-insurance programs to be recommended for low cost losses, where such programs will reduce the overall cost of insuring against losses, without significantly increasing risks.
6. Independent risk management assessments to be conducted at three-year intervals by professionals knowledgeable of such matters.
7. Professional Liability insurance for applicable professions.
8. Other policies and activities that the CFO finds appropriate.

Section 34-8-3. Internal Investigations.

The President shall conduct, or direct to be conducted, internal examinations of financial records and procedures and shall require the results of investigations to be reported to the Executive Committee. The investigation itself shall be coordinated by the Attorney General's Office who may seek outside assistance if the situation necessitates it.

Section 34-8-4. Annual Audit.

A. The Treasurer and CFO shall obtain proposals and shall recommend to the President a firm of independent Certified Public Accountants, who shall conduct an annual audit of all of the financial operations and records of the Tribe for each Fiscal Year. Multiple year engagements with audit firms shall be utilized where practical to provide efficiency and continuity in performance of audits.

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

C. The report of such auditors shall be addressed to the Executive Committee.

D. The CFO and Treasurer shall obtain proposals from qualified audit firms and shall schedule and coordinate such audit in such a manner as to facilitate delivery of completed audit reports not later than March 31 of the each succeeding fiscal year.

E. To the extent that conditions exist that delay the completion of the required audit reports beyond the required date, the CFO shall advise the Executive Committee, in writing, of the conditions and anticipated completion date.

F. Independent auditors shall report formally to the Executive Committee, with formal correspondence through the President.

G. The report of the auditors shall be addressed and delivered, in person, to the Executive Committee annually in order to afford members of the Executive Committee to obtain answers to questions regarding audit findings and recommendations.

H. At the request of a Subordinate Organization, the annual audit shall include and provide separate audit reports for such Subordinate Organization. The cost of such audit shall be paid by the Subordinate Organization.

Section 34-8-5. Unresolved Audit Issues.

To the extent that any disagreements exist during the period of the audit regarding any audit finding or the presentation of information within the audit report, such matters shall be resolved by the CFO as soon as practical in order to ensure a timely completion of the audit and delivery of the report. If the CFO is not able to resolve the issues timely and satisfactorily, then the matter shall be brought before the Executive Committee for resolution. Audit resolution shall not result in qualification of the auditor's opinion on Tribal Financial Statements, unless authorized by the Executive Committee.

LEGISLATIVE HISTORY

This Title was enacted by the Flandreau Santee Sioux Tribe Executive Committee on September 19, 2023 by Tribal Resolution 2023-85.