



**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

(Authorizing Expenditure for Holiday Bonuses and Establishing Policy for Annual Leave)

WHEREAS, pursuant to Article IV, Section 1(a), of the Constitution of the White Mountain Apache Tribe, *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and

WHEREAS, pursuant to prior Resolutions passed this year, beginning with Resolution No. 08-2007-339 on August 24, 2007, the Tribal Council has authorized the payout of accrued annual leave for employees and emergency circumstances; and

WHEREAS, a number of requests had been paid out through Resolution No. 12-2007-529, but these were done without full information from either the Treasurer or the Controller as to the total costs of such requests; and

WHEREAS, a number of additional requests have been made, totaling \$602,508.87, which includes cash advances; and

WHEREAS, such expenditures for accrued annual leave payments is subject to Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, which describes established principles and standards for determining allowable costs for federal awards carried out through grants, cost reimbursement contracts, and other agreements with state and local governments and federally-recognized Indian tribal governments; and

WHEREAS, the cost of annual leave benefits is addressed in OMB Circular A-87 Section 11.d.(2), which states: "The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if: (a) they are provided under established written leave policies; (b) the costs are equitably allocated to all related activities, including federal awards; and, (c) the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit;" and

WHEREAS, according to Section VII.D.6 of the Tribe's Personnel Policies and Procedures Manual (see Attachment 2), the Tribe's annual leave policy is as follows: "Maximum Accumulation of Annual Leave. At the beginning of each calendar year an employee may carry forward a maximum of 240 hours (30 days). No employee may receive payment for accumulated leave, unless separating from employment. There shall be no maximum accumulation for policy exempt employees who may bank all of their accumulated annual leave;" and

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WHEREAS, based on the OMB Circular A-87 allowable costs standards, the costs associated with annual leave benefits are only allowable if they are provided under the Tribe's established written leave policy; and

WHEREAS, the Tribal Council finds that, based upon the requests and in the absence of any structured bonus or incentive system for employees, the Tribe's written annual leave policy should permit payment to employees for accumulated leave under certain circumstances

WHEREAS, in view of the requirements set forth under OMB Circular A-87, the Tribal Council finds that:

1. The Tribe's Financial Policies and the Personnel Policy and Procedures should be amended as follows:
 - (a) At the beginning of each calendar year an employee may carry forward a maximum of 240 hours (30 days) of annual leave.
 - (b) There shall be no maximum accumulation for policy exempt employees who may bank all of their accumulated annual leave.
 - (c) Payment of accrued annual leave may be allowed such that one quarter of annual leave accrued during a pay period may be banked for the purposes of a payout, subject to available funds as may be appropriated and budgeted for such purpose, provided that (i) no appropriation will be made by the Tribal Council at the expense of the Tribe's legal obligations to its vendors or creditors, (ii) no employee may accrue more than 40 hours for such purpose, (iii) any payout be for payment against debts the employee may have incurred with the Tribe's enterprises. The remaining three-quarters of annual leave accrued during a pay period may be banked for the purposes of an employee taking time off from work, provided that no employee may accrue more than 200 hours for such purpose.
2. Costs charged to the Tribe's grants and contracts of accrued annual leave payments should be allowed effective 08-2007-339, through Wednesday, December 19, 2007, and that those costs for employees paid by grants or contracts should be paid out of Central Tribe account funds if disallowed by the terms or conditions of the applicable grant; and

WHEREAS, the Tribal Council further finds that the requests made through Wednesday, December 19, 2007, should be limited to eighty (80) hours for a cumulative total of \$602,508.87; and

WHEREAS, the Tribal Council further finds that there should be a moratorium on all future payments of accrued annual leave until such time as the policies and procedures are updated, and until the Budget and Finance Committee reports to the Tribal Council as to whether funds may be made available and budgeted for such purpose, provided that no budget for

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annual leave payments be made at the expense of the Tribe's legal obligations to its vendors or creditors.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that:

1. The Tribe's Financial Policies and the Personnel Policy and Procedures should be amended as follows:
 - (a) At the beginning of each calendar year an employee may carry forward a maximum of 240 hours (30 days) of annual leave.
 - (b) There shall be no maximum accumulation for policy exempt employees who may bank all of their accumulated annual leave.
 - (c) Payment of accrued annual leave may be allowed such that one quarter of annual leave accrued during a pay period may be banked for the purposes of a payout, subject to available funds as may be appropriated and budgeted for such purpose, provided that (i) no appropriation will be made by the Tribal Council at the expense of the Tribe's legal obligations to its vendors or creditors, (ii) no employee may accrue more than 40 hours for such purpose, (iii) any payout be for payment against debts the employee may have incurred with the Tribe's enterprises. The remaining three-quarters of annual leave accrued during a pay period may be banked for the purposes of an employee taking time off from work, provided that no employee may accrue more than 200 hours for such purpose.
2. Costs charged to the Tribe's grants and contracts of accrued annual leave payments are hereby authorized effective August 24, 2007, through Wednesday, December 19, 2007, and that those costs for employees paid by grants or contracts shall be paid out of Central Tribe account funds if disallowed by the terms or conditions of the applicable grant.
3. The Tribal Council further finds that the requests made through Wednesday, December 19, 2007, should be limited to eighty (80) hours for a cumulative total of \$602,508.87 and hereby directs the Treasurer and the Chief Financial Officer to identify a source of funds for such purpose, provided that the payments not be made at the expense of the Tribe's legal obligations to its vendors or its creditors.
4. No other requests for annual leave payments shall be allowed until further notice. Due to fiscal constraints, a moratorium is hereby instituted on all future payments of accrued annual leave until such time as the policies and procedures are updated as described herein, and until the Budget and Finance Committee reports to the Tribal Council as to whether funds may be made available and budgeted for such purpose, provided that no budget for annual leave payments be made at the expense of the Tribe's legal obligations to its vendors or creditors.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice Chairwoman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

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The foregoing resolution was on December 20, 2007, duly adopted by a vote of NINE for, ZERO against and ONE abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (i), (k), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council