

**Memorandum of Understanding
Between the Consumer Financial Protection Bureau and Navajo Nation Department of
Justice**

I. Parties

The Consumer Financial Protection Bureau (“CFPB” or the “Bureau”) was established by the Consumer Financial Protection Act of 2010 (“CFP Act”) (Pub. L. No. 111-203, Title X, 12 U.S.C. § 5481 *et seq.*). The CFPB enters into this memorandum of understanding (“MOU”) pursuant to its authority under the CFP Act and its regulations.

The Navajo Nation Department of Justice is represented in this agreement by Attorney General Harrison Tsosie.

II. Purpose

The CFPB and the Navajo Nation Department of Justice (collectively “Parties”) enter into this MOU to establish a framework, consistent with law, to preserve the confidentiality of information the parties share.

III. Treatment of Shared Information

Any nonpublic written or oral information exchanged between the Parties will be deemed confidential. The CFPB’s obligations with regard to the Navajo Nation Department of Justice’s information are set forth in this MOU. Any information provided to the Navajo Nation Department of Justice shall be subject to the CFPB’s Rule on Disclosure of Records and Information (“Disclosure Rule”), 12 C.F.R. § 1070 *et seq.*, including the limitations on further disclosure of the information.

IV. The CFPB’s Obligations Upon Receipt of Navajo Nation Department of Justice’s Information

All information obtained by the CFPB pursuant to this MOU shall remain the property of the Navajo Nation Department of Justice and, to the extent practicable, shall be maintained and identified as such and may not be disclosed, except as permitted in writing by the Navajo Nation Department of Justice. The CFPB shall, upon the reasonable request of the Navajo Nation Department of Justice and, to the extent permitted by law, return, destroy, delete, or otherwise dispose of any information as directed by the Navajo Nation Department of Justice. This MOU does not apply to information received by CFPB pursuant to 12 C.F.R. § 1082.1 *et seq.*

A. *Confidentiality Safeguards.* The CFPB agrees to establish and maintain safeguards to protect the confidentiality of the information provided pursuant to this MOU, by:

- (i) restricting access to the Navajo Nation Department of Justice’s information to its officers, employees, contractors, and agents who have a need for such information in the performance of their official duties, and informing such persons with access of their responsibilities under the MOU, except as otherwise provided in writing by the Navajo Nation Department of Justice;

- (ii) establishing appropriate administrative, technical, and physical safeguards to insure the confidentiality of personally identifiable information and data security and integrity; and
- (iii) complying with applicable breach notification policies and procedures.

B. *FOIA Requests.* If a request is made pursuant to the Freedom of Information Act or the Privacy Act, the CFPB will inform the requester that the Navajo Nation Department of Justice's information may not be disclosed insofar as it is the property of the Navajo Nation Department of Justice, and that any request for the disclosure of such information is properly directed to the Navajo Nation Department of Justice. In providing the information, the Navajo Nation Department of Justice will also endeavor to communicate, through appropriate markings or otherwise, whether information provided by the Navajo Nation Department of Justice is confidential or privileged, including whether the information contains confidential or privileged commercial or financial information or trade secrets.

C. *Other Requests and Demands.* In the event the CFPB receives any legally enforceable demand or request for information of the Navajo Nation Department of Justice (including, but not limited to, any judicial or administrative subpoena, court order, discovery request, request by the U.S. Government Accountability Office), or in the event the Navajo Nation Department of Justice's information is subject to an affirmative disclosure obligation, the CFPB shall promptly notify the Navajo Nation Department of Justice in writing and provide a copy of the demand or request for the information or describe the affirmative disclosure obligation, and, before complying with the request or demand or disclosure obligation, shall:

- (i) consult with the Navajo Nation Department of Justice and, to the extent applicable, afford the Navajo Nation Department of Justice a reasonable opportunity to respond to the demand or request;
- (ii) assert all reasonable and appropriate legal exemptions or privileges that the Navajo Nation Department of Justice may reasonably request be asserted on its behalf; and
- (iii) consent to an application by the Navajo Nation Department of Justice to intervene in any action or administrative proceeding to preserve, protect, and maintain the confidentiality of the information or any related privilege.

D. *Compulsory Orders and Demands.* Nothing in this MOU shall prevent the CFPB from complying with a legally valid and enforceable order of a court of competent jurisdiction, an order issued by a federal Administrative Law Judge, or, if compliance is deemed compulsory, a request or demand from a duly authorized committee of the United States Senate or House of Representatives.

V. Navajo Nation Department of Justice's Obligations Upon Receipt of the CFPB's Information

Navajo Nation Department of Justice may seek information from the CFPB by submitting a written request to the CFPB's General Counsel or its delegee containing the information specified in 12 C.F.R. § 1070.43(b). In some instances, the CFPB's Office of General Counsel or its delegee may authorize standing requests for certain information with an approved 12 C.F.R. § 1070.43(b)

submission.

The CFPB's Disclosure Rule, 12 C.F.R. § 1070 *et seq.*, sets forth Navajo Nation Department of Justice's obligations regarding information received from the CFPB, including the procedure for handling third party requests for CFPB information and limitations on the Navajo Nation Department of Justice disclosing the CFPB's information.

VI. Effect of this MOU

A. No provision of this MOU is intended to, and no provision of the MOU shall be construed to, limit or otherwise affect the authority of the Parties to administer, implement, or enforce any provision of any law subject to their respective jurisdictions.

B. The Parties agree that sharing of the information pursuant to this MOU will not constitute public disclosure and in no way constitutes an intention to compromise the confidentiality of such information or waive any applicable privilege. The Parties expressly reserve all evidentiary privileges and immunities applicable to the information shared under this MOU.

VII. Term

This MOU is effective upon signature by both Parties, and will remain in effect until superseded by the signed, mutual agreement of the Parties. Either Party may withdraw from or otherwise terminate its participation in this agreement not earlier than 30 days after written notice provided to the other Party. To the extent that a Party retains information upon termination of this MOU, the information shall continue to be treated in accordance with the terms of this MOU and shall not be shared outside the terms of this MOU, except as required by applicable law, or as mutually agreed upon by the Parties.

VIII. Amendments

The Parties to the MOU may from time to time amend this MOU in writing.

IX. Contacts

A. Completed information access forms should be submitted to the CFPB via electronic mail to Enforcement@CFPB.gov. Questions about this MOU should be directed to Kent Markus, Enforcement Director, 202-435-7061, kent.markus@cfpb.gov, and Hunter Wiggins, Deputy Enforcement Director for Strategic Planning, (202) 435-7387, hunter.wiggins@cfpb.gov, or their successors.

B. Any notice to the Navajo Nation Department of Justice required under this MOU shall be delivered to Harrison Tsosie, (928) 871-6345, htsosie@nndoj.org, his successors.

X. Execution

This MOU may be executed in counterparts and by signature sent by facsimile or electronically, each of which shall be deemed an original for all purposes.

XI. Authority

Each Party to this MOU has requisite legal authority to enter into this MOU. In the event of any material change to its authority, a Party will provide written notification to the other within ten (10) calendar days of any such change.

FOR THE CONSUMER
FINANCIAL PROTECTION BUREAU

By: Richard Cordray
Richard Cordray
Director
Consumer Financial Protection Bureau

Date: 1/22/2013

FOR THE NAVAJO NATION
DEPARTMENT OF JUSTICE

By: D. Harrison Tsosie
D. Harrison Tsosie
Attorney General
Navajo Nation Department of Justice

Date: Jan 17, 2013