

## CHAPTER 1-4 OFFICE OF THE RESERVATION ATTORNEY

### 1-4-1 Establishment of the Office

The Colville Business Council (Council), exercising its powers under the Constitution of the Confederated Tribes of the Colville Reservation to protect and conserve the sovereignty and resources of the Tribal Government, hereby establishes the Office of the Reservation Attorney (ORA). ORA shall be chief legal counsel and attorneys general to the Tribal Government and shall provide services exclusively to the Tribal Government as set forth in this Chapter.

### 1-4-2 Managing Attorney

A Managing Attorney shall be appointed by the Council upon the recommendation of the existing ORA attorneys for a term of one or more years. The Managing Attorney shall supervise the professional staff of the ORA and shall supervise the clerical staff of the ORA including the Code Reviser as set out in the Tribes' Plan of Operations. The Managing Attorney shall be the primary liaison between the ORA and the Council, and shall prepare ORA and litigation budgets, make staffing recommendations, and recommend attorney personnel actions to the Council. The Managing Attorney shall have at least ten years' experience in the practice of law, and shall have substantial experience in managing and government work. The authority of the Managing Attorney may be more particularly set out by resolution of the Council or in the ORA contract.

### 1-4-3 Client Relationship and Supervision

The ORA shall report directly to and shall be supervised and directed by the Council. The ORA is authorized to represent the Tribal Government, its agencies, instrumentalities, employees, officers, and agents in any legal action brought against them and to provide such other representation as is set out in the statutes, laws, regulations, ordinances and resolutions adopted by the Council. The Tribal Government acting by and through the Council shall be the principal client of the ORA and the ORA may, by direction in written resolution of the Council, bring suit in any jurisdiction on behalf of the Tribal Government or its agencies, instrumentalities, employees, officers, and agents. The ORA may also represent other persons or entities where the Council, after consultation with ORA, enacts a resolution determining that such representation is in the best interest of the Tribal Government, that no conflicts exist with ORA's representation of the Tribal Government, that professional liability insurance is available for the purpose of the representation, and authorizing the representation.

### 1-4-4 Waiver—Attorney-Client Privilege

No person within the Tribal Government, its agencies, instrumentalities, employees, officers or agents is authorized to waive the attorney-client privilege without the prior express written consent of the Council and the Managing Attorney. All communications between the ORA and its clients shall be considered privileged and confidential and for the use of the clients of the ORA only. Consistent with the Tribes' status as the ultimate, principal client of ORA, nothing in this section shall be interpreted to authorize a confidential relationship between ORA and any agency, instrumentality, employee, officer or agent of the Tribal Government, or any other party, such that ORA is prevented from communicating any information to the Council that is relevant to the legal interests of the Tribal Government, or to impose upon ORA any duty that is inconsistent with any applicable rules of professional conduct.

### 1-4-5 Employment Qualifications

Attorneys employed in the ORA must be graduates of an American Bar Association (ABA) accredited law school, and shall be in good standing in every jurisdiction in which they are admitted to practice. Every attorney employed by the ORA shall be admitted to practice before the Colville Tribal Court as soon as possible after hire. Every attorney employed by the ORA shall be admitted to practice before the Washington State Courts as soon as possible after hire having up to two (2) years to pass. Each attorney and spokesperson employed in the ORA shall adhere to the highest ethical and professional standards, as set out in the ABA Model Rules of Professional Conduct and any applicable rules of any jurisdiction in which the attorney or spokesperson is admitted to practice.

**1-4-6 Terms of Employment**

The terms of employment for attorneys in the ORA, including compensation and benefits and procedures for termination, shall be set out in a contract between the Tribal Government and the attorneys. The contract, and termination of employment of any attorney thereunder, must be approved by written Resolution of the Council.

**1-4-7 Representations of the Tribes— No Authority to Waive Sovereign Immunity**

The ORA shall be entitled to represent the Tribal Government and its agencies, instrumentalities, employees, officers, and agents before all courts and agencies of any government; but shall not be entitled in any circumstance, without written resolution or statute enacted by the Council, to waive the sovereign immunity of the Tribes' or any tribal entity.

**1-4-8 Officers of the Tribes—Immunities**

Attorneys employed in the ORA shall be deemed officers of the Tribal Government and, when acting in their official capacities, shall have all the immunities of officers of the Tribal Government. The Tribal Government shall indemnify the attorneys of the ORA and hold them harmless from any action brought against them for actions preformed in their official capacity.

**1-4-9 Authority for Settlement**

In any action defended by or brought by the ORA on behalf of the Tribal Government, its agencies, instrumentalities, employees, officers, and agents, the ORA shall have an affirmative obligation to consult with the Council or other statutorily designated agency of the Tribes regarding offers of settlement. The Council or a statutorily designated agency may authorize ORA to negotiate, accept or reject offers of settlement.

**1-4-10 Management of Outside Counsel**

The Managing Attorney shall supervise all outside counsel contracts entered into on behalf of the Tribal Government, and shall manage all such contracts in conformity with the Tribal Governments' litigation budgets. The ORA shall participate in the development of all litigation strategy of, and shall review all pleadings prior to filing by outside counsel. In addition, the ORA shall review and authorize payment for all outside counsel invoices.

**1-4-11 Opinions**

Upon request of the Council, the ORA shall have the authority to issue written legal opinions to the Tribal Government, its agencies, instrumentalities, employees, officers, and agents, with respect to any legal issue impacting or affecting the Tribal Government. Legal opinions shall be numbered and dated, and shall be binding on the Tribal Government, its agencies, instrumentalities, employees, officers, and agents, until such time as either the Council or a court of competent jurisdiction clarifies or amends the law in question.

(Amended 6/16/05, Resolution 2005-290)

(Chapter 1-4 Adopted 09/21/89, Resolution 1989-705)

(Certified 10/02/89)