



**KAW NATION  
OFFICE OF THE ATTORNEY GENERAL**

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**Question Submitted by: Chair Jacque Secondine Hensley  
2017 KAW AG 1  
Decided: 7/17/2017**

**Kaw Nation Attorney General Opinions**

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Cite as: 2017 KAW AG 1

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This office has received your request for an official Attorney General Opinion in which you ask, in effect, the following questions:

- 1. Under Tribal Council Resolution 98-57, is the Kaw Housing Authority, or Kaw Housing Department, a Tribally Designated Housing Entity governed by NAHASDA and tribal law, and is the Kaw Housing entity a department of the Kaw Nation which is answerable to the Chair of the Kaw Nation?**
- 2. According to Section 12, and Section 5 (subsection 5) of the Attorney General Code, and the Constitution of the Kaw Nation, does the Attorney General have the right to directly supervise the performance of any attorney employed by the Housing Department, and if necessary, demand that either the Attorney General or one of her assistants serve as the attorney for the Housing Department?**
- 3. Under Chapter 2 of the Budget and Appropriations Act of the Kaw Nation, is the Housing Department required to submit all budgets to the Chair and the Budget Committee, or a similar body, for review and approval?**
- 4. According to the Constitution of the Kaw Nation, which enumerates the powers of the Chair, and Chapter 4 Section A(1) of the Tribal Council Rules of Procedure, is the Chair responsible for the day to day operations of the Housing Department, just as the Chair is responsible for all Kaw Nation departments and entities?**
- 5. As a public housing board, is the Housing Authority responsible for complying with the Oklahoma Open Meetings Act, the Oklahoma Open Records Act, and all financial disclosure requirements required by state law?**
- 6. As the Director of the Housing Department is an employee of the Kaw Nation, is she answerable to the Chair for any violations of Kaw Nation employment policies, and is she employed under the same conditions as other Kaw Nation employees answerable to the Chair?**

**Introduction**

The questions posed in this opinion chiefly revolve around the relationship between the Kaw Nation Housing Authority and the Kaw Nation itself.

### **History**

The Oklahoma Housing Authorities Act ("Act") was enacted in 1965. A housing authority is a "public body corporate and politic" created by statute to finance and develop adequate low-income housing. 63 O.S.2001, § 1054(a). Under the "United States Housing Act of 1937" and its subsequent amendments, federal funds are made available to assist housing authorities in developing low-income housing projects. 42 U.S.C. §§ 1437 - 1440.

Indian housing authorities are authorized under the Act:

A. There is hereby created, with respect to each Indian tribe, band, or nation in the state, a public body corporate and politic, to function in the operating area of such Indian tribe, band, or nation to be known as the "housing authority" of said Indian tribe, band, or nation. The Indian housing authority shall be an agency of the State of Oklahoma, possessing all powers, rights, and functions herein specified for city and county authorities created pursuant to this act. The Indian housing authority shall not transact any business nor exercise its powers hereunder until or unless the governing council of the tribe, band, or nation, as the case may be, by proper resolution, declares that there is a need for a housing authority to function for the tribe, band or nation.

B. Except as otherwise provided in this act, all the provisions of law applicable to housing authorities created for cities and counties and the commissioners of such authorities shall be applicable to Indian housing authorities and commissioners, unless a different meaning clearly appears from the context. The Chief or other governing head of an Indian tribe, band, or nation is hereby authorized to exercise all appointing and other powers with respect to an Indian housing authority that are vested by this act in the mayor of a city relating to a city housing authority.

63 O.S. § 1057(A)-(B). Following the original passage of §1057, the United States federal government passed the Native American Housing Assistance and Self-Determination Act ("NAHASDA"), authorizing the creation of housing authorities that are controlled by a tribe. Oklahoma acknowledged the passage of NAHASDA by amending §1057 in 2010 as follows:

C. The Oklahoma Legislature finds that, under the authority of this section, state agency Indian housing authorities may be operated in the area of federally recognized Indian tribes, bands and nations in this state, upon proper resolution declaring that there is a need for a housing authority to function in the operating area of the tribe, band

or nation. State agency Indian housing authorities are funded exclusively with federal funds designated for the purpose of providing housing in the area of the tribe, band or nation for whose benefit the housing authority was established. The state agency Indian housing authorities are managed by tribal members appointed by the governing head of the tribe. At the time that state agency Indian housing authorities were authorized to operate for the benefit of the tribe, band or nation, the tribes, bands and nations were not eligible to receive federal funding for housing purposes. Federally recognized Indian tribes, bands and nations are now eligible to receive federal funding for housing purposes and many have received federal funds, and many have created tribal housing authorities for the purpose of providing housing for their tribal members. In the exercise of their sovereign powers, some tribes, bands and nations desire or may in the future desire to undertake the control and management of the state agency Indian housing authorities created for their benefit and to assume all the assets and liabilities, while other tribes, bands or nations may wish to consolidate the state agency Indian housing authority created or which may be created for their benefit into tribal housing programs. In the interest of the sovereign power of federally recognized Indian tribes, economy of efforts, and the maintenance of cooperative relationships between the state and federally recognized Indian tribes, and in light of the above findings, the state hereby authorizes any federally recognized Indian tribe, band or nation for whose benefit a state agency housing authority was or may be created, to assume management and control of the state agency Indian housing authority and all its assets, as provided in this section.

D. Any federally recognized Indian tribe, band or nation for whose benefit a state agency housing authority has been or will be created is hereby empowered to undertake the management and control of the program of the state agency upon:

1. The assumption of all present and future liabilities of the state agency housing authority.
2. The acceptance of all assets of the state agency housing authority.
3. Upon agreeing to continue to operate a housing authority or program; and,
4. Upon entering into local cooperative agreements for payments in lieu of taxes in an amount that is not more than the

amount authorized under the Native American Housing Assistance and Self-Determination Act and rules implementing the act.

E. The governing body of any federally recognized Indian tribe, band or nation may exercise the power to undertake management and control of the state agency Indian housing authority created for its benefit by adopting an ordinance or resolution to undertake management and control. The resolution or ordinance shall provide that the tribe, band or nation ***will assume all the assets and all the liabilities of the state agency Indian housing authority and agrees to continue to operate the housing program for the benefit of its members***, and will enter into local cooperative agreements with payments in lieu of taxes as required in paragraph 4 of subsection D of this section and in accordance with Section 1066 of this title.

F. ***Upon the filing of a resolution or ordinance as provided for in subsection E of this section with the office of the Secretary of State, the Oklahoma Attorney General, and the office of the county clerk in the county in which any land being transferred is located, the management and control of the state agency Indian housing authority created for the tribe, band or nation, together with the ownership of all housing authority assets and liabilities shall transfer to the tribe, band or nation, and the state agency Indian housing authority for that tribe, band or nation shall cease to exist. No further action on the state's part is necessary to transfer title of all state agency Indian housing authority real property to the tribe, band or nation. The filing of a copy of this statute, a certified copy of the required resolution or ordinance and the legal description of the land(s) shall transfer title. The land so transferred, until transferred to the ownership of individual tribal members, is declared to be used for charitable purposes and to be public property used for essential public and governmental purposes. The property shall be exempt from ad valorem taxes, so long as the tribe, band or nation continues to make the in lieu of tax payments as required in this section. [emphasis added]***

63 O.S. § 1057(C)-(F). In 1998, the Kaw Nation Tribal Council passed Tribal Council Resolution 98-57. Under this resolution, the Kaw Nation adopted the Kaw Housing Authority, an Oklahoma state law housing authority, as the Tribally Designated Housing Entity (“TDHE”) for the Kaw Nation under NAHASDA. The resolution also repeals the code of laws governing the housing authority, and adopts instead the Kaw Housing Act of 1998, including a change of name for the housing authority to the Kaw Nation Housing Department. Our research showed no subsequent actions by the Tribal Council regarding the Housing Department.

*Note: As discussed above, Resolution 98-57 renames the Kaw Nation Housing Authority to the Kaw Nation Housing Department. Our understanding is that the Kaw Nation Housing*

*Authority has not accepted the change of name, and continues to hold itself out as the Kaw Nation Housing Authority. For reasons discussed below, it is our opinion that the proper name of the entity responsible for providing low-cost housing options to Kaw Nation members is the Kaw Nation Housing Department. However, to avoid confusion caused by the existing entity's refusal to use the correct name, this opinion shall continue to refer to the entity as the Kaw Nation Housing Authority throughout.*

## **Analysis**

### **1. Under Tribal Council Resolution 98-57, is the Kaw Housing Authority, or Kaw Housing Department, a Tribally Designated Housing Entity governed by NAHASDA and tribal law, and is the Kaw Housing entity a department of the Kaw Nation which is answerable to the Chair of the Kaw Nation?**

Your first question contains multiple parts, and we will treat each separately.

#### *A. The Kaw Nation Housing Authority is a Tribally Designated Housing Entity under NAHASDA.*

Under NAHASDA, a tribe is authorized to designate an entity a Tribally Designated Housing Entity ("TDHE"). NAHASDA provides two definitions for tribally-designated housing entities in § 4.22. Under Resolution 98-57, the Tribal Council designated the Kaw Nation Housing Authority as the Kaw Nation's TDHE. The second definition, NAHASDA §4.22(B), states:

(B) OTHER ENTITIES- With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and providing assistance under this Act for affordable housing for Indians, which entity is established –

(i) by exercise of the power of self-government of one or more Indian tribes independent of State Law, or,

(ii) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska.

The Kaw Nation Housing Authority was created pursuant to Oklahoma state law authorizing the creation of housing authorities specifically for Indians, and so complies with definition (ii) above. Therefore, the Kaw Nation Housing Authority is a TDHE under NAHASDA.

Implicit in your question is the difference between a TDHE, and a tribal housing authority. A TDHE is an entity, designated pursuant to NAHASDA by a tribe, as the entity which is to receive the block grant funds appropriated for that tribe under NAHASDA. A tribal housing authority is created pursuant to state or tribal law to provide free and low-cost housing to low-income families, utilizing such sources of funds as the housing authority may acquire, including, but not limited to, bonds, investments, donations, and grants, including block grants such as those contemplated by

NAHASDA. While a tribal housing authority may be a TDHE, and in fact often is, there is no requirement under NAHASDA that the authority be the TDHE. The designation of a housing authority as a TDHE is not sufficient under Oklahoma state law to convert a state-controlled tribal housing authority into a tribally-controlled housing authority, as discussed below.

*B. The Kaw Nation Housing Authority is a state-controlled tribal housing authority, subject to Oklahoma state law.*

Next, we must examine whether the Housing Department is a state-controlled tribal housing authority, or a tribally-controlled tribal housing authority. Oklahoma law recognized NAHASDA's creation of tribally-controlled tribal housing authority by creating 63 O.S. § 1057(D-F). Under these subsections, the legislature provides a path for both the recognition of tribally-controlled tribal housing authorities, and a method for converting a state-controlled tribal housing authority to a tribally-controlled tribal housing authority. The Kaw Nation Housing Authority has not been converted to a tribally-controlled housing authority yet.

63 O.S. § 1057(E) states that a tribe may undertake management and control of a state-controlled housing authority if the governing body adopts an ordinance or resolution that contains the following elements:

1. The tribe must undertake management and control;
2. The tribe must assume all assets and liabilities of the state-controlled housing authority;
3. The tribe must agree to continue to operate the housing program for the benefit of tribal members; and,
4. The tribe must enter into local cooperative agreements with payments in lieu of taxes as required in 63 OS §1057(D)(4) and §1066.

This amendment to § 1057 was not codified until 2010. Therefore, Resolution 98-57 could not be sufficient to create a Kaw Tribally-controlled tribal housing authority. Even if Resolution 98-57 did meet the requirements set forth in § 1057(E), the Kaw Housing Authority has not been converted to a tribally-controlled tribal housing authority because the resolution or ordinance approving the conversion has not been filed.

§ 1057(F) states that management and control of the state-controlled tribal housing authority shall transfer to the tribe upon filing of a resolution or ordinance as described in (E) with the Secretary of State, the Oklahoma Attorney General, and the office of the county clerk in the county in which any land owned by the housing authority is located. This filing is the operative action that fully converts the state-controlled tribal housing authority to a tribally-controlled tribal housing authority. Without that operative action, there is no conversion.

Since the Kaw Nation Tribal Council has not passed a resolution containing the elements necessary under Oklahoma state law to convert the state-controlled tribal housing authority into a tribally-controlled tribal housing authority, the Kaw Nation Housing Authority remains a state entity, and is subject to Oklahoma state law.

*C. The Kaw Housing Authority is ultimately answerable to the Chair of the Kaw Nation.*

As discussed in Section II above, the Kaw Housing Authority is a state entity, created under the laws of the State of Oklahoma and subject to the same. However, the Kaw Housing Authority is also answerable to the Chair of the Kaw Nation, as the governing head of the Kaw Nation.

63 O.S. § 1057(B) states:

B. Except as otherwise provided in this act, all the provisions of law applicable to housing authorities created for cities and counties and the commissioners of such authorities shall be applicable to Indian housing authorities and commissioners, unless a different meaning clearly appears from the context. The Chief or ***other governing head of an Indian tribe, band, or nation is hereby authorized to exercise all appointing and other powers*** with respect to an Indian housing authority that are vested by this act in the mayor of a city relating to a city housing authority. [emphasis added]

Article VI of the Kaw Nation Constitution creates the office of Chair of the Nation, and vests it with the executive functions of the Kaw Nation government. Therefore, the Chair of the Kaw Nation is the governing head of the Kaw Nation. § 1057(B) vests the Chair with the authority to appoint commissioners to the tribal housing authority, *even if it is a state-controlled tribal housing authority*. The Chair also retains the other powers under the Oklahoma Housing Authorities Act that are granted to mayors of cities with city housing authorities. The Oklahoma state courts have reviewed the issue of to whom a housing authority answers, and have concluded that “housing authorities are a creature of the entity which gives them birth.” Application of Goodwin, 1979 OK 106, ¶ 12; 597 P.2d 762 (Okla. 1979). This means that the Kaw Housing Authority exists as a creature of the Kaw Nation, and is subject to the laws of the Kaw Nation as well as the laws of the State of Oklahoma. § 1057(B) and relevant state court decisions like Application of Goodwin vest day-to-day management of the Kaw Nation Housing Authority in the Chair of the Kaw Nation.

In addition to the powers vested in the Chair, the Oklahoma Housing Authorities Act also vests authority in the governing body of each Indian tribe, band, or nation to remove commissioners of state-controlled tribal housing authorities. 63 O.S. § 1060 allows removal of a commissioner of a housing authority for inefficiency, neglect of duty, misconduct in office, or allowing any portion of any project to become dilapidated, unsanitary or unkept. The commissioner sought to be removed is entitled to ten days’ notice of the charges, and a hearing before the governing body. Article V, Section 2 of the Kaw Nation Constitution designates the Tribal Council as the legislative body of the Kaw Nation and empowers the Tribal Council to act in and on all matters and subject upon which the Kaw Nation is empowered to act. § 1060 thus designates the Tribal Council as the Kaw Nation authority designated with the power to remove commissioners. The Tribal Council could certainly interpret a commissioner’s failure to abide by the laws and policies of the Kaw Nation and of the State of Oklahoma as misconduct, inefficiency, or neglect of duty.

The combination of powers and authorities over the Kaw Nation Housing Authority that are vested in the Chair and the Tribal Council of the Kaw Nation mean that, ultimately, the Kaw Nation Housing Authority is answerable to the Chair and the Tribal Council.

**2. According to Section 12, and Section 5(subsection 5) of the Attorney General Code, and the Constitution of the Kaw Nation, does the Attorney General have the right to directly supervise the performance of any attorney employed by the Housing Department, and if necessary, demand that either the Attorney General or one of her assistants serve as the attorney for the Housing Department?**

Article VII of the Kaw Nation Constitution creates the position of Attorney General, and empowers the General Council to outline the duties and powers of that office. The General Council, by Resolution 12-09, passed the Attorney General Code (“AG Code”) of the Kaw Nation, further refining and defining the rights, powers, obligations, and duties of the Kaw Nation Attorney General. Section 6(A) of the AG Code states:

Pursuant to Article VII, of the Kaw Nation Constitution, the Attorney General “Shall represent the Kaw Nation in all criminal cases in the courts of the Kaw Nation, and in all civil actions wherein the Kaw Nation is a party, and shall provide an opinion as to the constitutionality of laws at the request of the Chair, Tribal Council, or General Council, and shall have such other duties as may be prescribed by legislation and approved by the General Council.

Under this provision, the Attorney General retains ultimate responsibility for all cases in which the Kaw Nation is involved for any reason. Section 13 of the AG Code allows a department or official of the Kaw Nation to seek representation from the Attorney General’s Office, or from a private attorney. However, if a private attorney is sought, the Tribal Council must approve the representation. Based on the Kaw Nation Constitution’s delegation of authority to the Attorney General, and Section 6 of the AG Code, the Attorney General is assigned the duty of representing the Kaw Nation. While Section 13 allows the Tribal Council to approve the hiring of private attorneys to represent the Kaw Nation for specific matters, the ultimate responsibility for all legal matters resides and remains in the Attorney General. It necessarily follows that the Attorney General must maintain some degree of control over private attorneys hired for the Kaw Nation. This contention is supported by Section 12 of the AG Code, which places a duty on any attorney under contract to a department, committee, commission, governmental board, or board of the Kaw Nation to produce a report to the Attorney General at least fifteen (15) days prior to every regular General Council meeting. This report must detail work conducted by the attorney on behalf of the Kaw Nation. Were the Attorney General not responsible for the work of these private attorneys, then there would be no requirement that private attorneys provide reports to the Attorney General. Further, Section 14 of the AG Code authorizes the Attorney General to defend any employee of the Kaw Nation, or of any subdivision of the Kaw Nation in any court and cause of action. In the event a private attorney is hired to defend the employee, or the board, committee, commission, or other subdivision of the Kaw Nation, the Attorney General may still elect to intervene in the action, on behalf of the Kaw Nation, to defend the interests of the Kaw Nation. Since the interests of any subdivision of the Kaw Nation must necessarily be the interests of the Kaw Nation, it must follow



that the private attorneys are answerable to the Attorney General in defense or prosecution of any claim, cause of action, case, or controversy involving the Kaw Nation. For the reasons we discussed above, it is our opinion that all attorneys employed by the Kaw Nation are directly supervised by the Attorney General's Office. In addition, it is our opinion that, based on Section 13 of the AG Code, private attorneys may be hired only with permission of the Tribal Council. Without consent of the Tribal Council, a private attorney may not be employed by any department or official of the Kaw Nation, and all legal services required to be provided must be obtained from the Attorney General's Office of the Kaw Nation.

**3. Under Chapter 2 of the Budget and Appropriations Act of the Kaw Nation, is the Housing Department required to submit all budgets to the Chair and the Budget Committee, or a similar body, for review and approval?**

Please see the answer to Question 1 above. The Kaw Nation Housing Authority remains a state entity, and is subject to the laws of the State of Oklahoma. 63 O.S. § 1061 grants various powers to a housing authority, but specifically excludes the power to appropriate funds of a city or county, and the power to levy taxes and assessments. Under § 1057, these provisions extend to tribal housing authorities and prevent the appropriation of tribal funds. As the Kaw Nation Housing Authority may not appropriate funds of the Kaw Nation of its own will, it follows that funds of the Kaw Nation may be provided to the Kaw Nation Housing Authority by appropriation of the Tribal Council, or its designee.

The Tribal Council has conditioned the appropriation of Kaw Nation funds upon compliance with the Budget and Appropriations Act ("BAA") of the Kaw Nation. Section 101 of the BAA establishes a Budget and Appropriations Review Panel. Section 202(b) of the BAA requires that all persons of the Kaw Nation responsible for a budget present an annual written budget and budget justification to the Budget and Appropriations Review Panel. Section 202(e) grants the Finance Director the same oversight authority for grants and contracts awarded by the Kaw Nation as the Finance Director has for other budgeted departments. Section 202(f) requires final consent and approval of the Tribal Council before any budget may be adopted. Failure to provide the required budgets and justifications can result in disapproval of a budget by the Budget and Appropriations Review Panel and the Chair of the Tribal Council. Without approval of the Chair and the Tribal Council, funds cannot be appropriated and spent for a department, grant or contract.

As discussed above, the Kaw Nation Housing Authority is a state entity and the Tribally-Designated Housing Entity ("TDHE") for NAHASDA purposes. Under NAHASDA, an Indian Tribe is entitled to receive federal funding to provide low-cost housing. This type of funding is termed an Indian Housing Block Grant ("IHBG"). NAHASDA also allows a Tribe to designate a different entity to receive the Tribe's IHBG and administer it. Under Resolution 98-57, the Tribal Council designated the Kaw Nation Housing Authority to be the TDHE for the Kaw Nation. Since the IHBG is a grant of funds to the Kaw Nation, the expenditure of those funds by any entity is an expenditure of funds of the Kaw Nation. The Budget and Appropriations Act of the Kaw Nation requires that any expenditure of Kaw Nation funds requires a budget and justification approved by the Budget and Appropriations Review Panel, the Chair, and the Tribal Council. This makes the Kaw Nation Housing Authority subject to similar oversight to that of a department of the Kaw

Nation. *See* Budget and Appropriations Act Section 202(e). The Housing Authority must comply with these requirements as if it were a department. Moreover, all grants must be included in the Chair's comprehensive budget which is submitted to Tribal Council. As such, the Kaw Nation Housing Authority must report all external grants, including the IHBG, which it receives so that they can be included in the Chair's comprehensive budget.

The Kaw Nation Housing Authority also is still obligated under Oklahoma state law to provide a yearly audit to the Tribal Council. 63 O.S. § 1079 states:

At least once a year an authority shall file with the clerk of the governing body of the jurisdiction within which the authority operates a complete financial and operating report of the preceding fiscal year which shall be and remain a public record. When required by federal law, an authority shall file an audit of all financial and other transactions for the previous fiscal year and shall file such audit with the clerk as a public record and make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purpose of this act.

Failure to file this yearly report with the Tribal Council would constitute neglect of duty, and justify remedies for such failure as the Tribal Council deems necessary.

**4. According to the Constitution of the Kaw Nation, which enumerates the powers of the Chair, and Chapter 4 Section A(1) of the Tribal Council Rules of Procedure, is the Chair responsible for the day to day operations of the Housing Department, just as the Chair is responsible for all Kaw Nation departments and entities?**

Please refer to Question 1, wherein it is discussed and shown that the Kaw Nation Housing Authority is a state-controlled tribal housing authority. As discussed therein, the responsibility or day-to-day management of a tribal housing authority, regardless of whether it is state-controlled or tribally-controlled, falls to the Chair of the Kaw Nation. As stated in 63 O.S. § 1057, the chief or other governing head of the tribe is granted the power to appoint commissioners to the housing authority, and all other powers granted by the Housing Authority Act to the mayor of a city with a city housing authority. Under § 1060, regarding removal of commissioners, the governing body of a tribe, band, or nation is granted the authority to remove a commissioner of a housing authority for misconduct, neglect of duty, or inefficiency. The ability/requirement that the governing body remove commissioners for inefficiency entails that the governing body be aware of the day-to-day operations of the housing authority to insure that the housing authority is operating efficiently. As discussed in Question 1, the Kaw Nation Constitution appoints the Tribal Council as the governing body of the Kaw Nation. The Tribal Council Rules of Procedure Chapter 4, Section (A)(1) delegates management of the day-to-day operations of the Kaw Nation to the Chair of the Tribal Council. 63 O.S. § 1057 grants the Chair authority over the tribal housing authority equal to the authority a mayor has over a city housing authority, and § 1060 grants the Tribal Council authority

to monitor the efficiency of the housing authority. The Kaw Nation Constitution and Chapter 4, section (A)(1) of the Tribal Council Rules of Procedure delegate day-to-day management to the Chair of the Kaw Nation. For these reasons, it is the opinion of the Attorney General that the Chair is responsible for the day-to-day operations of the Kaw Nation Housing Authority.

**5. As a public housing board, is the Housing Authority responsible for complying with the Oklahoma Open Meetings Act, the Oklahoma Open Records Act, and all financial disclosure requirements required by state law?**

Please refer to Question 1 above. The Kaw Nation Housing Authority remains a state-controlled tribal housing authority. As a result, the Kaw Nation Housing Authority is a state entity, and is subject to the laws of the State of Oklahoma.

The Oklahoma Open Meetings Act is codified at 25 O.S. § 301 et. seq. Under 25 O.S. § 303, all meetings of public bodies shall be open to the public unless otherwise authorized to be closed. A public body includes all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, or any entity created by a public trust. 25 O.S. § 304(1). The Kaw Nation Housing Authority is an authority of the State of Oklahoma, and is thus subject to the Open Meetings Act.

The Oklahoma Open Records Act is codified at 51 O.S. § 24A.3 et. seq. Under 51 O.S. 24A.5, all records of public bodies must be open to any person for inspection, copying, or reproduction during regular business hours. 51 O.S. § 24A.3 defines public body to include any office, department, board, bureau, commission, agency, trusteeship authority, council, committee, trust, etc. The Kaw Nation Housing Authority remains an authority of the State of Oklahoma, and is thus subject to the Open Records Act. Therefore, all records of the Kaw Nation Housing Authority must be publically available during regular business hours, unless some other law provides for keeping information confidential. Our review of the Oklahoma Housing Authority Act, NAHASDA, the Oklahoma Open Meetings Act, and the Oklahoma Open Records Act did not reveal any grants of confidentiality to the records of the Kaw Nation Housing Authority. The Kaw Nation Housing Authority is also subject to financial disclosure laws of the State of Oklahoma, as all records of the Kaw Nation Housing Authority are open records unless otherwise authorized to be kept confidential.

**6. As the Director of the Housing Department is an employee of the Kaw Nation, is she answerable to the Chair for any violations of Kaw Nation employment policies, and is she employed under the same conditions as other Kaw Nation employees answerable to the Chair?**

Please see the answer to Question 1 above. The Kaw Nation Housing Authority remains a state entity but is a creature of the government that gave it birth. Therefore, the Director of the Housing Authority is an employee of the Kaw Nation. As discussed above, the Chair has been delegated authority to manage the day-to-day affairs of the Kaw Nation. As also discussed above, the Director of the Kaw Nation Housing Department is answerable to the Chair and the Tribal Council through those entities' control of the Kaw Nation Housing Authority Board of Commissioners. It is our opinion that that the Director of the Housing Authority is an employee

of the Kaw Nation, and subject to all the rights, benefits, obligations, and duties entailed therein, including obligations to the Chair of the Kaw Nation at the day-to-day manager of the Kaw Nation.

**It is, therefore, the official Opinion of the Attorney General that:**

**1. The Kaw Nation Housing Authority is a state law entity under the Oklahoma Housing Authority Act, a Tribally-Designated Housing Entity under NAHASDA, is governed by state and tribal law, and is answerable to the Chair of the Kaw Nation.**

**2. The Attorney General has direct supervision of the performance of any attorney employed by the Kaw Nation Housing Authority, and the Tribal Council may replace any private attorney hired by the Kaw Nation Housing Authority with either the Attorney General or one of her assistants to serve as attorney for the Kaw Nation Housing Authority.**

**3. Under Chapter 2 of the Budget and Appropriations Act of the Kaw Nation, the Kaw Nation Housing Authority required to submit all budgets to the Chair and the Budget and Appropriations Review Panel for review and approval for the Kaw Nation Housing Authority to access the IHBG or any other grant and must report all external grants to the Chair to be included in the comprehensive budget. The Kaw Nation Housing Authority must also submit an audit report at the end of each fiscal year.**

**4. The Chair of the Kaw Nation is responsible for the day to day operations of the Kaw Nation Housing Authority under the Kaw Nation Constitution, and Chapter 4 Section A(1) of the Tribal Council Rules of Procedure.**

**5. The Kaw Nation Housing Authority must comply with the Oklahoma Open Meetings Act, the Oklahoma Open Records Act, and all financial disclosure requirements required by state law.**

**6. The Director of the Housing Department is an employee of the Kaw Nation, and is answerable to the Chair for any violations of Kaw Nation employment policies.**

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