

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL
OF THE OGLALA SIOUX TRIBE
(An Unincorporated Tribe)

ORDINANCE (1) ESTABLISHING A CENTRALIZED INFORMATION TECHNOLOGY DIVISION OF THE OGLALA SIOUX TRIBE AND AUTHORIZING THE FUNDING OF THE CENTRALIZED EDUCATION BROADBAND NETWORK FOR INDIAN STUDENTS, INDIAN SCHOOLS, LIBRARIES, EDUCATION ADMINISTRATIVE OFFICES, HIGHER EDUCATION OFFICES, OGLALA LAKOTA COLLEGE AND OTHER EDUCATIONAL INSTITUTIONS; (2) ESTABLISHING A TRIBAL UTILITIES REGULATORY SURCHARGE ON ALL WORKS OF UTILITY WITHIN THE EXTERIOR BOUNDARIES OF THE PINE RIDGE INDIAN RESERVATION.

CHAPTER 1 - DECLARATION OF NEED; AUTHORITY

The Oglala Sioux Tribe has adopted its Constitution and By-laws by referendum vote on December 10, 1935, in accordance with Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 476), and under Article III § 1 of the Oglala Sioux Tribe Constitution, the Tribal Council is the governing body of the Oglala Sioux Tribe. Under Article IV § 1 (f) of that Constitution, the Oglala Sioux Tribal Council has legislative authority to "manage all economic affairs and enterprises of the Oglala Sioux Tribe."

The 1868 Treaty of Fort Laramie contained the following provisions in Article XI Section 6 and Article XIII:

"ARTICLE XI

[Section] 6th. They [the Sioux Nation] withdraw all pretence of opposition to the construction of the railroad now being built along the Platte river and westward to the Pacific ocean, and they will not in future object to the construction of railroads, wagon roads, mail stations, or other works of utility or necessity, which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of the said commissioners to be a chief or headman of the tribe"

"ARTICLE XIII

The United States hereby agrees to furnish annually to the Indians the physician, teachers, carpenter, miller, engineer, farmer, and blacksmiths, as herein contemplated, and that such appropriations shall be made from time to time, on the estimate of the Secretary of the Interior, as will be sufficient to employ such persons" (emphasis added).

The Great Sioux Nation, including the Oglala Sioux Tribe, complied with the 1868 Treaty Article XI, Section 6, by withdrawing opposition to the construction of a railroad across its territory. The Oglala Sioux Tribe and the Great Sioux Nation have contributed more than their fair share to the development of the United States' Public Switched Telephone Network and Broadband Internet Services by relinquishing land resources as detailed in Article XI Section 6 of the Fort Laramie Treaty of 1868; and

The 1934 Communications Act established the State Public Utilities Commissions yet remained silent on the utility needs of Indian Country that were addressed in the 1868 Fort Laramie Treaty.

Via FCC Rulings 01-283 and 01-284, the Federal Communications Commission removed jurisdiction over telecommunications activities occurring on the Pine Ridge Indian Reservation from the State of South Dakota Public Utilities Commission.

Section 2 of the federal Mobile Telecommunications Sourcing Act of 2000, PL 106-252, ("Sourcing Act") mandates that all charges for mobile telecommunications services may be subjected to a tax, charge, or fee by the "taxing jurisdiction whose territorial limits encompass the customer's place of primary use," and "no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services."

The Oglala Sioux Tribe recognizes the benefits that would be realized by all governmental operations if the Information Technology activities of the Tribe were centralized. There would be increased cost savings, as well as better sharing of resources among the various Tribal departments, agencies, and organizations. Specifically, the Oglala Sioux Tribe - Department of Public Safety ("OSTDPS") maintains a Master Street Address Guide ("MSAG") with the Place of Primary Use ("PPU") database for the entire Pine Ridge Indian Reservation in accordance with Tribal Ordinance 05-32, and OSTDPS is constructing a new Department of Justice Building near Pine Ridge Village with a

primary data center included inside the facility, and that data center has the technology and capacity to provide IT services beyond those utilized by the OSTDPS.

Additionally, there exists an Oglala Sioux Tribal Utilities Commission ("OST Utility Commission"), which has jurisdiction over all utility providers within the boundaries of the Oglala Sioux Nation. Any company that provides services to members of the Oglala Sioux Tribe on Tribal lands is providing essential services that impact the political integrity, economic security, health, and welfare of the Tribe and its members. By virtue of transacting business with the Oglala Sioux Tribe or its members, any utility company is consenting to the jurisdiction of the Oglala Sioux Tribe over its activities on Tribal lands.

CHAPTER 2 - CREATION OF DIVISION OF INFORMATION TECHNOLOGY

The Oglala Sioux Tribe (OST) hereby creates a centralized Division of Information Technology (IT) with an Enterprise architecture system, and which will have broad oversight over all current and future IT-related activities of the Oglala Sioux Tribe, its departments, agencies and chartered organizations, and including related IT services, grants and contracts.

The IT Division will have a single Chief Information Officer with broad authority governing the IT operations of the Tribe. The OST IT Division will have subdivisions for specialty services, authorized and described as follows:

I. IT Operations - will have oversight of the day-to-day traditional computer related services

A. Systems Division - Computer systems and servers, Enterprise Email, Enterprise encryption services, Enterprise patching servers, maintaining monitoring services of servers, mobile computing devices, smart phones, tablets, etc.

B. Telecommunications Division - Wide Area Networks (WANs), Metropolitan Area Networks (MANs), Local Area Networks (LANs) and maintaining the monitoring services of the network. The competitive bidding of Telecommunications contracts for Indian Education to comply with the 1996 Communications Act and all related Oglala Sioux telecommunications for the interconnection of all organizations under the jurisdiction of the Oglala Sioux Tribe, its Chartered Organizations, as well as all current and future grants and contracts. Telephony systems providing voice services in an Enterprise, examples include traditional Private Branch Exchanges (PBX) and Voice over Internet Protocol (VOIP) telephone services and Video teleconferencing.

C. Customer Support Division - will provide the day-to-day technical support directly to the customers including but not limited to personal computer (PC), thin client, tablet, smart phone setup and maintenance, installation of software and hardware directly for the customers.

1. Help Desk - Tier 1 support directly to the customers via telephone utilizing a ticket system to assign IT support tasks to each specialty division.

II. IT Project Management Division - will provide professionally driven and managed project management of all large scale IT projects in accordance with Project Management Professional standards

A. Grants and Contracts - Ensures compliance with all external funding sources. Applies for outside funding from all federal, state, and other sources, including but not limited to the Federal Communications Commission in accordance with the 1996 Communications Act, Universal Service Fund via USAC for ERate, High Cost (if applicable), Rural Health Care, US Department of Education, US Department of Agriculture (Rural Utility Service), and other government funding sources. Provides education to funding sources on the Oglala Sioux Tribe's TERO policies to ensure maximum contracting to local Indian vendors.

- III. IT Security Division - provides security services to the entire enterprise including firewall services, Web filtering services in compliance with the Child Internet Protection Act to Indian Education students. Continuous monitoring of security patches on all systems, servers, computers, networking devices, and software in the Enterprise. Computer forensics capabilities with the ability to testify in Tribal and Federal court to address any crimes committed within the enterprise, especially pornography, child predators, and bullying of Indian students.
- IV. IT Development Division - provides software development services to the entire Oglala Sioux Tribe including but not limited to web site development, database development, software development. Additionally, maintain all current information of all programs via web sites, portals, social networking, and wiki, including coordinating each Indian School's current information in a standardized and centralized format. Authorized the application for the Internet Domain name of OglalaSiouxTribe-nsn.gov or OST-nsn.gov or similar name for a single web presence.
- V. Land Mobile Radio Division - provides support for all radio communications within the exterior boundaries of the Pine Ridge Indian Reservation and Indian Country held by the Oglala Sioux Tribe. Coordinate with the Oglala Sioux Tribe Department of Public Safety (OSTDPS) in accordance with OST Tribal Ordinances and Resolutions, specifically 05-32 and 06-34, to address radio communications issues for School buses transporting Indian Students on and off the Pine Ridge Indian Reservation; and

CHAPTER 3 - DIVISION OF IT LOCATION

The OST Division of Information Technology is housed in the OSTDPS Justice Building Data Center, including space for an education telecommunications network. Cost reimbursement at a rate to be negotiated between the Tribe and OSTDPS will be made for the utilization of the Justice Building Data Center facilities.

CHAPTER 4 - FUNDING FOR DIVISION OF IT

In order to provide funding for the activities of the OST IT Division, the Oglala Sioux Tribe hereby authorizes a four (4) percent gross receipts surcharge on all telecommunications access lines and wireless telecommunications devices and access lines with a Place of Primary Use (PPU) located within the original boundaries of the Pine Ridge Indian Reservation for the one hundred (100) percent, exclusive use of the OST Information Technology Division.

The telecommunications gross receipts surcharge is to be deposited into a separate, federally insured, interest bearing account, and not into the General Fund of the Oglala Sioux Tribe. Bi-monthly checks will be made out to the Oglala Sioux Tribe - Information Technology Division.

Each telecommunications and wireless telecommunications provider or carrier must begin remitting the surcharge within 60 days of the enactment of this Ordinance or be fined two thousand (\$2,000) dollars per day. Such civil penalty for non-compliance cannot be passed on to the provider's customers, and will be assessed each month until the surcharge is implemented and remitted to the Tribe.

CHAPTER 5 - INDIAN EDUCATION CONSORTIUM

The Oglala Sioux Tribe authorizes the creation of a consortium of all Indian Education schools, libraries, and administrative offices eligible under the 1996 Communications Act Universal Service Fund ("USF") Schools and Libraries Division for the creation of a single telecommunications network with maximum access to broadband internet services. No other consortium applications are allowed for eligible Indian Education entities within the exterior boundaries of the Pine Ridge Indian Reservation. The consortium application is authorized, in writing, only by the Chief Information Officer of the Oglala Sioux Tribe's Division of Information Technology.

CHAPTER 6 - WORKS OF UTILITY REGULATORY SURCHARGE

The Oglala Sioux Tribe authorizes a regulatory surcharge of one (1) percent of the gross receipts on all works of utility within the exterior boundaries of the Pine Ridge Indian Reservation, payable on a bi-monthly basis to the Oglala Sioux Tribal Utilities Commission. This surcharge can be passed on to the access lines, telecommunications in any form, all electrical utilities customers, cable television

customers, and any other current or future works of utilities customers. No double charging of a regulatory surcharge or tax is permissible from other governmental bodies including the State of South Dakota and the State of Nebraska.

CHAPTER 7 - ACCESS TO MSAG/PPU DATABASE

That in order to allow the OST Utilities Commission to carry out their responsibility of ensuring the safe, fair, and efficient provision utility services to residents of the Pine Ridge Reservation, the OSTDPS is hereby required to share the contents of its MSAG/PPU database with the Tribal Utilities Commission for the express purpose of regulating and surcharging works of utility. The Oglala Sioux Tribe does not, however, seek any private and confidential data, including but not limited to unlisted phone numbers, from the OSTDPS database.

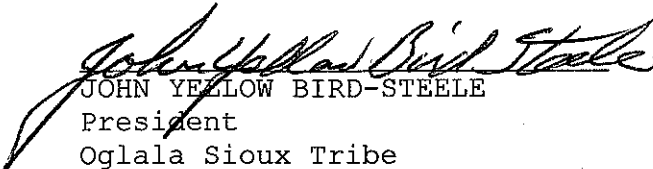
CHAPTER 8 - IMPLEMENTATION

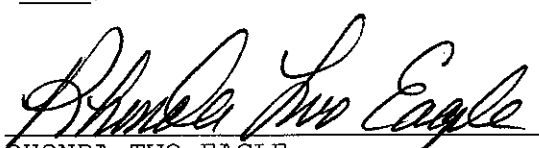
The Oglala Sioux Tribal Council does hereby formally implement this "Tribal Technology and Works of Utility" Ordinance and directs all appropriate governmental bodies, tribal organizations, and publicly and privately held businesses and corporations to immediately comply.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, as the undersigned Secretary of the Oglala Sioux Tribal Council of the Oglala Sioux Tribe, hereby certify that this Ordinance was adopted by a vote of: 13 For; 1 Against; 0 Abstain; and 1 Not Voting; during a REGULAR SESSION held on the 3RD day of JUNE, 2012.

A-T-T-E-S-T:


JOHN YELLOW BIRD-STEELE
President
Oglala Sioux Tribe


RHONDA TWO EAGLE
Secretary
Oglala Sioux Tribe

