

TO ADOPT CONTINGENT PROCEDURES FOR MAIL-IN BALLOT RETENTION AND SECURITY

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL

A COUNCIL BILL

TO APPROVE the adoption of Contingent Procedures for Mail-In Ballot Retention and Security, attached as Exhibit A.

WHEREAS, in accordance with Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma, “The Tribal Council shall enact legislation, rules and regulations not inconsistent with this Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation”;

WHEREAS, Article XVII, Section 4 of the Chief and Tribal Council Election Ordinance (the "Election Ordinance") states, “In the event that an agreement is not reached with the United States Postal Service as provided in this section or in the event that an agreement is terminated or is not enforceable consistent with the provisions of this section, the Election Board shall be authorized to establish procedures for retention and security of mail-in ballots, subject to the approval of the Tribal Council”;

WHEREAS, on June 2, 2023, the Postmaster of the Durant, Oklahoma Post Office informed the Choctaw Nation Election Board that prior agreements to hold mail-in ballots will not be honored;

WHEREAS, the Choctaw Nation of Oklahoma (the “Nation”) recognizes the need to ensure the retention and security of mail-in ballots for the 2023 Election Cycle;

WHEREAS, the Contingent Procedures for Mail-In Ballot Retention and Security (“Contingent Procedures”), attached as Exhibit A, are for the purpose of ensuring mail-in ballot retention and security by establishing collection, tabulation, retention, and security standards that will maintain compliance with Article XIV (Watchers), Article XVII (Ballot Mailing to Voters), and Article XVIII (Election Returns) of the Election Ordinance;

WHEREAS, these Contingent Procedures are enacted pursuant to Article XVII, Section 4 of the Election Ordinance passed by the Tribal Council of the Nation and are intended to maintain compliance with the security and retention goals of the Election Ordinance;

WHEREAS, the Tribal Council has determined it is in the best interest of the Nation to adopt the Contingent Procedures for Mail-In Ballot Retention and Security in order to ensure the retention and security of mail-in ballots for the 2023 Election Cycle, attached as Exhibit A; and

WHEREAS, the Contingent Procedures will meet the Nation’s Strategic Goal to support service delivery as well as promoting and exercising sovereignty within the Nation’s sovereign territory by adopting Contingent Procedures that protect the Nation’s election processes through mail-in ballot retention and security.

THEREFORE BE IT ENACTED by the Tribal Council of the Choctaw Nation of Oklahoma that this Bill be cited as approval to adopt the Contingent Procedures for Mail-In Ballot Retention and Security, attached as Exhibit A.

TO ADOPT CONTINGENT PROCEDURES FOR MAIL-IN BALLOT RETENTION AND SECURITY


BE IT FURTHER ENACTED by the Tribal Council of the Choctaw Nation of Oklahoma that this Bill be cited as approval that the Contingent Procedures for Mail-In Ballot Retention and Security become effective immediately.

CERTIFICATION


I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that twelve (12) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma on June 10, 2023. I further certify that the foregoing Council Bill CB-84-23 was adopted at such meeting by the affirmative vote of twelve (12) members, zero (0) negative votes, and zero (0) abstaining.



Ronald Perry, Secretary
Choctaw Nation Tribal Council



Thomas Williston, Speaker
Choctaw Nation Tribal Council



Gary Patton, Chief
Choctaw Nation of Oklahoma

Date _____

TO ADOPT CONTINGENT PROCEDURES FOR MAIL-IN BALLOT RETENTION AND SECURITY

Purpose/Need of Council Resolution: This Council Bill adopts policy and procedure written by the Election Board which ensures the retention and security of mail-in ballots for the 2023 Election Cycle by establishing collection, tabulation, retention, and security standards that will maintain compliance with the Election Ordinance. The previous agreement the Nation had with the U.S. Post Office in Durant, Oklahoma was terminated by the United States Postal Service. The Election Board has established the policy and procedures before the Council which will allow the Election Board to safely and securely transport the mail-in ballots on a daily basis. This policy accommodates the ability for watchers selected by the candidates to monitor this process as well.

Title of Council Resolution: TO ADOPT CONTINGENT PROCEDURES FOR MAIL-IN BALLOT RETENTION AND SECURITY

Agency: Legal & Compliance

Budget: N/A

Match Required: N/A

Request by: Brian Danker, SEO Legal



Contingent Procedures for Main-In Ballot Retention and Security

Affected Choctaw Nation Executive Department(s): Voter Registration, Public Safety

1 PURPOSE

- 1.1 Pursuant to Article XVII, § 4 of the Chief and Tribal Council Election Ordinance ("Election Ordinance"), the Choctaw Nation Election Board ("Election Board") has established the following contingent procedures for the purpose of ensuring the retention and security of mail-in ballot returns in the event that the United States Postal Service ("USPS") does not agree to hold mail-in ballot returns at the facility in Durant, Oklahoma until the collection time designated in the Election Ordinance.
- 1.2 On June 2, 2023, the Postmaster of the Durant, Oklahoma Post Office facility informed the Election Board that prior agreements to hold mail-in ballots will not be honored. The current Postmaster provided the following reasons for this decision: (1) according to current USPS policy, deliverable mail cannot be delayed regardless of the situation, and (2) due to the growth and increase in mail volume, the facility does not have space to store additional mail. As such, the Postmaster stated that all ballots returned as "business reply mail" will be placed in P.O. Box 1487 when received daily and election officials will be required to pick mail up daily.
- 1.3 These contingent procedures are thus necessary to ensure the retention and security of mail-in ballots for the 2023 Election Cycle. Collection, tabulation, retention, and security standards will maintain compliance with Article XIV (Watchers), Article XVII (Ballot Mailing to Voters), and Article XVIII (Election Returns) of the Election Ordinance.

2 SCOPE

- 2.1 These procedures apply to all external service providers and/or Choctaw Nation associates designated as supporting agents of the Election Board in facilitating any of the procedures listed in this document.
- 2.2 These procedures apply to all current members and alternates appointed to the Choctaw Nation Election Board.

3 EXCLUSIONS

- 3.1 None.

4 PARENT POLICY

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- 4.1 Pursuant to Election Ordinance, in the event that an agreement is not reached with the United States Postal Service as provided in Article XVII, §4 or in the event that an agreement is terminated or is not enforceable consistent with that provision, the Election Board shall be authorized to establish procedures for retention and security of mail-in ballots, subject to the approval of the Tribal Council.

5 RESPONSIBILITIES

- 5.1 The Choctaw Nation Election Board has established clear lines of responsibility in relation to the use of this policy. These responsibilities are as follows:
- 5.1.1 All associates and/or tribal members shall comply with this policy and any other applicable policies, procedures, laws, and/or regulations of the Election Board and/or the Choctaw Nation of Oklahoma. All associates shall comply with this procedure and any other applicable policies, procedures, laws, and/or regulations of the Choctaw Nation of Oklahoma.
- 5.1.2 All associates and/or tribal members of the Choctaw Nation may report observed instances of noncompliance to the Election Board pursuant to Article VIII of the Election Ordinance. Alleged violations of these responsibilities shall be reviewed by the Election Board and may result in administrative inquiries and/or legal actions as deemed necessary.
- 5.2 **Records Management**
- 5.2.1 Pursuant to Article XVIII, §11 of the Election Ordinance, records relevant to this procedure shall be stored either electronically or manually by the Election Board Secretary for a period of ninety (90) days after election results are certified, at which time they shall be destroyed.
- 5.2.2 All election records are confidential and not available for public inspection unless otherwise noted in the Election Ordinance.
- 5.2.3 Authorized individuals or designated support agents shall always maintain the confidentiality of all records and information accessed and/or obtained in the furtherance of their responsibilities.

6 PROCEDURE

6.1 Modified Security Provisions for Ballot Return Collection Location

- 6.1.1 The Election Board shall plan to utilize a Choctaw Nation-owned facility that has existing access control systems and security standards as a ballot return collection location.
- 6.1.1.1 The ballot return collection area shall be in a location selected by the Secretary of the Election Board that meets the following criteria (the "Collection Location"):



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- 6.1.1.1.1 Collection Location will be in a secure location that can only be accessed by a limited number of authorized individuals;
 - 6.1.1.1.2 Authorized individuals will be required to scan associate badges to gain entrance to the Collection Location; and
 - 6.1.1.1.3 Collection Location will contain a video surveillance system that meets the Board's compliance needs or will be able to be equipped with a surveillance system installed by the Election Board's election service provider pursuant to 6.1.1.2.3. A copy of the video surveillance recordings shall be retained by the Election Board for a period of not less than five (5) years from the date the Election Board certifies the results of the election.
- 6.1.1.2 The Election Board owns two (2) steel mail ballot return boxes that are stored in a designated storage unit.
- 6.1.1.2.1 Each mail ballot return box measures 24.5" L x 24" W x 24" H.
 - 6.1.1.2.2 Each ballot return box shall be secured with even and odd numbered padlocks.
 - 6.1.1.2.2.1 One (1) even numbered set of keys shall be designated to the Election Board Secretary.
 - 6.1.1.2.2.2 One (1) odd numbered set of keys shall be designated for another member of the Election Board.
 - 6.1.1.2.3 If required by 6.1.1.1.3, an election service provider shall be contracted by the Election Board to install an additional mobile surveillance setup within the Collection Location that is focused exclusively on the ballot return boxes and will maintain surveillance recordings on a server or electronic storage system external to the Choctaw Nation's information technology network.
 - 6.1.1.2.3.1 All mobile surveillance equipment shall be owned by and the exclusive property of the Election Board.
 - 6.1.1.2.3.2 All recordings shall be provided directly to the Election Board Secretary and shall be retained by the Election Board for a period of not less than five (5) years from the date the Election Board certifies the results of the election.

6.2 Modified Provisions for Mail-In Ballot Watchers

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6.2.1 Each candidate shall be entitled to commission one (1) watcher to observe the collection and return of the mail-in ballots from the post office in Durant, Oklahoma, to the Collection Location each business day beginning on Monday, June 19, 2023 and ending on the Friday preceding election day.

6.2.1.1 All watchers shall be commissioned in writing and submitted by the candidate to the Secretary no later than 12:00 noon on Thursday, June 15, 2023. Every watcher shall subscribe to an oath (see Appendix Form A of the Election Ordinance) administered by a member of the Election Board regarding the duties and obligations of watchers prior to performing any duties of a watcher.

6.2.1.2 The Secretary shall provide a weekly notification to candidates of the time that mail-in ballot watchers are required to appear at the designated location.

6.2.1.3 Mail-in ballot watchers shall be responsible for their own transportation to and from the post office to the Collection Location.

6.2.2 Pursuant to Article XVIII, § 1 of the Election Ordinance, watchers designated by candidates shall also be permitted to observe the transportation of mail-in ballots from the Collection Location to the tabulation location in Durant, OK on the Friday preceding the election day. The Secretary shall provide advance notification to candidates of the approximate time that watchers will need to appear at the Collection Location.

6.3 Modified Provisions for Election Returns

6.3.1 At least two (2) Election Board members shall retrieve all properly returned mail-in ballots each business day from the post office in Durant, Oklahoma. After mail-in ballots are retrieved, the Election Board members shall proceed directly to the Collection Location.

6.3.2 Upon arrival at the Collection Location, all mail-in ballots shall be sorted and counted by the designated Election Board members.

6.3.2.1 After the count, all mail-in ballots shall be placed in a locked ballot box and a chain of custody log shall be updated daily with signatures from the designated Election Board members and an independent third party serving as a witness.

6.3.2.2 The independent third party shall not handle the mail-in ballots or the secure ballot return boxes.

6.3.3 Upon completion of the collection of the mail-in ballots, all mail-in ballots shall be placed in a secure location in plain view of surveillance, in a manner set forth by the Secretary that is consistent with the provisions of this policy.



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6.3.4 Mail-in ballot watchers shall appear at the tabulation location no later than 4:00 p.m. on the day that ballots will be transported from the Collection Location to the Tabulation Location in Durant, Oklahoma.

6.3.5 All other procedures after the collection and transport of the mail-in ballots shall remain the same as set forth in the Election Ordinance.

7 RESERVATION OF RIGHTS

7.1 The Choctaw Nation of Oklahoma provides this procedure as a source of information and reserves the right to modify the procedure in any way and at any time as needed without prior notice. Nothing contained herein shall be construed to waive the sovereign immunity of the Choctaw Nation of Oklahoma, its elected or appointed officials, directors, officers, employees, or agents.

8 DEFINITIONS

8.1 **Access Control System (ACS)** – a type of security that manages and controls who or what is allowed entrance into a system, environment, or facility. It allows access based on the validity of credentials.

8.2 **Election Board** – defined in the Chief and Tribal Council Election Ordinance, Article II.

8.3 **Election Ordinance** – means the Chief and Tribal Council Election Ordinance as defined in Article II.

8.4 **Secretary** – means the Secretary of the Choctaw Nation of Oklahoma Election Board who shall be the ex officio Director of Voter Registration as defined in the Chief and Tribal Council Election Ordinance, Article II.

8.5 **Video Surveillance System** - a surveillance system capable of capturing images and videos that can be compressed, stored, or sent over communication networks.

9 RELATED DOCUMENTS, FORMS AND TOOLS

9.1 The Chief and Tribal Council Election Ordinance

10 APPENDICES AND ATTACHMENTS

10.1 None.

11 APPROVAL AND REVIEW DETAILS

APPROVAL AND REVIEW	DETAILS
Approval Authority	Choctaw Nation Election Board



Choctaw Nation Election Board

Administrator	Director of Voter Registration / Election Board Secretary
Next Review Date	No Review Date

Appendix Figure #: <Insert Name of Figure> <Delete if not required>