

Ebb & Flow

BAND - BY - LAW No. 3.
ADMINISTRATIVE & FINANCIAL
REGULATIONS

THE ^{EBB & FLOW} BAND OF INDIANS.
BY-LAW NO. 1

Being a by-law to establish Administrative
and Financial Regulations

WHEREAS the Council of the Ebb & Flow Band of Indians has agreed to administer, manage, and put into effect certain projects and programs for the benefit and well being of the members of the Band of Indians;

AND WHEREAS the Department of Indian Affairs and Northern Development has agreed, pursuant to their program generally known as "Grants to Bands", to turn over to the Council of the Ebb & Flow Band of Indians certain funds for the purpose of underwriting part or all of the costs of the said programs and projects;

AND WHEREAS it is expedient and in the best interests of the members of the Ebb & Flow Band of Indians to ensure that the programs and projects are administered, and the funds are expended in an efficient manner;

NOW THEREFORE the Council of the ^{Ebb & Flow} Band of Indians enacts as a by-law thereof, pursuant to Section 80(q) of the Indian Act, the following:

1. The Administrative and Financial Regulations dated 1971, attached hereto and marked Appendix 'A' (which regulations are deemed to be and form part of this by-law) be and the same are hereby approved and adopted.

2. These Regulations shall come into force and take effect
on the 1st. day of April, 1971.

Approved and passed at a duly convened meeting of the Council this 14th.
day of April, 1971.

Chas. Alfred Boulton

Robert A. Paul

Jim Manchess

1. GENERAL

1.1 In these regulations

- (a) "Band" means the Band of Indians;
- (b) "Chief" means the Chief of the Band of Indians;
- (c) "Council, Councillor" means respective the council or any councillor, including the Chief, of the Band of Indians;
- (d) "Department" means the Department of Indian Affairs and Northern Development;
- (e) "Regional Director" means the senior executive officer of the Indian-Eskimo Affairs Program of the Department of Indian Affairs and Northern Development for the Manitoba Region;
- (f) "Reserve" means the tract or tracts of land set apart for the use and benefit of the Band of Indians.

1.2 The regulations hereunder shall be known as the "Band Regulations" and shall come into effect on the date specified in the By-law of the Council which approves and adopts them.

1.3 These regulations shall not supercede any Regulations of the Government of Canada or of the Province of Manitoba which may be applicable to the transactions or programs involved.

1.4 These regulations shall apply to all transactions of the Band by virtue of the authority granted under Section 62 of the Indian Act, By-laws of the Band, and such other authorities as may be granted by the Department to the Council.

- 1.5 The Regional Director may appoint a person or persons to act in his stead for the purposes of administering these Regulations.
- 1.6 The Council shall adopt such bookkeeping systems and accounting records of its assets, liabilities, revenue, and expenditures as the Regional Director may prescribe.
 - 1.7.1 The Regional Director may make or amend such regulations and orders as required.
- .2 Where the Regional Director makes or amends a regulation, he shall send notice of such action to the Band by registered mail and the Council shall put the regulation into effect immediately by Resolution.
- 1.8 Any elected official or any employee of the Band who contravenes, refuses, neglects, omits, or fails to observe and comply with a regulation is liable to suspension and possible legal action or both suspension and legal action.
 - 1.9.1 The books of account of the Band shall be kept up to date at all times and balanced at the month end.
- .2 The Band's bank accounts shall be reconciled monthly.
- .3 A statement shall be prepared and presented to the Council and the Department by the 10th day of each month.

1.10 In accordance with statutory regulations all financial documents (such as purchase orders, invoices, records of receipts or disbursements) shall be maintained for not less than seven years.

1.11 As and when the Council accepts responsibility for the administration of any program it shall adopt all current regulations related to that program in respect to the execution of that program and the provision of services.

2. ADMINISTRATION

2.1 The Chief shall be the head of the Council and Chief Executive of the band and reserve.

2.2 The Councillors shall be vigilant and responsible for:

- (a) Causing the law for the government of the band or reserve to be duly executed and put into force;
- (b) Inspecting the conduct of all subordinate officers and to cause all negligence, carelessness and positive violation of duty to be duly prosecuted and punished;
- (c) Reporting to the Council all such information and recommending such measures as would tend to improve the finances, health, security, cleanliness, comfort and development of the band or reserve; and

2. ADMINISTRATION (Continued)

- 2.2 (d) Ensuring strict adherence to these and other regulations
(Cont.) related to any program or service which is administered
by the Band.
- 2.3 The Chief shall preside at meetings of the council
or in his absence or if his office is vacant, the members
present may, fifteen minutes after the hour scheduled for
the meeting, appoint a chairman from among themselves, and
such a chairman shall have the same authority and perform the
same function in presiding at the meeting as the Chief might
have had had he been present.
- 2.4 The Chief or chairman, at all meetings, shall maintain order
and decorum and decide questions of order subject to an
appeal to the Council; and may expel or exclude from any
meeting any persons guilty of improper conduct at the same
meeting.
- 2.5 The Chief & Councillors shall become familiar with:
- (a) the regulations or by-laws applicable to or of the council;
 - (b) the organization of band government;
 - (c) the operations and procedures of council;
 - (d) the jurisdiction of council;

2. ADMINISTRATION (Continued)

- 2.5 (e) all training programs which may be available to the
(Cont.) band members, councillors, and Band staff, and
(f) other information that will enable them to fulfill their
role as a membersof council and the band government.
- 2.6 No Chief or councillor shall hold an administrative position
in the Band civil service.
- 2.7 The Band Council shall, by by-law, appoint a person or
persons who shall:
- (a) record in a minute book all resolutions, decisions, and
other proceedings of the council;
 - (b) keep the books, records and accounts of the Band and
Reserve;
 - (c) preserve, file, and keep in his office or in the place
determined by by-law, all accounts acted upon by the
council, all minutes of the proceedings of the council
and the original or certified copies of all by-laws;
 - (d) receive and safely keep all monies belonging to the
band or reserve, and shall pay out those monies to such
persons and in such manner as provided by law, and as
the by-laws, regulations and resolutions of the council
direct;

2. ADMINISTRATION (Continued)

- 2.7 (e) no later than the 10th day of each month, prepare and
(Cont.) deliver to the council a statement showing:
- (i) itemized receipts and disbursements of the band
or reserve during the last preceding month;
 - (ii) standing of general ledger balances as at the last
day of the last preceding month;
 - (iii) standing of all appropriation accounts as at the
last day of the last preceding month;
- and any other information that may be required by council,
and the statement shall be read and presented for examina-
tion at the next meeting of council and shall form part
of the minutes thereof;
- (f) at least once in each week deposit all monies of the
band in an account kept in the name of the band; and those
monies shall be withdrawn only upon the cheque of the
band, countersigned by the authorized signing officers
of the band;
- (g) conduct the business and perform the duties of his office
in the manner provided by by-law of the band or reserve
or by law.

2.8 In the case of a vacancy in this office or of the absence,
or inability of the appointee to perform these duties, the
council shall by resolution, appoint an employee in an acting
capacity; and the person so appointed, shall, while he fills

2. ADMINISTRATION (Continued)

- 2.8 (Cont.) the office, have all the powers and perform all the duties of the original appointee.
- 2.9 The above duties may be performed and carried out by one or more employees depending on the requirements of the band.
- 2.10 No person shall be appointed to the above position unless he is of the full age of majority.
- 2.11 Any member of the Band may at all reasonable times inspect the minutes of any council meeting, by-laws, resolutions, and monthly financial statements for the current year.
- 2.12 Upon the growth of band administration needs beyond the capacity of council and existing staff, the council may pass a by-law authorizing the appointment of a Principal Band Employee for the band or reserve who shall be head of the administration and shall perform such duties as the council may prescribe.
- 2.13 No administrative employee shall seek public office without first having obtained leave of absence by Band Council Resolution prior to the nomination day; and if elected to public office, shall automatically cease to be an employee.

2. ADMINISTRATION (Continued)

- 2.14 Band employees shall be responsible for specific duties as set by the Council and shall report to:
- (a) the principal band employee as head of the administration;
or
 - (b) in the case where there is no such appointment to
 - (i) the clerk, or
 - (ii) the council or its appropriate committee.
- 2.15 For those positions for which federal government grants are payable, salary costs shall be determined by applying the classification standards of the Federal Public Service.
- 2.16 A Band employee shall not be dismissed from his position except for cause.
- 2.17 Band employees may be dismissed only by Band Council Resolution.
- 2.18.1 Band employees may be suspended from duty for cause by:
- (a) the principal band employee, or
 - (b) the Chief.

2. ADMINISTRATION (Continued)

- .2 Where a band employee is suspended from duty the matter shall be referred to council within 24 hours of the time of suspension and the council shall within 14 days continue the suspension for a stated period of time, dismiss or reinstate the employee.
- .3 In the case of suspension or dismissal, the employee shall have the right of appeal to council.
- 2.19.1 All salaries of Band employees shall be paid at regular intervals.
- .2 Under no circumstances shall an employee be given an advance of salary.

3. BUDGETS

- 3.1 The Council shall be responsible for the preparation of an annual community budget.
- 3.2.1 There shall be held annually, at a specified date, a special Council Meeting to prepare the Budget.
- .2 Notice of the budget meeting shall be given to all concerned at least thirty days prior to the date of the meeting.
- 3.3 The budget meeting shall deal with:
 - (a) the original plans and budget estimates submitted and requested by the Council.

3. BUDGETS (Continued)

- 3.3 (Cont.)
- (b) the final approved budget appropriations from all sources;
 - (c) the difference between funds requested and funds approved;
 - (d) alternative means of Band operation in light of subsection (c);
 - (i) reduction in all non-essential programs;
 - (ii) reduction or elimination of specific programs;
 - (iii) the raising of additional funds from internal or other sources.
- 3.4 The Band Council after consideration of item 3.3 above shall strike a budget for the ensuing fiscal year which budget shall be adopted by resolution.
- 3.5.1 Funds surplus to program requirements at the year end, providing the surplus is created by efficient program management by the Band will remain in the Band bank account to apply against the Band's share of the following year's non-basic program requirements.
- .2 Funds surplus at year end due to the failure of the Band to carry out a project or program will remain in the Band Bank account to apply against the cost of basic programs in the ensuing year.

3. BUDGETS (Continued)

- 3 If the Band does not undertake the administration of the program in the ensuing year, all surplus shall revert to the Federal Government Consolidated Revenue.
- 4 Funds provided to the Band in the form of a grant for a specified basic program shall not be expended on any other program or for any other purpose except as provided for in section 3.6.
- 5 With the approval of the Regional Director, funds may be transferred from one basic program to another to meet requirements.

4. RECEIPT OF FUNDS

- 4.1 Upon receipt of funds from any source for the credit of the Band or for any individual member thereof, a receipt in duplicate shall be issued and the original copy of the receipt on the approved form shall be issued to the payee. Issuance of such receipts shall be entered into the books of account of the Band.
- 4.2 The Principal Band Employee shall take all precautions necessary for the safe-keeping of funds received, and shall deposit funds regularly and not less than once weekly to the

4. RECEIPT OF FUNDS (Continued)

4.2 (cont) credit of the proper account of the Band in a chartered bank or other approved facility designated by the Council of the Band for that purpose.

4.3 The Band shall keep a separate trust bank account or accounts in which shall be deposited all trust moneys.

4.4 The Chief, Council, and employees of the Band shall keep Band moneys entirely separate from their own personal moneys.

5. PURCHASES

5.1 No purchase shall be approved unless funds are provided within the Band Budget.

5.2.1 All purchases shall have the approval of Council.

1.2 No purchases other than the normal recurring accounts (such as Hydro and Telephone) shall be made without the use of a Purchase Order, the form of which shall be prescribed by the Regional Director.

5.3 Council may, by resolution, appoint an employee to sign Purchase Orders for approved purchases on their behalf which action, however, shall not in any way absolve the Council of the responsibility for the control of purchases.

6. TENDERS/CONTRACTS

- 6.1.1 Before any contract is let, the contracting authority shall invite tenders. The tendering period shall not be less than five full days (Sundays and holidays excluded).
- 2 The closing date and time of the tender shall be clearly shown on the advertisement or poster along with sufficient details from which competitive bids can be made.
- 3 The invitation to tender shall also show the date, hour and place tenders will be opened.
- 6.2 The Council, may require a security deposit of 10% of the total value of the contract from the tenderers which shall be deposited in the trust account.
- 6.3 All tenders shall be returned in a sealed envelope, addressed to the Band Administrative Office clearly marked "Tender for" on the lower left-hand corner and the date and time of receipt shall be recorded on the unopened envelope of tender when received.
- 6.4.1 Upon receipt, the sealed tenders shall be deposited in a safe place until the time for the opening of bids.
- 2 At the appointed time, the Principal Band Employee or alternate shall open all tenders received, in the presence

6. TENDERS/CONTRACTS (Continued)

6.4.2 of the Chief, and an appointed member of the Council. In
(cont) the absence of the Chief, another Councillor may be appointed.

6.5.1 When all tenders are opened it shall be the duty of the
Principal Band Employee to read aloud all tenders, giving
the name of the tenderer and the amount of his bid.

2 The name of the tenderer, project, date of bid and amount
shown must be recorded in a book provided for this purpose
and marked "Record of Tenders".

6.6 At the next regular or special meeting of the Council of the
Band, the Principal Band Employee shall place before the
Council all tenders received and it shall be the responsibility
of the Council to review the tenders and award a contract.

6.7.1 Awarding of Contracts shall be by resolution of the Council.

2 The Council shall be responsible for supervision and in-
spection of work, services, or goods rendered or supplied by
the contractor.

6.8.1 The lowest tender received shall always be accepted unless
the Council deems it in the best interest of the Indian
community to do otherwise.

6. TENDERS/CONTRACTS (Continued)

- 2 Where the lowest tender is not accepted, the reason shall be recorded on the Band Council Resolution awarding the contract.
- 6.9.1 Where a contract exceeds \$100.00, written tenders shall be invited.
- 2 Where a contract does not exceed \$100.00 and where it is in the interest of the Band to do so, the Principal Band Employee may be authorized by resolution of the Council to call for tenders by telephone or other personal contacts, which shall be recorded in the "Record of Tenders" book.
- 6.10 Tender forms as prescribed by the Regional Director shall be used.
- 6.11 Upon approval of a tender or purchasing agreement, a contract, the form of which shall be prescribed by the Regional Director, shall be signed by both parties and shall become a portion of the records of the Band in accordance with statutory regulations.
- 6.12 All labour contracts shall be in accordance with the Federal or Provincial labour regulations whichever is applicable.

7. DISBURSEMENTS OR PAYMENT OF ACCOUNTS

- 7.1 No disbursement or payment shall be without certified supporting documentation (invoice, voucher, purchase order, etc.)
- 7.2 Except for petty cash disbursements all payments shall be made by prenumbered cheque.
- 7.3.1 A petty cash Imprest Fund may be established of not more than \$25.00.
 - 2 All petty cash payments shall be recorded, supported, and accounted for.
 - 3 Repayment of expenses disbursed from the petty cash Imprest Fund shall be made as required but in no case less than once monthly.
- 7.4 All cheques issued against the Band's Bank Account shall be on a form prescribed by the Regional Director and shall be numbered consecutively.
- 7.5 All cheques shall bear the signatures of at least two authorized persons specified by resolution.
- 7.6 Where a cheque is reported lost, destroyed or stolen a duplicate cheque may be issued in return for the payee indemnifying

7. DISBURSEMENTS OR PAYMENT OF ACCOUNTS (Continued)

- 7.6 (cont) the Band against further loss, and provided a stop payment notice has been sent to the Bank.
- 7.7 No Band cheque shall be post-dated or signed in blank.
- 7.8 Cheques issued against the Band's local bank account which are not presented for payment within six months of the date of issue shall be cancelled and payment stopped forthwith.
- 7.9 The Principal Band Employee may be authorized by resolution to approve for payment recurring specified accounts (such as Hydro) but all such payments shall be brought to the attention of Council at the next regular meeting.
- 7.10 With the exception of the accounts specified in Section 7.9 all accounts shall be approved by Council prior to payment.
- 7.11 All accounts not contested shall be paid on or prior to the due date after deductions of allowable discounts if applicable.
- 7.12 Where progress payments are made in connection with any contract the principal band employee shall hold back the amount of 10% of the progress payment until the contract has been completed to the satisfaction of the Overseer of the contract.

8. TRAVEL EXPENSES

8.1.1 All travel for which reimbursement of expenses is to be made shall be approved by Council prior to a trip being made.

. 2 In the case of an employee whose duties require day to day travel Council may, by resolution, approve such travel within predetermined limits as specified by the resolution.

8.2 Travel expenses for all employees shall be paid in accordance with the current Treasury Board travel regulations. (See Appendix A)

9. LOANS

9.1 Under no circumstances shall a loan, guarantee of loan, or an advance be made from government funds.

10. AUDIT

10.1 The terms of the Order-in-Council approving the management by a band of all or part of its revenue monies include the appointment of an auditor and the provision to the Branch of an annual financial statement duly certified by such auditor.

10.2.1 As a general outline the following terms of reference are considered as meeting the requirements of the Band and the Government of Canada:

1. AUDIT (Continued)

10.2.1
(cont)

- (i) the auditor, who shall be a chartered accountant; shall be appointed on an annual or continuing basis by the Regional Director and the Regional Director shall provide terms of reference
- (ii) the auditor shall not be subject to dismissal by the Bandor Council;
- (iii) the scope of the audit shall include all operations conducted by the band council;
- (iv) the auditor shall have the right of access at all reasonable hours to all books, records, accounts and vouchers. He can require from the Band Staff, the Council and any Committee thereof such information and explanation as, in his opinion, is necessary to enable him to carry out an audit;
- (v) the examination shall be in accordance with accepted auditing practices and shall include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the Band.

10. AUDIT (Continued)

- (vi) to assist in the performance of his duties the Auditor shall be supplied by the principal band employee and the Department with all relevant information such as:
 - (a) The Indian Act and Regulations;
 - (b) Band Council resolutions and by-laws;
 - (c) Band Administration and Financial Regulations;
 - (d) Privy Council and Treasury Board authorities; and
 - (e) any other related documents;
- (vii) the auditor shall provide an audited financial statement consisting of a Balance Sheet and Statement of Revenue and Expenditures for each band enterprise; and in addition, the Revenue and Expenditure statements for each enterprise shall include comparative columns of budgeted and actual expenditure. The Revenue shall be itemized by source.

10.3 Any bank or approved facility, carrying on business with the band shall at any time, upon the request of the director or of the auditor, state to him the balance or condition of the accounts of the band, together with any other information that maybe required.

10. AUDIT (Continued)

- 10.4 The audited financial statements shall be signed by the Chief and the principal band employee.
- 10.5 The Auditor shall simultaneously mail 2 copies of his report to the Band office and 3 copies to the Department on or before May 31 of each year.
- 10.6 Immediately upon receipt of the Audit Report, the Council shall complete a report on all errors and discrepancies identified in the audit, including the corrective action which has been or will be taken; and this report shall be forwarded to the Department not later than June 30 of each year.
- 10.7 Requests for grants for the new year shall be made as early as possible and an initial advance of 25% will be issued after April 1; the balance of the grant will be withheld until the audited statement has been received.
- 10.8.1 Where any person refuses or fails to comply with any provision of these regulations or hinders or refuses to permit or assist an Auditor in the exercise of his duties, the Auditor shall forthwith report the circumstances to the Chief who shall suspend that person from his duties and shall forthwith appoint a suitable person to assume charge of the assets, books,

10. AUDIT (Continued)

10.8.1 accounts, records and documents of the band that are in the
(cont)
custody of the person suspended.

2 Where the Auditor reports that the condition of the affairs
of the band is such as warrants summary action by the Council,
and if no action satisfactory to the Department is taken by
the Council, the Department shall dispose of the matter in
the manner that, in its opinion, is best calculated to protect
and further the interests of the band.

10.9 The Principal Band Employee shall keep on file, in his office,
the written report of the auditor together with the related
financial statements; and any Band Member may inspect them
at all reasonable hours, and may, by himself or through his
agent, at his own expense, make a copy thereof or extracts
therefrom.

10.10 Immediately upon receipt of the Auditor's Report copies shall
be posted in such public places as determined by Council.

10.11 Upon completion of the Reply to the Audit the Council shall
ensure that copies of the reply are available or posted in
the same places as the Auditor's Report.

INVENTORIES

- 11.1 Physical inventory records shall be maintained for all equipment, buildings, vehicles, and other assets where the original purchase price exceeded \$10.00 whether or not the item has been fully depreciated or charged to operating expenses.
- 11.2 The write-off of items carried on inventory may only be done by Band Council Resolution.