

*?Akisq̓nuk First Nation Financial Administration Law, 2015*  
Approved by the Council on March 18, 2015

**?Akisq̓nuk First Nation**

**FINANCIAL ADMINISTRATION LAW, 2015**

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WHEREAS:

- A. Pursuant to section 9 of the *First Nations Fiscal Management Act*, the Council of a First Nation may make laws respecting the financial administration of the First Nation; and
- B. The Council of the ?Akisq̓nuk First Nation considers it to be in the best interests of the ?Akisq̓nuk First Nation to make a law for such purposes,

NOW THEREFORE the Council of the ?Akisq̓nuk First Nation enacts as follows:

## **PART I - Citation**

### **Citation**

- 1. This Law may be cited as the *?Akisq̓nuk First Nation Financial Administration Law, 2015*.

## **PART II - Interpretation and Application**

### **Definitions**

- 2.(1) Unless the context indicates the contrary, in this Law:

“AFN” means the ?Akisq̓nuk First Nation, being a band named in the schedule to the FMA;

“AFN lands” means all reserves of AFN within the meaning of the *Indian Act*;

“AFN law” means any law, including any bylaw or land code, of AFN made by the Council or the membership of AFN;

“AFN official” means a current or former Councillor, officer or employee of AFN;

“AFN records” means all records of AFN respecting its governance, management, operations and financial administration;

“AFN’s financial assets” means all money and other financial assets of AFN;

“AFN’s tangible capital assets” means all non-financial assets of AFN having physical substance that

- (a) are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,
- (b) have useful economic lives extending beyond an accounting period,
- (c) are to be used on a continuing basis,
- (d) are not for sale in the ordinary course of operations, and
- (e) have a replacement cost of at least fifty thousand dollars (\$50 000);

“allocation” means money set aside under an annual budget for a specific purpose for which it may be used;

“annual budget” means the annual budget of AFN that has been approved by the Council;

“annual financial statements” means the annual financial statements of AFN referred to in Division 7 of Part IV;

“Audit Committee” means the Audit Committee established under section 11;

“auditor” means the auditor of AFN appointed under section 68;

“borrowing member” means a First Nation that has been accepted as a borrowing member under subsection 76(2) of the FMA and has not ceased to be a borrowing member under section 77 of the FMA;

“capital project” means the construction, rehabilitation or replacement of AFN’s tangible capital assets and any other major capital projects funded by local revenues in which AFN or its related bodies are investors;

“Chair” means the chair of the Audit Committee appointed under section 12;

“COIP” means the ᑭᓴᓴᓴᓴᓴᓴ First Nation Conflict of Interest Policy, which is attached as a schedule to, and which forms part of this Law;

“Council” means the Council of AFN;

“Councillor” means a member of the Council of AFN;

“dependent” means, in relation to an individual,

- (a) the individual’s spouse,
- (b) a person under the age of majority in respect of whom the individual or the individual’s spouse is a parent or acting in a parental capacity,
- (c) a person in respect of whom the individual or the individual’s spouse is acting as guardian, or
- (d) a person, other than an employee, who is financially dependent upon the individual or the individual’s spouse;

“financial administration” means the management, supervision, control and direction of all matters relating to the financial affairs of AFN;

“financial competency” means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by AFN’s financial statements;

“financial institution” means the FNFA, a bank, or credit union;

“financial records” means all records respecting the financial administration of AFN, including the minutes of meetings of the Council and the Audit Committee;

“fiscal year” means the fiscal year of AFN set out in section 23;

“FMA” means the *First Nations Fiscal Management Act*;

“FMB” means the First Nations Financial Management Board established under the FMA;

“FMB standards” means the standards established from time to time by the FMB under the FMA;

“FNFA” means the First Nations Finance Authority established under the FMA;

“FNTC” means the First Nations Tax Commission established under the FMA;

“FNTC standards” means the standards established from time to time by the FNTC under the FMA;

“GAAP” means generally accepted accounting principles of the Chartered Professional Accountants of Canada, as revised or replaced from time to time;

“immediate family member” means, in relation to an individual, that individual’s spouse, parent, sibling or child;

“indemnify” means pay amounts required or incurred to

- (a) defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person’s powers or the performance or intended performance of the person’s duties or functions, or
- (b) satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a);

“land code” means a land code adopted by AFN under the *First Nations Land Management Act*;

“life-cycle management program” means the program of inspection, review and planning for management of AFN’s tangible capital assets as described in section 83;

“local revenue law” means a local revenue law made by AFN under the FMA;

“local revenues” means money raised under a local revenue law;

“multi-year financial plan” means the plan referred to in section 24;

“natural resources” means any material on or under AFN lands in their natural state which, when extracted, has economic value;

“officer” means the SAO, SFO, tax administrator and any other employee of AFN designated by the Council as an officer;

“other revenues” means other revenues as described in section 3 of the *Financing Secured by Other Revenues Regulations* made under the FMA;

“record” means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

“rehabilitation” includes alteration, extension and renovation but does not include routine maintenance;

“related body” means

- (a) any agency of AFN,
- (b) any corporation in which AFN has a material or controlling interest,
- (c) any partnership in which AFN or another related body of AFN is a partner with a material or controlling interest, or
- (d) a trust of AFN;

“remuneration” means any salaries, wages, commissions, bonuses, fees, honoraria, dividends, and any other monetary benefits – other than the reimbursement of expenses – and non-monetary benefits;

“replacement” includes substitution, in whole or in part, with another of AFN’s tangible capital assets.

“reportable expenses” includes the costs of transportation, accommodation, meals, hospitality and incidental expenses;

“SAO” means the person appointed senior administrative officer under section 17;

“senior manager” means the program managers of the education, health, social and housing, and lands departments, and any other employee of AFN designated by the Council as a senior manager;

“SFO” means the person appointed senior financial officer under section 18;

“special purpose report” means a report described in subsection 67(4);

“spouse” means, in relation to an individual, a person to whom the individual is married or with whom the individual has lived as a common-law partner for at least one (1) year in a marriage-like relationship;

“standards” means the standards established from time to time under the FMA; and

“tax administrator” means the tax administrator appointed under local revenue laws.

- (2) Except as otherwise provided in this Law, words and expressions used in this Law have the same meanings as in the FMA.
- (3) Unless a word or expression is defined under subsection (1) or (2) or another provision of this Law, the definitions in the *Interpretation Act* apply.
- (4) All references to named enactments in this Law are to enactments of the Government of Canada.

### **Interpretation**

- 3.(1) In this Law, the following rules of interpretation apply:
- (a) words in the singular include the plural, and words in the plural include the singular;
  - (b) words importing female persons include male persons and corporations and words importing male persons include female persons and corporations;
  - (c) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;
  - (d) the expression “shall” is to be construed as imperative, and the expression “may” is to be construed as permissive;
  - (e) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”; and
  - (f) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.
- (2) In this Law, time shall be calculated in accordance with the following rules:
- (a) where the time limited for taking an action ends or falls on a holiday, the action may be taken on the next day that is not a holiday; and
  - (b) where there is a reference to a number of days, not expressed as “clear days”, between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included.
- (3) This Law shall be considered as always speaking and where a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to this Law according to its true spirit, intent and meaning.
- (4) Words in this Law referring to an officer, by name of office or otherwise, also apply to any person designated by the Council to act in the officer’s place or to any person assigned or delegated to act in the officer’s place under this Law.

### **Posting of Public Notice**

- 4.(1) If a public notice is required to be posted under this Law, the public notice is properly posted if a written notice is placed in a conspicuous and accessible place for public viewing in the principal administrative offices of AFN.
- (2) Unless expressly provided otherwise, if a public notice of a meeting shall be posted under this Law the notice shall be posted at least five (5) days before the date of the meeting, unless the matter is urgent.

**Conflict of Laws**

- 5.(1) If there is a conflict between this Law and another AFN law, other than a land code or a local revenue law, this Law prevails.
- (2) If there is a conflict between this Law and the FMA, the FMA prevails.
- (3) If there is a conflict between this Law and a local revenue law, the local revenue law prevails.

**Scope and Application**

6. This Law applies to the financial administration of AFN.

**PART III - Administration**

***DIVISION 1 - Council***

**Responsibilities of Council**

- 7.(1) The Council is responsible for all matters relating to the financial administration of AFN whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent by or under this Law.
- (2) Subject to paragraph 5(1)(f) of the FMA, this Law and any other applicable AFN law, the Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions under this Law except the following:
  - (a) the approval of policies, procedures or directions respecting any financial administration matters which are the responsibility of the Council under this Law;
  - (b) the appointment of members, the Chair and the vice-chair of the Audit Committee;
  - (c) the approval of annual budgets and financial statements of AFN;
  - (d) the hiring and firing of the SAO and SFO; and
  - (e) the approval of borrowing of AFN.

**Council Policies, Procedures and Directions**

- 8.(1) Subject to subsection (2), the Council may establish policies and procedures and give directions respecting any matter relating to the financial administration of AFN.
- (2) The Council shall establish policies or procedures or give directions respecting the acquisition, management and safeguarding of AFN's assets.
- (3) The Council shall not establish any policies or procedures or give any directions relating to the financial administration of AFN that are in conflict with this Law, the FMA or GAAP.



- (4) The Council shall ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.
- (5) The Council shall document all its policies, procedures and directions and make them available to any person who is required to act in accordance with them or who may be directly affected by them.

#### **Reporting of Remuneration and Expenses**

- 9.(1) Annually the SFO shall prepare a report listing the total amount of remuneration paid and reportable expenses reimbursed by the First Nation to each Councillor.
- (2) Subsection (1) does not require the reporting of remuneration, expenses or benefits received
  - (a) in common by all members of AFN;
  - (b) under a program or service universally accessible to all members of AFN on published terms and conditions; or
  - (c) from a trust arrangement according to the terms of the trust.

### ***DIVISION 2 - Audit Committee***

#### **Interpretation**

10. For purposes of section 11,
  - (a) an individual is independent if the individual does not have a direct or indirect financial relationship with AFN government that could, in the opinion of the Council, reasonably interfere with the exercise of independent judgment as a member of the Audit Committee, and
  - (b) an individual does not have a financial relationship with AFN government as a result of the individual's receipt of the following from AFN:
    - (i) remuneration for acting in his or her capacity as a Councillor or as a member of any AFN committee;
    - (ii) fixed retirement compensation;
    - (iii) payments or benefits paid in common to all AFN members;
    - (iv) payments or benefits paid under a program or service universally accessible to AFN members on published terms and conditions; or
    - (v) payments or benefits paid from a trust arrangement according to the terms of the trust.

### **Audit Committee Established**

- 11.(1) The Audit Committee is established to provide the Council with advice and recommendations in order to support the Council's decision-making process respecting the financial administration of AFN.
- (2) The Council shall appoint at least three (3) members of the Audit Committee, a majority of whom shall have financial competency and all of whom shall be independent.
- (3) The following individuals are not eligible to be members of the Audit Committee:
  - (a) an individual who is an employee of AFN;
  - (b) an individual who has an immediate family member who is an officer or senior manager;
  - (c) an individual who provides consulting, advisory or other services to AFN or its related bodies as a contractor;
  - (d) an individual who has a dependent who provides consulting, advisory or other services to AFN or its related bodies as a contractor;
  - (e) an individual who is a partner, owner or officer of an entity which provides accounting, consulting, legal or financial services to AFN or its related bodies;
  - (f) an individual who has been convicted of an offence relating to theft, fraud, or breach of trust within the previous ten (10) years; and
  - (g) an individual who is or has been declared insolvent within the previous five (5) years.
- (4) The Council shall establish policies or procedures or give directions requiring
  - (a) confirmation, before appointment, that each potential member of the Audit Committee is eligible to be a member and is independent; and
  - (b) each member of the Audit Committee annually to sign a statement confirming that the member is independent.
- (5) If the Audit Committee consists of
  - (a) three (3) members, at least one (1) of the Audit Committee members shall be a Councillor; and
  - (b) four (4) or more members, at least two (2) of the Audit Committee members shall be Councillors.
- (6) Subject to subsection (7), the Audit Committee members shall be appointed to hold office for staggered terms of at least two (2) complete fiscal years.
- (7) An Audit Committee member may be removed from office by the Council if

- (a) the member has unexcused absences from three (3) Audit Committee meetings within a twelve (12) month period;
  - (b) the member breaches the FMA or this Law;
  - (c) the member is convicted of an offence relating to theft, fraud, or breach of trust;
  - (d) the member becomes insolvent; or
  - (e) the Chair recommends removal.
- (8) If an Audit Committee member is removed from office, resigns or dies before the member's term of office expires, the Council shall as soon as practicable appoint a new Audit Committee member to hold office for the remainder of the first member's term of office.

#### **Chair and Vice-Chair**

- 12.** (1) The Council shall appoint a Chair and a vice-chair of the Audit Committee, at least one (1) of whom shall be a Councillor.
- (2) If the Council appoints a non-Councillor as Chair,
- (a) the Council shall send to the Chair notices and agendas of all Council meetings;
  - (b) on request of the Chair, the Council shall provide the Chair with any materials or information provided to Council respecting matters before it; and
  - (c) the Chair may attend and speak at Council meetings.

#### **Audit Committee Procedures**

- 13.**(1) The quorum of the Audit Committee is fifty percent (50%) of the total number of Audit Committee members, including at least one (1) Councillor.
- (2) Except where an Audit Committee member is not permitted to participate in a decision because of a conflict of interest, every Audit Committee member has one (1) vote in all Audit Committee decisions.
- (3) In the event of a tie vote in the Audit Committee, the Chair may cast a second tie-breaking vote.
- (4) Subject to subsection (5), the SAO and the SFO shall be notified of all Audit Committee meetings and, subject to reasonable exceptions, shall attend those meetings.
- (5) The SAO or the SFO may be excluded from all or any part of an Audit Committee meeting by a recorded vote if the subject matter relates to a confidential personnel or performance issue respecting the SAO or the SFO.
- (6) The Audit Committee shall meet

- (a) at least once every quarter in each fiscal year as necessary to conduct the business of the Audit Committee; and
  - (b) as soon as practicable after it receives the audited annual financial statements and report from the auditor.
- (7) The Audit Committee shall provide minutes of its meetings to the Council and the Chair shall report to the Council on the substance of each Audit Committee meeting as soon as practicable, but not more than forty-five (45) days, after each meeting.

#### **Financial Planning Responsibilities**

- 14.(1)** The Audit Committee shall carry out the following activities in respect of the financial administration of AFN:
- (a) annually reviewing, and recommending to the Council for approval, multi-year financial plans;
  - (b) reviewing draft annual budgets and recommending them to the Council for approval;
  - (c) on an ongoing basis, monitoring the financial performance of AFN against the annual budget and reporting any significant variations to the Council; and
  - (d) reviewing the quarterly financial statements and recommending them to the Council for approval.
- (2) The Audit Committee may make a report or recommendations to the Council on any matter respecting the financial administration of AFN that is not otherwise specified to be its responsibility under this Law.

#### **Audit Responsibilities**

- 15.** The Audit Committee shall carry out the following audit activities in respect of the financial administration of AFN:
- (a) making recommendations to the Council on the selection, engagement and performance of an auditor;
  - (b) receiving assurances on the independence of a proposed or appointed auditor;
  - (c) reviewing and making recommendations to the Council on the planning, conduct and results of audit activities;
  - (d) reviewing and making recommendations to the Council on the audited annual financial statements, including the audited local revenue account financial statements and any special purpose reports;
  - (e) periodically reviewing and making recommendations to the Council on policies, procedures and directions on reimbursable expenses and benefits of the Councillors, officers and employees of AFN;

- (f) monitoring financial reporting risks and fraud risks and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;
- (g) conducting a review of this Law under section 92 and, where appropriate, recommending amendments to the Council; and
- (h) periodically reviewing and making recommendations to the Council on the terms of reference of the Audit Committee.

#### **Council Assigned Responsibilities**

- 16.** The Council may assign to the Audit Committee the following activities in respect of the financial administration of AFN:
- (a) developing, and recommending to the Council for approval, performance measurements and goals designed to confirm that management activities, including financial management, occur as planned;
  - (b) preparing, and recommending to the Council for approval, cash management plans;
  - (c) reviewing and reporting to the Council on the financial content of any AFN reports;
  - (d) reviewing, monitoring and reporting to the Council on the appropriateness of AFN's accounting and financial reporting systems, policies and practices;
  - (e) reviewing, and recommending to the Council for approval, any proposed significant changes in AFN's accounting or financial reporting systems, policies, procedures or directions;
  - (f) monitoring the collection and receipt of AFN's financial assets, including debts owed to AFN;
  - (g) reviewing and reporting to the Council on AFN's risk management policies and control and information systems and, where appropriate, recommending improvements to the Council;
  - (h) reviewing the adequacy of security of information, information systems and recovery plans and, where appropriate, recommending improvements to the Council;
  - (i) monitoring compliance with the legal obligations of AFN, including legislative, regulatory and contractual obligations, and reporting to the Council;
  - (j) reviewing and reporting to the Council on the adequacy of financial administration personnel and resources;
  - (k) reviewing, monitoring and reporting to the Council on the adequacy and appropriateness of AFN's insurance coverage respecting significant risks to AFN; and
  - (l) reviewing, monitoring and reporting to the Council on material litigation and its impact on financial administration and reporting.

### ***DIVISION 3 - Officers and Employees***

#### **Senior Administrative Officer**

- 17.(1)** The Council shall appoint a person as SAO of AFN and may set the terms and conditions of that appointment.
- (2) Reporting to the Council, the SAO is responsible for leading the planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of AFN, including the following duties:
- (a) developing and recommending to the Council for approval, human resources policies and procedures for the hiring, management and dismissal of officers and employees of AFN;
  - (b) preparing and recommending to the Council for approval, descriptions of the powers, duties and functions of all employees of AFN;
  - (c) subject to paragraph 7(2)(d), hiring the employees of AFN, as the SAO considers necessary, and setting the terms and conditions of their employment;
  - (d) overseeing, supervising and directing the activities of all officers and employees of AFN;
  - (e) overseeing and administering the contracts of AFN;
  - (f) preparing, recommending to the Council, and maintaining and revising as necessary, the organization chart referred to in section 20;
  - (g) performing any other duties of the SAO under this Law; and
  - (h) carrying out any other activities specified by the Council that are not contrary to the FMA or inconsistent with the SAO's duties specified in this Law.
- (3) The SAO may assign the performance of any of the duties or functions of the SAO to any officer, employee, committee, contractor or agent of AFN, but this assignment does not relieve the SAO of the responsibility to ensure that these duties or functions are carried out properly.

#### **Senior Financial Officer**

- 18.(1)** The Council shall appoint a person as SFO of AFN and may set the terms and conditions of that appointment.
- (2) Reporting to the Council and the SAO, the SFO is responsible for the day-to-day management of the systems of the financial administration of AFN, including the following duties:
- (a) ensuring the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;
  - (b) administering and maintaining all accounts of AFN;

- (c) in consultation with the tax administrator, preparing the draft annual budgets and any draft amendments to the component of the annual budget respecting AFN's local revenue account;
- (d) preparing the monthly financial information required in section 65, the quarterly financial statements required in section 66 and the draft annual financial statements required in section 67;
- (e) preparing the financial components of reports to the Council;
- (f) preparing the financial components of the multi-year financial plan;
- (g) actively monitoring compliance with any agreements and funding arrangements entered into by AFN;
- (h) identifying, assessing, monitoring and reporting on financial reporting risks and fraud risks;
- (i) monitoring and reporting on the effectiveness of mitigating controls for the risks referred to in paragraph (h), taking into consideration the cost of implementing those controls;
- (j) administering and supervising the preparation and maintenance of financial records and the financial administration reporting systems;
- (k) administering and supervising the maintenance of the records of all receipts and expenditures of AFN to facilitate the annual audit;
- (l) actively monitoring compliance with the FMA, this Law, any other applicable AFN law, applicable standards and any policies, procedures and directions of the Council respecting the financial administration of AFN, other than those matters that are the responsibility of the tax administrator under this Law, another AFN law, or the FMA;
- (m) preparing or providing any documentation and financial information required by the Council or the Audit Committee to discharge their responsibilities;
- (n) evaluating the financial administration systems of AFN and recommending improvements;
- (o) developing and recommending procedures for the safeguarding of assets and to ensure approved procedures are followed;
- (p) developing and recommending procedures for identifying and mitigating financial reporting and fraud risks and ensuring approved procedures are followed;
- (q) performing the duties of the tax administrator when a tax administrator has not been appointed;
- (r) performing any other duties of the SFO under this Law; and
- (s) carrying out any other activities as assigned that are not contrary to the FMA or inconsistent with the SFO's duties under this Law.

- (3) The SFO may assign the performance of any of the duties or functions of the SFO to any officer, employee, contractor or agent of AFN, but this assignment does not relieve the SFO of the responsibility to ensure that these duties or functions are carried out properly.

#### **Tax Administrator**

- 19.(1)** The tax administrator reports to the SFO in respect of the performance of any of the tax administrator's duties or functions under this Law, and is responsible for the day-to-day management of AFN's property taxation department, including the following duties:
- (a) administering and maintaining AFN's local revenue account, subject to paragraph 18(2)(b); and
  - (b) preparing, in consultation with the SFO, any draft amendments to the component of the annual budget respecting AFN's local revenue account.
- (2) With the approval of the SFO, the tax administrator may assign the performance of any of the duties or functions of the tax administrator under this Law to any officer, employee, contractor or agent of AFN, but this assignment does not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.

#### **Organizational Structure**

- 20.(1)** The Council shall establish and maintain a current organization chart for the governance, management and administrative systems of AFN that includes the following information:
- (a) all governance, management and administrative systems of AFN;
  - (b) the organization of the systems described in paragraph (a), including the linkages between them;
  - (c) the specific roles and responsibilities of each level of the organization of the systems described in paragraph (a); and
  - (d) all governance, management and administrative positions at each level of the organization of the systems described in paragraph (a), including
    - (i) the membership on the Council, Audit Committee and all other committees of the Council and AFN,
    - (ii) the SAO, the SFO, the tax administrator and other officers of AFN, and
    - (iii) the principal lines of authority and the responsibility between the Council, the committees referred to in subparagraph (i) and the officers referred to in subparagraph (ii).
- (2) On request, the SAO shall provide a copy of the organization chart under subsection (1) to a Councillor, a member of a committee referred to in subparagraph (1)(d)(i), an officer, employee or contractor or agent of AFN and a member of AFN.



- (3) In the course of discharging his or her responsibilities under this Law, the SAO shall recommend to the Council for approval and implementation human resource policies and procedures that facilitate effective internal financial administration controls.
- (4) The Council shall take all reasonable steps to ensure that AFN hires or retains qualified and competent personnel to carry out the financial administration activities of AFN.

#### ***DIVISION 4 - Conduct Expectations***

##### **Conduct of Councillors**

- 21.(1) When exercising a power, duty or responsibility relating to the financial administration of AFN, a Councillor shall
  - (a) comply with this Law, the FMA, any other applicable AFN law and any applicable standards;
  - (b) act honestly, in good faith and in the best interests of AFN;
  - (c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
  - (d) avoid conflicts of interest and comply with the requirements of the COIP, including required disclosures of private interests.
- (2) If it has been determined under this Law or by a court of competent jurisdiction that a Councillor has contravened this section,
  - (a) the Councillor shall be removed from the Audit Committee, in accordance with paragraph 11(7)(b), if applicable;
  - (b) the Councillor may be removed from office in accordance with the *?Akisqnuq First Nation Custom Election Regulations*; and
  - (c) AFN may use any legal means available to it to remedy the situation.

##### **Conduct of Officers, Employees, Contractors and Agents**

- 22.(1) This section applies to
  - (a) officers, employees, contractors and agent of AFN;
  - (b) persons acting under the delegated authority of the Council or AFN; and
  - (c) non-Councillor members of committees of the Council or AFN.
- (2) If a person is exercising a power, duty or responsibility relating to the financial administration of AFN, that person shall
  - (a) comply with this Law, the FMA, any other applicable AFN law, and any applicable standards;

- (b) comply with all policies, procedures and directions of the Council; and
  - (c) avoid conflicts of interest and comply with any applicable requirements of the COIP, including required disclosure of potential conflicts of interest.
- (3) The Council shall incorporate the relevant provision of this section into
- (a) the terms of employment or appointment of every officer or employee of AFN;
  - (b) the terms of every contract of a contractor of AFN;
  - (c) the terms of appointment of every member of a committee who is not a Councillor; and
  - (d) the terms of appointment of every agent of AFN.
- (4) If a person contravenes subsection (2), the following actions may be taken:
- (a) an officer or employee may be disciplined, including dismissal;
  - (b) a contractor's contract may be terminated;
  - (c) the appointment of a member of a committee may be revoked;
  - (d) the appointment of an agent may be revoked; and
  - (e) AFN may use any legal means available to it to remedy the situation.

## **PART IV - Financial Management**

### ***DIVISION 1 - Financial Plans and Annual Budgets***

#### **Fiscal Year**

- 23.** The fiscal year of AFN is April 1 to March 31 of the following year.

#### **Multi-year Financial Plan**

- 24.** On or before March 31 of each year, the Council shall approve a multi-year financial plan that
- (a) has a planning period of five (5) years comprised of the current fiscal year and the next four (4) fiscal years;
  - (b) is based on the projections of revenues, expenditures and transfers between accounts;
  - (c) sets out projected revenues, segregated by significant category;
  - (d) sets out projected expenditures, segregated by significant category;
  - (e) in respect of transfers between accounts, sets out the amounts from the tangible capital asset reserve account;

- (f) shows all categories of restricted cash; and
- (g) indicates whether in any of the five (5) years of the plan a deficit or surplus is expected from the projection of revenues and expenditures for that year.

#### **Content of Annual Budget**

- 25.(1) The annual budget shall encompass all the operations for which AFN is responsible and shall identify
  - (a) anticipated revenues segregated by significant category, including local revenues, with estimates of the amount of revenue from each category;
  - (b) anticipated expenditures segregated by significant category, including local revenues, with estimates of the amount of expenditure for each category; and
  - (c) any anticipated annual and accumulated surplus or annual and accumulated deficit and the application of year-end surplus.
- (2) The revenue category of moneys derived from AFN lands shall be shown separately in the annual budget from other revenues and shall include a sub-category for revenues from natural resources obtained from AFN lands.

#### **Annual Budget and Planning Process Schedule**

- 26.(1) On or before March 31 of each year, the Council shall review and approve the annual budget for AFN for the next fiscal year.
- (2) In order to meet the March 31 deadline at subsection (1),
  - (a) the SFO shall prepare and submit to the Audit Committee for review a draft annual budget and a draft multi-year financial plan for the next fiscal year;
  - (b) the Audit Committee shall review the draft annual budget and recommend an annual budget to the Council for approval; and
  - (c) the Audit Committee shall review the draft multi-year financial plan and recommend a multi-year financial plan to the Council for approval,within a timeframe that allows for Council approval of the annual budget and multi-year financial plan on or before March 31.
- (3) In the event that there is a substantial change in the forecasted revenues or expenditures respecting local revenues,
  - (a) the SFO, in consultation with the tax administrator, shall prepare and submit to the Audit Committee for review a draft amendment of the component of the annual budget respecting AFN's local revenue account, on or before June 15;

- (b) the Audit Committee shall review the draft amendment of the component of the annual budget respecting AFN's local revenue account and recommend an amendment to the annual budget to the Council for approval, on or before June 30; and
- (c) the Council shall approve the amendment of the component of the annual budget respecting AFN's local revenue account, on or before July 15.

#### **Additional Requirements for Annual Budget Deficits**

- 27.** If a draft annual budget contains a proposed deficit, the Council shall ensure that
- (a) the multi-year financial plan demonstrates how and when this deficit will be addressed and how it will be serviced; and
  - (b) the deficit does not have a negative impact on the credit-worthiness of AFN.

#### **Amendments to Annual Budgets**

- 28.(1)** The annual budget of AFN shall not be changed without the approval of the Council.
- (2) Subject to subsection 26(3) and section 36, unless there is a substantial change in the forecasted revenues or expenses of AFN or in the expenditure priorities of the Council, the Council shall not approve a change to the annual budget of AFN.

#### **Local Revenue Account Budget Requirements**

- 29.** Despite any other provisions of this Law, any part of a budget relating to the local revenue account shall be prepared, approved and amended in accordance with applicable provisions of the FMA and of the FNTC standards.

#### **Policy for Member Information or Involvement**

- 30.(1)** The Council shall post a public notice when each of the following is presented for Council approval:
- (a) the annual budget, including any component of the annual budget respecting AFN's local revenue account;
  - (b) the multi-year financial plan;
  - (c) amendments to the annual budget;
  - (d) annual budget deficits or extraordinary expenditures;
  - (e) capital projects;
  - (f) borrowing for new capital projects; and
  - (g) proposed amendments to this Law.

- (2) A notice provided under subsection (1) shall state whether and how members may be involved in the decision under consideration.

### ***DIVISION 2 - Financial Institution Accounts***

#### **Financial Institution Accounts**

- 31.(1)** No account may be opened for the receipt and deposit of money of AFN unless the account is
- (a) in the name of AFN;
  - (b) opened in a financial institution; and
  - (c) authorized by the SFO and one Councillor.
- (2) AFN shall establish the following accounts in a financial institution:
- (a) a general account for money from any sources other than those described in paragraphs (b) to (d);
  - (b) a separate account for moneys from local revenues;
  - (c) a separate account for moneys held in trust; and
  - (d) a tangible capital asset reserve account for money set aside for purposes of section 81.
- (3) AFN may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage AFN's financial assets.

#### **Accounts Management**

- 32.(1)** The SFO shall take all reasonable steps to ensure the safekeeping of all money received by AFN.
- (2) The SFO
- (a) shall take all reasonable steps to ensure that all money received by AFN is deposited as soon as practicable into the appropriate accounts described in section 31; and
  - (b) shall not authorize payment of money from an account described in section 31 unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this Law.

### ***DIVISION 3 - Expenditures***

#### **Prohibited Expenditures**

- 33.(1)** Money or financial assets in a trust account shall not be used for a purpose other than that permitted under the terms of the trust.

- (2) Money in a local revenue account shall not be used for any purpose other than that permitted under a local revenue law.
- (3) Money in a tangible capital asset reserve account shall not be used for any purpose other than that described in Part V.

#### **Prohibited Agreements**

34. AFN shall not enter into an agreement or undertaking that requires AFN to expend money that is not authorized by or that contravenes this Law.

#### **No Expenditure Without Allocation**

- 35.(1) Subject to subsection 36(1), money shall not be paid out of any account unless the expenditure is authorized under an allocation.
- (2) Subsection (1) does not apply to expenditures from a trust account where the expenditure is authorized under the terms of the trust.

#### **Emergency Expenditures**

- 36.(1) The SAO may approve an expenditure for an emergency purpose that was not anticipated in the annual budget if the expenditure is not expressly prohibited by or under this Law or another AFN law.
- (2) The Council shall establish policies and procedures to authorize expenditures under subsection (1).
- (3) If the expenditure under subsection (1) is substantial, it shall be reported to the Council as soon as practicable and the Council shall amend the annual budget to include the expenditure.
- (4) Subsection (1) does not give the SAO the authority to borrow for the purpose of making an expenditure for an emergency purpose.

#### **Allocations**

- 37.(1) An amount that is allocated in an annual budget shall not be expended for any purpose other than that described in the allocation.
- (2) The total amount expended by AFN in relation to an allocation shall not exceed the amount specified in the annual budget for AFN for that allocation.
- (3) Every person who is responsible for managing an allocation shall establish and maintain a current record of commitments chargeable to that allocation.

#### **Payments after Fiscal Year-end**

- 38.(1) Money allocated in an annual budget for a fiscal year shall not be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.

- (2) If the liabilities for an allocation under subsection (1) exceed the unexpended balance of the allocation at the end of the fiscal year, the excess shall be
  - (a) charged against a suitable allocation for the following fiscal year; and
  - (b) reported in the financial statements for the fiscal year in which the liability was incurred.

#### **Requisitions for Payment**

- 39.(1)** No money may be paid out of any account without a requisition for payment as required under this section.
- (2) A requisition may not be made or given for payment of money unless
  - (a) the money is authorized for payment from an allocation; or
  - (b) the payment is an authorized use of money in a trust.
- (3) No requisition may be made or given for payment of money that results in expenditures from a trust account in excess of the unexpended balance of the trust account.
- (4) No requisition may be made or given for payment of money that reduces the balance available in an allocation or trust account so that it is not sufficient to meet the commitments chargeable against it.
- (5) A requisition may apply to one or more expenditures chargeable against one or more allocations.
- (6) The tax administrator shall authorize payment out of a local revenue account.
- (7) The Council shall establish policies or procedures or give directions respecting internal controls for the procurement of goods and services.

### ***DIVISION 4 - General Matters***

#### **Advances**

- 40.(1)** The SAO or the SFO may approve an advance to prepay expenses that are chargeable against an allocation in the current fiscal year or an allocation in the next fiscal year.
- (2) The tax administrator may approve an advance to prepay expenses that are chargeable against an allocation from the local revenue account in the current fiscal year or an allocation from that account in the next fiscal year.

#### **Holdbacks**

- 41.** If AFN withholds an amount payable under an agreement, the payment of the amount withheld shall be charged to the allocation from which the agreement shall be paid even if the fiscal year for which it was allocated has ended.

### **Deposit Money**

42. Money received by AFN as a deposit to ensure the doing of any act or thing shall be held and disposed of in accordance with
- (a) the agreement under which the deposit has been paid; and
  - (b) in the absence of any provisions respecting that matter, any policy, procedure or direction established by the Council.

### **Interest**

- 43.(1) All interest earned on
- (a) a trust account shall be retained in that account;
  - (b) the local revenue account shall be retained in that account;
  - (c) the tangible capital asset reserve account shall be retained in that account; and
  - (d) all other accounts of AFN shall be deposited in the general account referred to in paragraph 31(2)(a).
- (2) Subject to the *Interest Act*, AFN may charge interest at a rate set from time to time by the Council on any debts or payments owed to AFN that are overdue.

### **Refunds**

44. Money received by AFN that is paid or collected in error or for a purpose that is not fulfilled may be refunded in full or in part as circumstances require.

### **Write-Off and Forgiveness of Debts**

45. All or part of a debt or obligation owed to AFN may be written off or forgiven
- (a) if approved by the Council; or
  - (b) if done under the authority of a policy or direction of the Council.

### **Year-end Surplus**

46. If there is an operating surplus at the end of the fiscal year, it shall be dealt with as follows:
- (a) an operating surplus in the local revenue account shall be retained in that account;
  - (b) an operating surplus in the tangible capital asset reserve account shall be retained in that account; and
  - (c) any other operating surplus shall be paid into the general account described in paragraph 31(2)(a).



## ***DIVISION 5 - Borrowing***

### **Limitations on Borrowing**

- 47.(1) Except as specifically authorized in this Law or in a local revenue law, AFN shall not borrow money or grant security.
- (2) Subject to this Law, if AFN is authorized in this Law to borrow money or grant security, the Council may authorize the SFO to borrow money or grant security in the name of AFN
  - (a) as specifically approved by the Council; or
  - (b) in accordance with the policies, procedures or directions established by the Council.

### **Borrowing for Ordinary Operations**

- 48.(1) AFN may incur trade accounts or other current liabilities payable within normal terms of trade for expenditures provided for in the annual budget for the fiscal year if the debt will be repaid from money allocated under an allocation for the fiscal year or is in respect of an expenditure that may be made without the authority of an allocation under this Law.
- (2) AFN may enter into agreements with financial institutions for overdrafts or lines of credit and, for the purpose of securing any overdrafts or lines of credit, may grant security to the financial institution in a form, amount, and on terms and conditions that the Council approves.
- (3) Unless otherwise specified by the Council, the SAO or SFO may enter into a lease for the use or acquisition of lands, materials or equipment required for the operation, management or administration of AFN.

### **Financial Agreements**

- 49.(1) AFN may enter into the following agreements in the name of AFN:
  - (a) for the purpose of efficient management of AFN's financial assets, agreements with financial institutions and related services agreements; and
  - (b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of AFN's financial assets, agreements with financial institutions respecting currency exchange, spot and future currency, interest rate exchange and future interest rates.
- (2) Unless otherwise specified by the Council, the SFO may enter into any agreements referred to in subsection (1) on behalf of AFN.

### **Borrowing for Authorized Expenditures**

- 50.(1) If the general account described in paragraph 31(2)(a) is not sufficient to meet the expenditures authorized to be made from it and the SFO recommends that money be borrowed to ensure that the general account is sufficient for these purposes, AFN may borrow an amount not

exceeding a maximum amount specified by the Council and to be repaid within a specified period of time.

- (2) Despite the repayment terms specified in subsection (1), if the money borrowed under subsection (1) is no longer required for the purpose for which it was borrowed, the money shall be repaid as soon as practicable.

#### **Borrowing Member Requirements**

- 51.(1) If AFN becomes a borrowing member, then it may only secure long-term financing secured by property tax revenues from the FNFA, and only as permitted under its local revenue laws and the FMA.
- (2) Money borrowed under subsection (1) may only be used for the purposes permitted under the FMA.
- (3) In accordance with the *Financing Secured by Other Revenues Regulations* made under the FMA, money borrowed by AFN from the FNFA that is secured by other revenues may only be used for the following:
  - (a) capital infrastructure that is to be wholly or partly owned by AFN, including infrastructure for the provision of local services on AFN lands, housing, plants and machinery, buildings and other capital assets;
  - (b) rolling stock that is to be wholly or partly owned by the AFN;
  - (c) land that is to be wholly or partly owned by AFN;
  - (d) shares or any other ownership interest in a corporation whose purpose includes the ownership, operation, management or sale of products of power generating facilities, waste or wastewater treatment facilities or other public service utilities or facilities;
  - (e) lease financing of capital assets for the provision of local services; and
  - (f) short-term financing to meet cash flow requirements for capital purposes or to refinance a short-term debt incurred for capital purposes.

#### **Borrowing for Repayment of Debts**

52. Subject to this Law and a local revenue law, AFN may borrow money that is required for the repayment or refinancing of any debt of AFN, other than a debt in relation to money borrowed under subsection 51(1), provided that it results in a cost savings or more favourable terms for AFN.

#### **Use of Borrowed Money**

- 53.(1) Subject to this section and any local revenue law, money borrowed by AFN for a specific purpose shall not be used for any other purpose.

- (2) All or some of the money borrowed for a specific purpose by AFN and not required to be used immediately for that purpose may be temporarily invested under subsection 59(1) until required for that purpose.
- (3) If some of the money borrowed for a specific purpose is no longer required for that purpose, that money shall be applied to repay the debt from the borrowing.

#### **Execution of Security Documents**

54. A security granted by AFN shall be signed by two Councillors.

#### **Operational Controls**

55. The Council shall establish policies or procedures or give directions respecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of AFN's operations.

### ***DIVISION 6 - Risk Management***

#### **Limitation on Business Activity**

- 56.(1) Subject to subsections (2) and (3), AFN shall not
  - (a) carry on business as a proprietor;
  - (b) acquire an interest in a partnership as a general partner; or
  - (c) act as a trustee respecting property used for, or held in the course of, carrying on a business.
- (2) AFN may carry on a business that
  - (a) is ancillary or incidental to the provision of programs or services or other functions of AFN governance; or
  - (b) derives income from the granting of a lease or licence of or is in respect of
    - (i) an interest in, or natural resources on or under, AFN lands or lands owned in fee simple by, or in trust for, AFN, or
    - (ii) any other property of AFN.
- (3) AFN may carry on business activities for the primary purpose of profit if the Council determines that the business activities
  - (a) do not result in a material liability for AFN; or
  - (b) do not otherwise expose AFN's financial assets, property or resources to significant risk.

- (4) The Council may impose terms and conditions on the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

#### **Guarantees and Indemnities**

- 57.(1) Before the Council authorizes a guarantee, the SFO shall prepare, and the Council shall consider, a report identifying any risks associated with giving the guarantee and assessing the ability of AFN to honour the guarantee should it be required to do so.
- (2) AFN shall not give an indemnity unless it is
- (a) authorized under section 92;
  - (b) necessary and incidental to and included in another agreement to which AFN is a party; or
  - (c) in relation to a security granted by AFN that is authorized under this Law or another AFN law.
- (3) Subject to a resolution described in section 92, the Council shall establish policies or procedures or give directions respecting guarantees and indemnities as follows:
- (a) specifying circumstances under which an indemnity may be given without Council approval;
  - (b) designating the persons who may give an indemnity on behalf of AFN and specifying the maximum amount of any indemnity which may be given by them;
  - (c) specifying any terms or conditions under which a guarantee or indemnity may be given; and
  - (d) specifying the records to be maintained of all guarantees and indemnities given by AFN.

#### **Authority to Invest**

- 58.(1) Except as specifically authorized in this Law or another AFN law, AFN shall not invest AFN's financial assets.
- (2) If AFN is authorized in this Law to invest AFN's financial assets, the Council may authorize the SFO to invest AFN's financial assets
- (a) as specifically approved by the Council; or
  - (b) in accordance with the policies, procedures or directions established by the Council.

#### **Approved Investments**

- 59.(1) Money in an account described in section 31 that is not immediately required for expenditures may be invested by AFN in one or more of the following:
- (a) securities issued or guaranteed by Canada or a province;

- (b) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution;
  - (c) securities issued by the FNFA or by a local, municipal or regional government in Canada;
  - (d) commercial paper issued by a Canadian company that is rated in the highest category by at least two (2) recognized security-rating institutions;
  - (e) any investments a trustee may make under an enactment of a province relating to trustees; or
  - (f) any other investments or class of investments prescribed by a regulation under the FMA.
- (2) Subject to the terms of the trust, money held in trust that is not immediately required for expenditures may be invested by AFN as permitted under the terms of the trust or under the laws of Canada or of British Columbia.
- (3) If AFN has established an investment account under section 31, AFN may invest money in that account in
- (a) a company that is incorporated under the laws of Canada or of a province or territory and in which AFN is a shareholder;
  - (b) a trust in which AFN is a beneficiary;
  - (c) a limited partnership in which AFN is a partner; or
  - (d) a member investment program described in section 60.
- (4) Despite any other provision in this section,
- (a) government transfer funds,
  - (b) local revenues, and
  - (c) other revenues, if AFN has a loan from the FNFA secured by other revenues
- may only be invested in
- (d) securities issued or guaranteed by Canada or a province;
  - (e) securities of a local, municipal or regional government in Canada;
  - (f) investments guaranteed by a bank, trust company or credit union;
  - (g) deposits in a bank or trust company in Canada or non-equity or membership shares in a credit union; and
  - (h) securities issued by the FNFA.

#### **Permitted Investments in AFN Member Activities**

- 60.(1) AFN may only make a loan to a member of AFN or to an entity in which a member of AFN has an interest if the loan is made from a program of AFN that has been approved by the Council and that meets the requirements of this section.
- (2) Before the Council establishes a program under this section, the SAO or SFO shall prepare a report for Council identifying any risks associated with the program and the costs of administering the program.
- (3) A program referred to in subsection (1) shall satisfy the following criteria:
  - (a) the program shall be universally available to all members of AFN;
  - (b) the terms and conditions of the program shall be published and accessible to all members of AFN;
  - (c) all loans made from the program and all payments received from those loans shall be set out in an annual report that includes a summary about the total amounts loaned, number of participants, and repayment terms; and
  - (d) all loans shall be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.
- (4) The Council shall establish policies or procedures or give directions for the operation of the program referred to in this section.

#### **Administration of Investments and Loans**

- 61.(1) If AFN is authorized to make an investment or loan under this Law, the SFO may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.
- (2) If AFN is authorized to make a loan under this Law, the Council shall establish policies or procedures or give directions respecting the terms and conditions under which loans may be made, including a requirement that all loans be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

#### **Risk Assessment and Management**

- 62.(1) Annually, and more often if necessary, the SAO and SFO shall identify and assess any significant risks to AFN's financial assets, AFN's tangible capital assets, and the operations of AFN.
- (2) Annually, and more often if necessary, the SAO and SFO shall report to the Audit Committee on proposed plans to mitigate the risks identified in subsection (1) or, where appropriate, to manage or transfer those risks by agreement with others or by purchasing insurance.

#### **Insurance**

- 63.(1)** On recommendation of the Audit Committee, the Council shall procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 62 and any other risks associated with any assets, property or resources under the care or control of AFN.
- (2) The Council may purchase and maintain insurance for the benefit of a Councillor or an officer or their personal representatives against any liability arising from that person being or having been a Councillor or an officer.

### ***DIVISION 7 - Financial Reporting***

#### **GAAP**

- 64.** All accounting practices of AFN shall comply with GAAP.

#### **Monthly Financial Information**

- 65.** Not more than forty-five (45) days after the end of each month, the SFO shall prepare and provide to the Council and the Audit Committee, financial information respecting the financial affairs of AFN, in the form and with the content approved by the Council on the recommendation of the Audit Committee.

#### **Quarterly Financial Statements**

- 66.(1)** Not more than sixty (60) days after the end of each quarter of the fiscal year, the SFO shall prepare and provide to the Council and the Audit Committee, interim financial statements for AFN for that quarter, in the form and with the content approved by the Council on the recommendation of the Audit Committee.
- (2) The quarterly financial statements in subsection (1) shall be
- (a) reviewed by the Audit Committee and recommended to the Council for approval not more than seventy-five days (75) after the end of the quarter; and
  - (b) reviewed and approved by the Council not more than ninety (90) days after the end of the quarter.
- (3) If AFN has a loan from the FNFA that is secured by other revenues, the SFO shall
- (a) account for and report on all other revenues of AFN separately from other money of AFN; and
  - (b) provide the FNFA or the FMB, on its request, with information respecting the other revenues account.

### **Annual Financial Statements**

- 67.(1)** At the end of each fiscal year the SFO shall prepare the annual financial statements of AFN for that fiscal year in accordance with GAAP and to a standard that is at least comparable to that generally accepted for governments in Canada.
- (2) The annual financial statements shall be prepared in a form approved by the Council on the recommendation of the Audit Committee.
- (3) The annual financial statements shall include the following information:
- (a) the financial information of AFN for the fiscal year;
  - (b) the financial information for the local revenue account that is required to meet the FMB standards respecting financial reporting of the local revenue account; and
  - (c) the revenue categories for AFN lands referred to in subsection 25(2).
- (4) The annual financial statements shall include the following special purpose reports:
- (a) a report setting out all payments made to honour guarantees and indemnities for that fiscal year;
  - (b) a report setting out the information required in section 9;
  - (c) a report setting out all debts or obligations written off or forgiven by AFN;
  - (d) a report setting out the information required in paragraph 60(3)(c);
  - (e) if AFN has a land code in force, a note setting out moneys of AFN derived from AFN lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from AFN lands; and
  - (f) any other report required under the FMA or an agreement.
- (5) The SFO shall provide draft annual financial statements to the Audit Committee for review not more than ninety (90) days after the end of the fiscal year for which they were prepared.
- (6) The Chair shall present draft annual financial statements to the Council for review not more than one hundred and five (105) days after the end of the fiscal year for which they were prepared.

### **Appointment of Auditor**

- 68.(1)** AFN shall appoint an auditor for each fiscal year to hold office until the later of
- (a) the end of the Council meeting when the audited annual financial statements for that fiscal year are being considered; or
  - (b) the date the auditor's successor is appointed.



- (2) The terms and conditions of the appointment of the auditor shall be set out in an engagement letter approved by the Audit Committee which shall include the auditor's obligation to confirm in writing that the annual financial statements and the audit of them comply with this Law, the FMA, and FMB standards, or, to the extent they are not in compliance, to identify in writing consequential non-compliance matters.
- (3) To be eligible for appointment as the auditor of AFN, an auditor shall
  - (a) be independent of AFN, its related bodies, Councillors and officers and members; and
  - (b) be a public accounting firm or public accountant
    - (i) in good standing with the Chartered Professional Accountants of Canada, the Canadian Institute of Chartered Accountants, the Certified General Accountants Association of Canada or the Society of Management Accountants of Canada and their respective counterparts in the province or territory in which the public accounting firm or public accountant is practicing, and
    - (ii) licensed or otherwise authorized to practice public accounting in the province of British Columbia.
- (4) If the auditor ceases to be independent, the auditor shall as soon as practicable after becoming aware of the circumstances
  - (a) advise AFN in writing of the circumstances; and
  - (b) eliminate the circumstances that resulted in loss of independence or resign as the auditor.

#### **Audit Requirements**

- 69.(1) Not more than one hundred and twenty (120) days after the end of each fiscal year, the auditor shall conduct an audit of the annual financial statements of AFN in accordance with generally accepted auditing standards established by the Chartered Professional Accountants of Canada.
- (2) The auditor shall conduct that part of the annual financial statements respecting the local revenue account in accordance with FMB standards for the audit of local revenue accounts and shall report on that account separately from other accounts.
- (3) When conducting the audit, the auditor shall provide
  - (a) an audit opinion of the annual financial statements; and
  - (b) review comments on the special purpose reports referred to in subsection 67(4).

#### **Auditor's Authority**

- 70.(1) To conduct an audit of the annual financial statements of AFN, the auditor shall be given access to

- (a) all records of AFN for examination or inspection and given copies of these records on request; and
  - (b) any Councillor, officer, employee, contractor or agent of AFN to ask any questions or request any information.
- (2) On request of the auditor, every person referred to in paragraph (1)(b) shall
- (a) make available all records referred to in paragraph (1)(a) that are in that person's care or control; and
  - (b) provide the auditor with full information and explanation about the affairs of AFN as necessary for the performance of the auditor's duties.
- (3) The auditor shall be given notice of
- (a) every meeting of the Audit Committee; and
  - (b) the Council meeting where the annual audit, including the annual financial statements, will be considered and approved.
- (4) Subject to subsection (6), the auditor may attend any meeting for which he or shall be given notice under this section or to which the auditor has been invited and shall be given the opportunity to be heard at those meetings on issues that concern the auditor as auditor of AFN.
- (5) The auditor may communicate with the Audit Committee, as the auditor considers appropriate, to discuss any subject that the auditor recommends be considered by the Audit Committee.
- (6) The auditor may be excluded from all or any part of a meeting of the Audit Committee or the Council by a recorded vote if the subject matter relates to the retaining or dismissal of the auditor.

#### **Review of Audited Annual Financial Statements**

- 71.(1) The audited annual financial statements shall be provided to the Audit Committee for its review and consideration not more than one hundred and five (105) days after the fiscal year-end for which the statements were prepared.
- (2) The Council shall review and approve the audited annual financial statements not more than one hundred and twenty (120) days after the end of the fiscal year for which the statements were prepared.

#### **Access to Annual Financial Statements**

- 72.(1) Before the annual financial statements may be published or distributed, they shall
- (a) be approved by the Council;
  - (b) be signed by

- (i) the Chief of AFN,
  - (ii) the Chair, and
  - (iii) the SFO; and
- (c) include the auditor's audit report of the annual financial statements and the review comments of the special purpose reports referred to in subsection 67(4).
- (2) The audited annual financial statements and special purpose reports shall be available for inspection by members of AFN at the principal administrative offices of AFN during normal business hours.
- (3) In accordance with subsection 14(2) of the FMA, the audited annual financial statements of the local revenue account, including the audit report, shall be made available to
- (a) the members of AFN;
  - (b) any other persons who have an interest in, or the right to occupy, possess or use, AFN lands;
  - (c) the FNTC, the FMB and the FNFA; and
  - (d) the Minister.

#### **Annual Report**

- 73.(1)** Not more than one hundred and eighty (180) days after the end of each fiscal year, the Council shall prepare an annual report on the operations and financial performance of AFN for the previous fiscal year that includes the following information:
- (a) a description of the services and operations of AFN;
  - (b) a progress report on any established financial objectives and performance measures of AFN; and
  - (c) the audited annual financial statements of AFN for the previous fiscal year, including special purpose reports.
- (2) The SAO shall provide the annual report referred to in subsection (1)
- (a) to a member of AFN as soon as practicable after a request is made by the member;
  - (b) to the FMB as soon as practicable after the report's publication, if AFN has a certificate issued by the FMB under section 50(3) of the FMA; and
  - (c) to the FNFA as soon as practicable after the report's publication, if AFN is a borrowing member.

- (3) The annual report referred to in subsection (1) shall be made available to members of AFN at the principal administrative offices of AFN.
- (4) The SAO shall establish and maintain a register for the annual report that identifies all members of AFN who have requested a copy of the annual report and which includes
  - (a) the date each request was received; and
  - (b) the date the annual report was provided to the member.
- (5) If the SAO does not provide a copy of the annual report to a member within a reasonable time after the member's request, the member may apply to the Council to request a copy.
- (6) The SAO shall report quarterly to the Audit Committee on the steps taken to ensure compliance with subsections (2) to (4).

### ***DIVISION 8 - Information and Information Technology***

#### **Ownership of Records**

- 74.(1) All records that are produced by or on behalf of AFN or kept, used or received by any person on behalf of AFN are the property of AFN.
- (2) The Council shall establish policies or procedures or give directions to ensure that the records referred to in subsection (1) remain the property of AFN.

#### **Operations Manual**

- 75.(1) The SAO shall prepare and maintain a current operations manual respecting every element of AFN's administrative systems, including any financial administration systems referred to in this Law.
- (2) The operations manual under subsection (1) shall be made available to Councillors, members of the Audit Committee and all other Council committees and officers and employees of AFN, subject to reasonable exceptions, as established in Council policies, procedures or directions, for those parts of the manual that are appropriate for only limited distribution.
- (3) If any part of the operations manual under subsection (1) is relevant to the services being provided by a contractor or agent of AFN, that part of the operations manual shall be made available to the contractor or agent.

#### **Record Keeping and Maintenance**

- 76.(1) The SAO shall ensure that AFN prepares, maintains, stores and keeps secure all of AFN records that are required under this Law or any other applicable law.
- (2) AFN records may not be destroyed or disposed of except as permitted by, and in accordance with, the policies, procedures or directions of the Council and with applicable privacy legislation.
- (3) All financial records of AFN shall be stored for at least seven (7) years after they were created.

- (4) The Council shall establish policies and procedures or give directions respecting access of any persons to AFN records.

#### **Account Records**

- 77.(1) The tax administrator shall prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of AFN, including all records referred to in section 5 of the *Local Revenue Management Implementation Regulations*.
- (2) The SFO shall prepare, maintain, store and keep secure a complete set of all records respecting other revenues of AFN, including all records referred to in section 5 of the *Local Revenue Management Implementation Regulations* as amended by the *Financing Secured by Other Revenues Regulations*.

#### **Confidentiality of Information**

- 78.(1) No person may be given access to AFN records containing confidential information except as permitted by, and in accordance with, the policies, procedures and directions of the Council.
- (2) All persons who have access to AFN records shall comply with all policies, procedures or directions of the Council respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

#### **Information Technology**

79. The Council shall establish policies or procedures or give directions respecting information technology used by AFN in its operations to ensure the integrity of AFN's financial administration system and its database.

## **PART V - Capital Projects**

#### **Council General Duties**

80. The Council shall take reasonable steps to ensure that
- (a) AFN's tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets;
  - (b) the rehabilitation or replacement of AFN's tangible capital assets is in accordance with a life-cycle management program described in this Part; and
  - (c) capital projects for the construction of buildings or other improvements are financed, planned and constructed in accordance with procedures and to standards that generally apply to the financing, planning and construction of public buildings and other improvements of organized communities in the region in which the majority of AFN lands are located.

### **Tangible Capital Assets Reserve Fund**

- 81.** The Council shall establish a tangible capital asset reserve fund for the purpose of funding expenditures for capital projects carried out under this Part.

### **Reports on Capital Projects**

- 82.** At each Audit Committee meeting, the SAO shall report on the following subjects:
- (a) year to date borrowings, loans and payments in respect of each capital project;
  - (b) the status of a capital project, including
    - (i) a comparison of expenditures to date with the project budget,
    - (ii) a detailed description of any identified legal, financial, technical, scheduling or other problems, and
    - (iii) the manner in which a problem identified in subparagraph (ii) has been or will be addressed; and
  - (c) steps taken to ensure compliance with section 85 for every capital project.

### **Life-Cycle Management Program**

- 83.(1)** The SAO shall establish and keep current a register of all AFN's tangible capital assets that identifies each of these assets and includes the following information, as applicable:
- (a) location and purpose of the asset;
  - (b) ownership and restrictions over ownership of the asset;
  - (c) year of acquisition;
  - (d) last inspection date of the asset;
  - (e) expected life of the asset at the time of acquisition;
  - (f) assessment of the condition of the asset and its remaining useful life;
  - (g) estimated residual value of the asset;
  - (h) insurance coverage for the asset; and
  - (i) any other information required by the Council.
- (2)** On or before September 30 of each year, the SAO shall arrange for the inspection and review of the state of each of AFN's tangible capital assets to establish or update information respecting the following matters, as applicable:

- (a) its present use;
  - (b) its condition and state of repair;
  - (c) its suitability for its present use;
  - (d) its estimated remaining life;
  - (e) its estimated replacement cost;
  - (f) estimated dates and costs of its required future rehabilitation;
  - (g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five (5) fiscal years;
  - (h) maintenance records for all periods up to the date of inspection; and
  - (i) property and liability insurance covering the capital asset and its use or operation.
- (3) On or before October 31 of each year, the SAO shall prepare the following, as applicable:
- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of AFN's tangible capital assets for the next fiscal year;
  - (b) one- (1), five- (5), and ten- (10) year forecasts of the estimated cost for rehabilitation or replacement of AFN's tangible capital assets;
  - (c) the proposed budget for rehabilitation of AFN's tangible capital assets for the next fiscal year, setting out
    - (i) each proposed rehabilitation project and its schedule,
    - (ii) the estimated cost, including contingencies, of each proposed rehabilitation project, and
    - (iii) the estimated amounts and timing of money that is required to carry out each proposed rehabilitation project; and
  - (d) the proposed budget for replacement of AFN's tangible capital assets for the next fiscal year setting out
    - (i) each proposed replacement project and its schedule,
    - (ii) the description of each asset to be replaced,
    - (iii) the estimated cost, including contingencies, of each proposed replacement project, and
    - (iv) the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

**Review by Audit Committee**

- 84.(1)** On or before December 15 of each year, the Audit Committee shall review the information, schedules and budget prepared under section 83 for the following purposes:
- (a) to identify any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;
  - (b) to know the effect that each rehabilitation or replacement project included in the proposed budgets will have on the annual operating costs and routine maintenance costs in future years; and
  - (c) to determine whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation projects rather than replacement projects.
- (2) On or before January 15 of each year, the Audit Committee shall review any plans for new construction of AFN's tangible capital assets, including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

**Capital Projects – Contracts and Tenders**

- 85.(1)** The Council shall establish policies or procedures or give directions respecting the management of capital projects, including the following:
- (a) project planning, design, engineering, safety and environmental requirements;
  - (b) project costing, budgeting, financing and approval;
  - (c) project and contractor bidding requirements;
  - (d) tender, contract form and contract acceptance;
  - (e) course of construction insurance;
  - (f) project performance guarantees and bonding;
  - (g) project control, including contract management; and
  - (h) holdbacks, work approvals, payment and audit procedures.
- (2) All AFN capital projects shall be managed in accordance with the policies, procedures or directions referred to in subsection (1).

**PART VI - Miscellaneous**

**FMB Standards and Authority**

- 86.(1)** If AFN is a borrowing member or has a certificate issued by the FMB under subsection 50(3) of the FMA, AFN shall comply with all applicable FMB standards.



- (2) If the Council becomes aware that AFN is not complying with a FMB standard referred to in subsection (1), the Council shall as soon as practicable take the required actions to bring AFN into compliance with the FMB standard.
- (3) Without limiting section 53 of the FMA, if AFN is a borrowing member and the FMB gives notice to AFN that third-party management of AFN's local revenues is required, the Council delegates to the FMB
  - (a) the powers and authorities described in subsection 53(2) of the FMA; and
  - (b) any other of the Council's powers required to give effect to third-party management of AFN's local revenues under the FMA.
- (4) Without limiting section 53 of the FMA as adapted by the *Financing Secured by Other Revenues Regulations*, if AFN is a borrowing member and the FMB gives notice to AFN that third-party management of AFN's other revenues is required, the Council delegates to the FMB
  - (a) the powers and authorities described in subsection 53(2) of the FMA as adapted by the *Financing Secured by Other Revenues Regulations*; and
  - (b) any other of the Council's powers required to give effect to third-party management of AFN's other revenues under the FMA.

#### **Land Management Obligations**

- 87.** If AFN has a land code,
- (a) AFN shall comply with the land code and with the *First Nations Land Management Act*; and
  - (b) the Council shall establish and implement a policy that provides a method consistent with the requirements of the land code for being accountable to members of AFN for the management of AFN lands and for moneys earned from those lands to satisfy paragraph 6(1)(e) of the *First Nations Land Management Act*.

#### **Reports of Breaches and Financial Irregularities**

- 88.(1)** Subject to subsections (2) and (3), if any person has reason to believe that
- (a) an expenditure, liability or other transaction of AFN is not authorized by or under this Law or another First Nation law,
  - (b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of AFN,
  - (c) a provision of this Law has been contravened, or
  - (d) a person has failed to comply with the COIP,
- the person may disclose the circumstances to any member of the Audit Committee, to the SAO or to the SFO.

- (2) If a Councillor becomes aware of any circumstances described under subsection (1), the Councillor shall report them to any member of the Audit Committee, to the SAO or to the SFO.
- (3) If an officer, employee, contractor or agent of AFN becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or agent, as the case may be, shall report them to any member of the Audit Committee, to the SAO or to the SFO.

**Inquiry into Report**

- 89.(1)** If a report is made under section 88, the recipient of the report shall inquire into the circumstances reported and report the findings to the Audit Committee as soon as practicable.
- (2) The Audit Committee may make a further inquiry into any findings reported to it under this section but, in any event, shall make a report to the Council respecting any circumstances reported to the Audit Committee under this section, including the Audit Committee's recommendations, if any.

**Protection of Parties**

- 90.(1)** The recipient of a report under section 88 shall take all reasonable steps to ensure that the identity of the person who makes a report under section 88 is kept confidential to the extent practicable in all the circumstances, and shall only disclose the identity of the person who made the report if it is necessary for the purposes of the investigation and the report to the Audit Committee and the Council.
- (2) A person who makes a report in good faith under section 88 shall not be subjected to any form of reprisal by AFN or by a Councillor, officer, employee, contractor or agent of AFN as a result of making that report.
- (3) The SAO and the Chair shall take all necessary steps to ensure that subsection (2) is not contravened and shall report any contravention or suspected contravention to the Council.
- (4) The Council shall establish policies or procedures or give directions
  - (a) for the recording and safeguarding of reports made under section 88 and any records prepared during the inquiry or investigation into those reports;
  - (b) for the inquiry or investigation into reports made under section 88;
  - (c) for the protection of confidential information arising out of a disclosure under section 88 and a report to the Audit Committee under section 89; and
  - (d) concerning the fair treatment of a person against whom a report has been made under section 88.

**Liability for Improper Use of Money**

- 91.(1)** A Councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to this Law or AFN's local revenue law is personally liable to AFN for that amount.

- (2) Subsection (1) does not apply if the Councillor relied on information provided by an officer or employee of AFN and the officer or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct when providing the information.
- (3) An amount owed to AFN under subsection (1) may be recovered for AFN by AFN, a member of AFN or a person who holds a security under a borrowing made by AFN.
- (4) It is a good defence to any action brought against an officer or employee of AFN for unauthorized expenditure, investment or use of AFN's financial assets if it is proved that the officer or employee gave a written and signed warning to the Council that in his or her opinion, the expenditure, investment or use would be unlawful.

#### **Indemnification against Proceedings**

- 92.(1) Subject to subsection (2), the Council may, by resolution, indemnify or provide for the indemnification of a named AFN official, a category of AFN official or all AFN officials in accordance with the terms specified in the resolution.
- (2) Subject to subsection (3), the Council shall not pay a fine that is imposed as a result of an AFN official's conviction for an offence.
- (3) The Council shall pay a fine that is imposed as a result of an AFN official's conviction for an offence if
  - (a) the offence is a strict or absolute liability offence;
  - (b) the offence relates to AFN; and
  - (c) the individual was convicted of the offence solely in their capacity as an AFN official and was not otherwise guilty of dishonesty, gross negligence or malicious or willful misconduct in relation to the offence.

#### **Periodic Review of Law**

93. On a regular, periodic basis established by a policy of the Council, the Audit Committee shall conduct a review of this Law
  - (a) to determine if it facilitates effective and sound financial administration of AFN; and
  - (b) to identify any amendments to this Law that may better serve this objective.

#### **Provision of Law to FNFA**

94. If AFN intends to apply to become a borrowing member, the Council shall provide a copy of this Law to the FNFA as soon as practicable after the FMB approves the Law.

**Coming into Force**

95. (1) This section and the operative portions of sections 1-6, 23, 25, 26, 28, 29, 65, 66, 69-71 and 86, and subsections 68(2), 68(3), 72(1), 72(3) and 77(1), come into force on the day after this Law is approved by the FMB under section 9 of the FMA.
- (2) The remaining provisions of this Law come into force on the earlier of
- (a) the day that is thirty-six (36) months after the date when AFN becomes a borrowing member; and
  - (b) the day they are brought into force by resolution of the Council.

**THIS LAW IS HEREBY DULY ENACTED** by the Council on the 18<sup>th</sup> day of March 2015, at Windermere in the Province of British Columbia at a duly called and conducted Council meeting at which the required quorum of three (3) members of Council was present throughout.



Chief Lorne Shovar



Councillor Allan Nicholas



Councillor Rosemary Phillips



Councillor Donald Sam



Councillor Lucille Shovar

## SCHEDULE – ?Akisq̓nuk First Nation Conflict of Interest Policy

### PART I - Interpretation

#### Interpretation

1.(1) In this Schedule,

“FAL” means the *?Akisq̓nuk First Nation Financial Administration Law, 2015* to which this Schedule is attached and forms a part;

“private interests” means the individual’s personal and business interests and include the personal and business interests of

- (a) the individual’s dependents, and
- (b) an entity in which the individual has a controlling interest; and

“real property” means an interest in AFN lands held under

- (a) a certificate of possession under the *Indian Act*,
- (b) an allotment of land under a land code, or
- (c) AFN’s traditional land holding system pursuant to a band Council resolution.

(2) Except as otherwise expressly provided in this Schedule, words and expressions used in this Schedule have the same meanings as in the FAL.

(3) Section 3 of the FAL applies to this Schedule.

(4) If there is a conflict between a provision of this Schedule and the FAL, the provision of the FAL applies.

#### Definition of Conflict of Interest

2.(1) A conflict of interest arises where a Councillor, Council committee member, Audit committee member, officer, employee, contractor or agent of AFN has a private interest that is

- (a) real, potential or perceived; and
- (b) direct or indirect

and which

- (c) competes, or appears to compete with
  - (i) the interests of AFN, or
  - (ii) the objective performance of the individual’s power or performance of a duty or function.

- (2) Individuals may declare themselves to be in a conflict of interest even if the circumstances do not fall within the definition under this section.
- (3) Despite subsection (1), an individual's private interests do not give rise to a conflict of interest if those interests
  - (a) are the same as those of a broad class of members of AFN of which the individual is a member; or
  - (b) are so remote or insignificant that they could not be reasonably regarded as likely to influence the individual in the exercise of a power or performance of a duty or function.

## **PART II - Councillors and Committee Members**

### **Application**

3. This Part applies to all Councillors of AFN and, where applicable, to all members of Council committees.

### **General Obligations**

- 4.(1) An individual who is a Councillor or member of a Council committee shall avoid circumstances that could result in the individual having a conflict of interest or an apparent conflict of interest.
- (2) Councillors and members of Council committees shall avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

### **Disclosure of Interests**

- 5.(1) A Councillor shall file a written disclosure of the following information with the SAO:
  - (a) the names of the Councillor's dependents;
  - (b) the employer of the Councillor and the Councillor's spouse;
  - (c) real property owned by the Councillor or the Councillor's spouse;
  - (d) business interests and material investments of the Councillor or the Councillor's spouse, including in an entity in which the Councillor or the Councillor's spouse has a controlling interest; and
  - (e) a gift referred to in subsection 6(3).
- (2) A Councillor shall file a written disclosure under subsection 5 on the following occasions:
  - (a) not more than thirty (30) days after being elected to the Council;
  - (b) as soon as practicable after a material change in the information previously disclosed; and

- (c) on or before April 15 of each year that the Councillor holds office.
- (3) The SAO shall establish and maintain a register of all information disclosed by a Councillor under this section and section 6.

**Gifts and Benefits**

- 6.(1) An individual who is a Councillor, a member of a Council committee, or the dependent of a Councillor or a member of a Council committee shall not accept a gift or benefit that might reasonably be seen to have been given to influence the Councillor or member of a Council committee in the exercise of the Councillor's member of a Council committee's powers or performance of duties or functions.
- (2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit
  - (a) would be considered within
    - (i) normal protocol exchanges or social obligations associated with the recipient's office,
    - (ii) normal exchanges common to business relationships, or
    - (iii) normal exchanges common at public cultural events of AFN;
  - (b) is of nominal value;
  - (c) is given by a close friend or relative as an element of that relationship; or
  - (d) is of a type that the policies or directions of the Council have determined would be acceptable if offered by AFN to another person.
- (3) Where a gift with a value of more than two hundred and fifty dollars (\$250) is given to an individual referred to in subsection (1), the individual shall make a written disclosure of the gift to the SAO under section 5, and the Council shall determine whether the gift shall be treated as the property of AFN.
- (4) Subsection (3) does not apply to a gift received during a public cultural event of AFN.

**Confidential Information**

- 7.(1) An individual who is a Councillor or member of a Council committee shall keep confidential all information that the individual receives while performing their duties or functions unless the information is generally available
  - (a) to members of the public; or
  - (b) to members of AFN.
- (2) Councillors and members of Council committees shall only use confidential information referred to in subsection (1) for the specific purposes for which it was provided.

- (3) Councillors and members of Council committees shall not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit their private interests or those of relatives, friends or associates.
- (4) Councillors shall not discuss Council business or other confidential information with employees or family members.

#### **Procedure for Addressing Conflict of Interest**

- 8.(1) As soon as an individual who is a Councillor or member of a Council committee becomes aware of circumstances in which the individual has a conflict of interest, the individual shall disclose the circumstances of the conflict of interest at the next Council or Council committee meeting.
- (2) Subject to subsection (5), an individual who is a Councillor or member of a Council committee shall leave any part of a Council or Council committee meeting where the circumstances in which the individual has a conflict of interest are being discussed or voted on, and the minutes of the meeting shall record the individual's disclosure under subsection (1) and note the individual's absence from the meeting when the circumstances of the conflict of interest were being discussed or voted on.
- (3) Subject to subsection (5), an individual who is a Councillor or member of a Council committee shall not take part in any discussions or vote on any decision respecting the circumstances in which the individual has a conflict of interest.
- (4) An individual who is a Councillor or member of a Council committee shall not influence or attempt to influence in any way before, during or after a Council or Council committee meeting, any discussion or vote on any decision respecting the circumstances in which the individual has a conflict of interest.
- (5) Notwithstanding subsections (2) and (3), the Council or Council committee may, in its discretion, request an individual who is in a conflict of interest to provide information regarding the matter that is the subject of the conflict of interest.

#### **Procedure for Undisclosed Conflict of Interest**

- 9.(1) If an individual who is a Councillor or member of a Council committee has reason to believe that another member of the Council or the Council committee has a conflict of interest or an apparent conflict of interest in respect of a matter before the Council or Council committee, the individual may request clarification of the circumstances at a Council or Council committee meeting.
- (2) If, as a result of a clarification discussion under subsection (1), an individual who is a Councillor or member of a Council committee is alleged to have a conflict of interest or an apparent conflict of interest and the individual does not acknowledge the conflict of interest or apparent conflict of interest and take the actions required under section 8, the Council or Council committee shall determine whether the individual has a conflict of interest or an apparent conflict of interest before the Council or Council committee considers the matter referred to in subsection (1).



- (3) The minutes of the Council or Council committee meeting shall record any determination made by the Council or Council committee under subsection (2).
- (4) If the Council or Council committee determines under subsection (2) that an individual who is a Councillor or member of a Council committee has a conflict of interest or an apparent conflict of interest, the individual shall comply with section 8.

### **PART III - Officers and Employees**

#### **Application**

10. This Part applies to all officers and employees of AFN.

#### **General Obligations**

- 11.(1) In the performance of their duties and functions, an officer or employee shall act honestly and in good faith and in the best interests of AFN.
- (2) An officer or employee shall avoid circumstances that could result in the officer or employee having a conflict of interest or an apparent conflict of interest.
- (3) An officer or employee shall avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function of their office or position could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.
- (4) The SAO shall ensure that every officer and employee is informed of their obligations under this Part and shall take steps to ensure that employees comply with these obligations.

#### **Disclosure of Conflict of Interest**

12. If an officer or employee believes he or she has a conflict of interest, the officer or employee shall
  - (a) disclose the circumstances in writing as soon as practicable to the SAO or, in the case of the SAO, to the Chair; and
  - (b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest until advised by the SAO or the Chair, as the case may be, on actions to be taken to avoid or mitigate the conflict of interest.

#### **Gifts or Benefits**

- 13.(1) An officer or employee or a member of their family shall not accept a gift or benefit that might reasonably be seen to have been given to influence the officer or employee in the exercise of their powers or performance of their duties or functions.
- (2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit

- (a) would be considered within
    - (i) normal exchanges common to business relationships, or
    - (ii) normal exchanges common at public cultural events of AFN;
  - (b) has a value of not more than one hundred dollars (\$100);
  - (c) is given by a close friend or relative as an element of that relationship; or
  - (d) is of a type that the policies or directions of the Council have determined would be acceptable if offered by AFN to another person.
- (3) Where a gift with a value greater than one hundred and dollars (\$100) is given to an individual referred to in subsection (1), the individual shall make a written disclosure of the gift to the SAO, and the Council shall determine whether the gift shall be treated as the property of AFN.

#### **Outside Employment and Business Interests**

- 14.(1) If an officer or employee is permitted under their terms of employment to have outside employment or business interests, the officer or employee shall disclose these employment or business interests in writing to the SAO or, in the case of the SAO, to the Chair.
- (2) An officer or employee shall ensure that any permitted outside employment or business interests do not unduly interfere with the exercise of their powers or performance of their duties and functions and that these activities are conducted on their own time and with their own resources.

#### **Confidential Information**

- 15.(1) An officer or employee shall keep confidential all information that the officer or employee receives while exercising their powers or performing their duties or functions unless the information is generally available
- (a) to members of the public; or
  - (b) to members of AFN.
- (2) An officer or employee shall only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the officer or employee.
- (3) An officer or employee shall not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the officer or employee's private interests or those of relatives, friends or associates.

#### **First Nation Property and Services**

- 16.(1) Officers and employees shall not use any personal property or services of AFN for any purposes unrelated to performance of their duties or functions unless that use is otherwise acceptable under the policies or directions of the Council.

- (2) Officers and employees shall not acquire any personal property of AFN unless it is done in accordance with policies, procedure or directions established by the Council.

## **PART IV - Contractors**

### **Application**

- 17.(1) This Part applies to all contractors of AFN, other than a person who has an employment contract with AFN.
- (2) In this Part, a reference to a contractor includes a reference to each employee or agent of the contractor who is engaged to perform duties or functions under the contract with AFN.

### **Contractor Acting as Officer or Employee**

18. If a contractor is retained to exercise the powers or perform the duties or functions of an officer or employee, the contractor shall comply with Part III of this Schedule as if the contractor were an officer or employee of AFN.

### **General Obligations**

- 19.(1) A contractor shall act at all times with integrity and honesty in its dealings
  - (a) with AFN; and
  - (b) with any third party when the contractor is representing or acting on behalf of AFN.
- (2) A contractor shall not attempt to obtain preferential treatment from AFN by offering gifts or benefits that a Councillor, committee member, officer or employee is prohibited from accepting under this Schedule.
- (3) A contractor shall ensure that every employee or agent of the contractor who is engaged to perform duties or functions under the contract with AFN is informed of their obligations under this Part and shall take steps to ensure that these employees or agents comply with these obligations.

### **Confidential Information**

- 20.(1) A contractor shall keep confidential all information that the contractor receives in the course of performing their duties or functions unless the information is generally available to members of the public.
- (2) A contractor shall only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the contractor.
- (3) A contractor shall not make use of any information received in the course of performing its duties or functions to benefit the contractor's interests or those of the contractor's relatives, friends or associates.

**Business Opportunities**

21. A contractor shall not take advantage of a business or investment opportunity being considered by AFN and which the contractor becomes aware of while performing services for AFN unless AFN has determined not to pursue the opportunity.

**AFN Property and Services**

22. If a contractor has been provided the use of any property or services of AFN in order to perform services for AFN, the contractor shall not use the property or services for any purposes unrelated to performance of those services.