

Minister of Indian Affairs  
and Northern Development



Ministre des Affaires  
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law made by the Yale First Nation, in the Province of British Columbia, at a meeting held on the 18<sup>th</sup> day of November 2002.

- **Yale First Nation  
Financial Administration By-law**

A handwritten signature in black ink, appearing to read "L. A. ...".

Dated at Ottawa, Ontario this 24<sup>th</sup> day of January, 2003

Canada

**Yale First Nation No. 589**

**Financial Administration By-law**

By-law No. 2002-3

A by-law to regulate the receipt, management, and expenditure of Yale First Nation funds and establish the administrative structure of the Yale First Nation which manages the funds;

WHEREAS the *Indian Act*, R.S.C. 1985, c.15, provides that Council may, subject to the approval of the Minister of Indian Affairs and Northern Development, make by-laws for the following purposes:

the appropriation and expenditure of moneys of the Yale First Nation to defray the Yale First Nation expenses;

the appointment of officials to conduct the business of the Council and prescribing their duties; and

with respect to any matter arising out of or ancillary to the exercise of the aforementioned power;

AND WHEREAS the Council of the Yale First Nation has determined that it is desirable and necessary that a financial management by-law be established for the purposes set out in subsection 83(1) of the *Indian Act* and for the better administration of the Yale First Nation's business;

NOW THEREFORE the Council of the Yale First Nation at a duly convened meeting of the Council enacts the following by-law:

**TITLE**

1. This By-law may be called the *Financial Administration By-law*.

**DEFINITIONS**

2. In this By-law,

"agencies" means any board, tribunal, commission, committee of the Yale First Nation or any corporate body controlled by the Yale First Nation including a society, nonprofit corporation or business corporation;

"annual budget" means the forecast of planned expenditures for the forthcoming fiscal year by the Yale First Nation;

"Board" shall mean the Yale First Nation Treasury Board established pursuant to this By-law;

"agreement" means any written contract between the Yale First Nation and another party or parties, including the Federal Government, the provincial government or a third party, pursuant to which money is to be paid to the Yale First Nation;

"Council" shall mean the Chief and Council of the Yale First Nation;

"department" means an administrative division of the Yale First Nation Government as established from time to time by Council and includes service centres, administrative units and other internal organizational units of the Yale First Nation administration;

"Yale First Nation funds" means all moneys belonging to the Yale First Nation and includes

- a) all revenues of Yale First Nation;
- b) money borrowed by the Yale First Nation;
- c) money received or collected on behalf of the Yale First Nation; and
- d) all moneys that are received or collected by the Yale First Nation pursuant to any agreement or funding arrangement and is to be disbursed for a purpose specified by Council or pursuant to

that agreement or funding arrangement;  
but does not include

- e) money received by the Yale First Nation on behalf of an individual or corporate entity, where Council has approved an alternative arrangement for the managing of the money pursuant to section 74 of this By-law;

“resolution” means a decision made at a meeting of a quorum of Council.

### APPLICATION

3. This By-law governs the receipt, management and expenditure of Yale First Nation funds and the administrative organization of the Yale First Nation to manage the funds.

4. This By-law applies to all Yale First Nation departments and agencies in receipt of Yale First Nation funds.

### TREASURY BOARD

5. A Treasury Board of the Yale First Nation is hereby established and shall continue in existence notwithstanding changes in its membership from time to time.

6. The Board shall consist of five (5) members appointed by the Council from time to time with one (1) member being the Band Administrator.

7. Two (2) of the members of the Board shall be members of the Council.

8. The Chairperson shall be elected by the Board and serve for a term of two (2) years.

9. The Chairperson shall preside over the meetings of the Board and shall, between meetings of the Board, exercise or perform such of the powers, duties or functions of the Board as the Board may determine.

10. The Board shall be responsible for

- a) the management and control of the collection of Yale First Nation funds;
- b) the management and control of the expenditures and disbursements of the Yale First Nation;
- c) the maintenance of records of the financial activities of the Yale First Nation;
- d) the preparation of the annual budget in accordance with the priorities approved by Council;
- e) the preparation of the annual audit of the Yale First Nation;
- f) the reporting and recommending to Council on financial matters; and
- g) all other matters relating to the financial affairs of the Yale First Nation not assigned by another by-law or Council resolution to any department or agency.

11. The Board shall prepare or cause to be prepared any amendment to the annual budget for the Yale First Nation which shall be submitted to the Council for review and approval.

12. The Board shall maintain or cause to be maintained the financial records of the Yale First Nation through the Office of the Treasurer and the managers of the departments or agencies.

13. The Board may prescribe the form and content of the financial records and establish the accounting systems of the Yale First Nation.

14. A member of the Treasury Board may be removed from office

- (a) by the Chairperson if the member has missed three (3) consecutive scheduled meetings of the Treasury Board;

(b) by a majority of Council on the recommendation of the Chairperson for the member's removal; or

(c) by a unanimous vote of Council.

15. The Band Administrator shall act as the senior administration officer of the Treasury Board and shall assist the Board in carrying out its duties. The Band Council will articulate the specific nature of the duties of the Band Administrator and these will include the planning, organizing, implementing and evaluating of these functions.

16. To facilitate the role and responsibilities of the Band Administrator, a Controller shall be appointed by the Council and is responsible to the Band Administrator for the following:

(a) the conduct of the administration necessary to discharge the administrative responsibilities of the Board, including staff supervision;

(b) the administrative supervision of the compilation and preparation of the overall annual budget;

(c) the preparation of annual financial statements and longterm financial projections and cash flows as required from time to time by the Board;

(d) monitoring adherence to any agreement and funding arrangements entered into by the Yale First Nation or any department or agency;

(e) administration and supervision of the financial records and reporting systems;

(f) the maintenance of records of all receipts and expenditures in such a manner so as to facilitate the annual audit; and

(g) any other task assigned by the Board.

17. The Board shall be responsible for the hiring of the Controller subject to the ratification of the Council and dismissal of the Controller shall be in accordance with the personnel policies of the Yale First Nation as established by Council.

#### COUNCIL'S ROLE

18. The Council shall appoint two (2) Councillors and two (2) persons from the general First Nation membership to serve as members of the Board for a period consistent with the term of office of the Band Council.

19. The Council shall oversee the preparation of the annual budget and shall approve the annual budget of the Yale First Nation and any amendments thereto.

20. The Council shall receive and approve the annual audit of the Yale First Nation.

21. The Council may, upon the recommendation of the Board or upon its own motion, approve of an exception to this By-law by an amending by-law in accordance with section 83 of the *Indian Act*.

#### DELEGATION OF AUTHORITY

22. On the recommendation of the Board, the Council may approve the delegation of authority to approve expenditures on behalf of the Yale First Nation within the annual budget and consistent with the financial organization of the Yale First Nation.

#### ANNUAL BUDGET

23. The Board shall prepare estimates of the revenues of the Yale First Nation for the purpose

of preparing the annual budget.

**24.** Each department manager and agency manager shall prepare the department or agency's annual budget for the operation of the department or agency and shall submit the budget prepared to the Board which shall prepare a consolidated annual budget for the Yale First Nation.

**25.** The annual budget for the Yale First Nation and its agencies shall be submitted by the Board to Council for consideration and approval.

**26.** The Council is solely responsible for the approval of the consolidated annual budget for the Yale First Nation and its agencies for each fiscal year.

**27.** Council may increase allocations of funds in the budget, reduce allocations of funds, or reallocate funds to different sectors in the annual budget.

**28.** The annual budget becomes official upon approval by the Council by resolution.

**29.** Council may amend the annual budget at any time before or after its implementation.

**30.** The annual budget shall be made available during regular working hours for inspection by any member of the Yale First Nation, and copies are to be provided to Yale First Nation members on written request to the Controller upon payment of a twentyfive (\$25) dollar fee.

#### FINANCIAL MANAGEMENT: DEPOSITS

**31.** There shall be one Consolidated Account established by the Controller at the direction of the Treasury Board into which all Yale First Nation funds shall be deposited.

**32.** The Controller shall ensure the safekeeping of the Yale First Nation funds received and shall forthwith deposit all Yale First Nation funds to the credit of the Yale First Nation Consolidated Account.

**33.** The Board may authorize the Controller to reallocate funds from the Yale First Nation Consolidated Account to other accounts for investment purposes or program and services delivery.

**34.** Funds in the Consolidated Account shall be administered by the Controller.

**35.** The interest earned on the Yale First Nation funds shall be paid to the Consolidated Account.

**36.** Operating surpluses as of the end of the fiscal year shall be paid into the Consolidated Account and allocated or expended in accordance with the direction of Council.

#### FINANCIAL MANAGEMENT: EXPENDITURES

**37.** All payments and financial commitments shall be in accordance with the annual budget or in accordance with Council resolution.

**38.** The Board may make accountable advances from the Consolidated Account to an account administered by a department or agency manager on a monthly basis according to the approved annual budget.

**39.** At the beginning of each fiscal year, each department and agency manager may receive a one (1) month advance or in such amount as determined by the annual budget and the cash flow approved annual budget.

**40.** Where funds have been advanced to a department or agency, the department and agency managers shall report to the Board on the last day of the following month

(a) an invoice listing the funds expended in the previous month; and

(b) a trial balance of the receipts and disbursements for the previous month.

41. The invoice listing submitted to the Board shall be reviewed and approved by the Board if reasonably within the approved budget and upon such approval further advance for the next month shall be made to the department or agency.

42. The Board shall deduct from the current month's advance any amounts advanced in prior months which exceed the amount of the expenditures as recorded in the trial balance.

43. The Board may make such adjustments as are required in the last month of the fiscal year to close out the final payment for the year.

#### FINANCIAL REPORTING: INVOICING

44. No payment shall be made for the performances of work, supply of goods or rendering of services unless the charge in respect of such work, goods or services has been authorized

(a) pursuant to a Council resolution;

(b) by a person delegated to authorize such payment; or

(c) pursuant to an agreement entered into between the Yale First Nation and the person providing such work, goods or services which establishes the amount, or a method of calculating the amount, to be charged for such work, goods or services.

45. For all work, goods or services that are provided by or through the Yale First Nation or any other person on behalf of the Yale First Nation for a fee or other charge, an invoice shall be rendered for payment for the work, goods or services.

46. The Treasurer, department or agency manager each have a role in ensuring invoices are rendered pursuant to this By-law.

#### AWARDING OF CONTRACTS

47. The Council may appoint by resolution the department or agency managers and other persons as authorized to approve the purchase of goods and services. Any expenditures in the awarding of contracts must receive the prior approval of the Band Council.

48. All orders for work, goods or services provided to the Yale First Nation must be recommended to Council by the department or agency manager authorized to approve the purchase of goods or services.

49. Each order for work, goods or services over fifteen thousand dollars (\$15,000) or such greater amount as approved by Council, unless approved in the annual budget, shall, in addition to the signature of the department or agency manager, require attestation by the Controller as to availability of funds.

#### TENDERS

50. Capital purchases up to fifteen thousand dollars (\$15,000) or such greater amounts as approved by Council may be made by a department or agency manager if approved in the annual budget without going to tender.

51. Capital purchases over fifteen thousand dollars (\$15,000) and under five hundred thousand dollars (\$500,000) or in such amounts as approved by Council may be made by invitations to tender.

52. Capital purchases in excess of five hundred thousand dollars (\$500,000) or such greater amounts as approved by Council must be made by public tender.

53. In emergency situations telephone bids up to twenty thousand dollars (\$20,000) or such greater amount as approved by Council may be accepted by a department or agency manager providing a written confirmation follows from the bidder and a record of telephone bids is filed.

54. Invitations to tender shall include

- (a) the time and date of closing;
- (b) sufficient details from which comparable bids can be made;
- (c) the time, date, and place tenders are to be opened; and
- (d) amount of security deposit if required.

55. The tendering period is not to be less than five (5) working days, unless in an emergency situation.

56. All tenders are to be returned sealed and addressed to the Yale First Nation, clearly marked "Tendered for....." and the time and date of receipt is to be recorded on the unopened envelope of tender when received.

57. All tenders received shall be opened in public in the presence of the department or agency manager or other person responsible for the tender process.

58. The name of the tender, project, date of bid and amount shown must be recorded.

59. The lowest tender received shall normally be accepted unless the authorized person deems it in the best interest of the Yale First Nation to do otherwise.

60. Where the lowest tender is not accepted, the reasons are to be recorded in the document by the authorized person accepting the contract.

61. Upon acceptance of a tender for the performance of work, goods, or services, a contract is to be signed by both parties and shall be kept as a portion of the records of the Yale First Nation.

62. In the event that an official or employee of the Yale First Nation has a personal interest in the contract, he or she shall signify the interest and thereafter refrain from taking part in the discussion or participating in the awarding of the contract.

63. No disbursements or payment on any contract shall be made without supporting documentation as determined by the policies of the Board.

64. A fifteen per cent (15%) holdback of final payment or in such amount as may be determined by Board policy shall not be released to a contractor until all work is certified as complete and satisfactory to the Council.

65. The Board may establish policies and procedures for the tender process.

#### CONFLICT OF INTEREST

66. Any person who holds an office, including that of Chief or Councillor, or employment with the Yale First Nation, its departments or agencies, shall not use that office or employment for personal gain to the detriment of the interests of the Yale First Nation.

67. "Personal gain" shall mean financial benefit for the individual or for the members of his or her immediate family.

68. "Family" shall mean a spouse, including a common-law spouse, children, parent, brother, sister, fatherinlaw, motherinlaw, uncle, aunt, grandparent, soninlaw, daughterinlaw, and also includes any relative permanently residing in the person's household.

69. A person may avoid a conflict of interest by disclosing his or her interest prior to the making of a decision and by not participating in the decision.

70. If a person violates the conflict of interest provision Council will, subject to the Yale First Nation Personnel Policy, suspend the employee or official from all privileges and benefits of office or employment for a period up to three (3) weeks.

71. The Board may develop detailed conflict of interest rules which shall govern the administration of financial affairs of the Yale First Nation which shall take effect upon approval by Council. These detailed conflict of interest rules would support those included under this By-law.

72. An appeal of suspension or dismissal can be made to the Band Council.

#### AGREEMENTS

73. The Council may approve on behalf of the Yale First Nation such agreements of funding arrangements with the federal and provincial governments or with any other party for the provision of funding for the Yale First Nation, its agencies and other bodies.

74. Where an agreement or arrangement has been approved under section 73 and on the recommendation of the Treasury Board, the Council may approve an alternative arrangement for the management of money received.

#### FISCAL YEAR

75. The fiscal year of the Yale First Nation Government shall be from April 1 of each year to March 31 in the following year.

#### AUDIT

76. Council shall appoint by resolution an auditor or auditors annually to audit the books and records of the Yale First Nation.

77. The auditor or auditors shall be a member of a recognized professional accounting association.

78. The auditor or auditors shall report to Council.

79. The audit shall include all transactions involving the Yale First Nation funds.

80. The auditor or auditors are entitled to access

(a) all books, records, accounts and vouchers;

(b) information from any department or agency manager necessary for the completion of the audit;

(c) Council resolutions and by-laws;

(d) administration and financial regulations;

(e) agreements, contracts, and any other related documents.

81. The audit shall be in accordance with generally accepted accounting procedures and shall include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the Yale First Nation.

82. The Board shall provide the auditors with instructions concerning the annual audit and, through the Controller, shall assist the auditor or auditors in the completion of the audit.

83. After the review of the annual audit by the Board, the auditor or auditors shall present the annual audit to the Council upon completion of the annual audit.

84. The audited financial statement shall be accepted by the Council by resolution at a meeting



and signed by the Chief and such other person as designated by the Council.

PUBLIC

85. Upon receipt of the auditor's report by Council, copies of the report shall be posted in such public places as determined by Council.

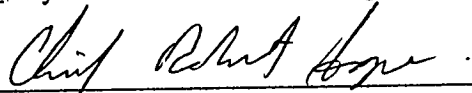
86. The Controller shall retain the written report of the auditor, together with the related financial statements and any member of the Yale First Nation may inspect them during regular office hours and may by himself or through his agent, at his own expense, make a copy of the report or any part of it.

AMENDMENTS AND REPEAL

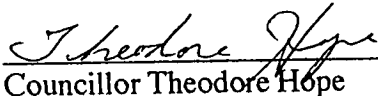
87. A decision made in contravention of this By-law is voidable by vote of a majority of Council.

88. Amendment or repeal of this By-law shall be in the manner stipulated by the *Indian Act*.

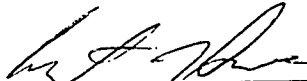
THIS BY-LAW IS HEREBY ENACTED by Council at a duly convened meeting held on the 18<sup>th</sup> day of November 2002. A quorum of Council is two (2) members of Council.



Chief Robert Hope



Councillor Theodore Hope



Councillor Evert Hope

**YALE FIRST NATION No. 589  
FINANCIAL ADMINISTRATION BY-LAW  
BY-LAW No. 2002-3**

**REVIEWING OFFICER:**

Arthur Thomas

**PROFILE**

The Yale First Nation's sixteen reserves are located along the Fraser River near the community of Hope, British Columbia.

**ASSESSMENT**

The First Nation's Financial Administration By-law is identical to ITAB's sample Financial Administration By-law. The by-law is made pursuant to paragraphs 83(1)(b) [*the appropriation and expenditure of moneys of the band to defray band expenditures*], 83(1)(c) [*the appointment of officials to conduct the business of the council, prescribing their duties...*] and 83(1)(g), [*ancillary powers*].

ITAB reviewed the by-law to ensure it complies with the *Canadian Charter of Rights and Freedoms*, conforms to the principles of natural justice and is not ultra vires the *Indian Act*. In addition, the sample by-law was reviewed by DIAND's Corporate Services Sector to ensure that it conforms with DIAND's audit and reporting requirements under the Financial Transfer Agreements. The by-law also meets ITAB's legal, technical and policy criteria.

The by-law institutes financial and administrative guidelines for fiscal management. It establishes an administrative body that will be responsible for: managing and controlling the collection, expenditure and disbursement of funds; maintaining financial activities and records; preparing the annual budget and audit; and reporting and making recommendations to Council. The by-law also sets out the role of Council. It directs the preparation and approval of the annual budget, the establishment of a consolidated account for depositing funds, the expenditure of funds, financial reporting, and the tendering and awarding of contracts. The by-law also establishes conflict of interest guidelines, the authority for entering into funding agreements with the federal and provincial governments and the preparation of an annual audit.

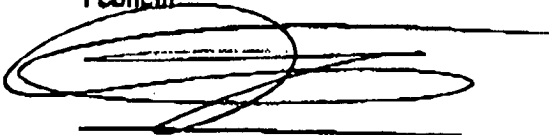
No ministerial liability will be incurred by the approval of this by-law.

**RECOMMENDATION**

That the Indian Taxation Advisory Board recommend the Yale First Nation's Financial Administration By-law No. 2002-03 for approval by the Minister.

I concur

I do not concur



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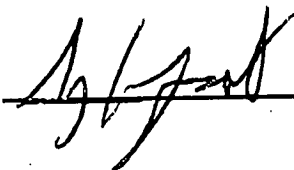
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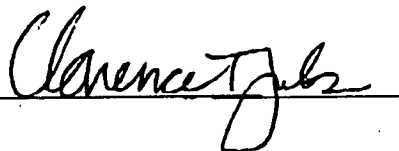
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