

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 West Moberly First Nations, in the Province of British Columbia,
at a meeting held on the 21st day of January 2002.

- **West Moberly First Nations #545**
Financial Administration By-law No. 2002-3

A handwritten signature in black ink, appearing to read "Robert D. Young", is written over a horizontal line.

Dated at Ottawa, Ontario this 16th day of February 2002.

Canada

WEST MOBERLY FIRST NATIONS #545

BYLAW NO. 2002-3

A bylaw to regulate the receipt, management, and expenditure of West Moberly First Nations funds and establish the administrative structure of the West Moberly First Nations which manages the funds;

WHEREAS the *Indian Act*, R.S.C. 1985, c. I-5, provides that Council may, subject to the approval of the Minister of Indian Affairs and Northern Development, make bylaws for the following purposes:

the appropriation and expenditure of moneys of the West Moberly First Nations to defray the West Moberly First Nations 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 West Moberly First Nations has determined that it is desirable and necessary that a financial management bylaw be established for the purposes set out in section 83(1) of the *Indian Act* and for the better administration of the West Moberly First Nation's business;

NOW THEREFORE the Council of the West Moberly First Nations at a duly convened meeting of the Council enacts the following bylaw:

TITLE

1. This bylaw may be called the "Financial Administration Bylaw".

DEFINITIONS

2. In this bylaw,

"agencies" means any board, tribunal, commission, committee of the West Moberly First Nations or any corporate body controlled by the West Moberly First Nations including a society, non-profit corporation or business corporation;

"annual budget" means the forecast of planned expenditures for the forthcoming fiscal year by the West Moberly First Nations;

"board" shall mean the West Moberly First Nations Treasury Board established pursuant to this bylaw;

"agreement" means any written contract between the West Moberly First Nations 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 West Moberly First Nations;

"council" shall mean the Chief and Council of the West Moberly First Nations;

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

"West Moberly First Nations funds" means all moneys belonging to the West Moberly First Nations and includes:

- a) all revenues of West Moberly First Nations;
- b) money borrowed by the West Moberly First Nations;
- c) money received or collected on behalf of the West Moberly First Nations; and
- d) all moneys that are received or collected by the West Moberly First Nations 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 West Moberly First Nations 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 bylaw;

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

APPLICATION

3. This bylaw governs the receipt, management and expenditure of West Moberly First Nations funds and the administrative organization of the West Moberly First Nations to manage the funds.

4. This bylaw applies to all West Moberly First Nations departments and agencies in receipt of West Moberly First Nations funds.

TREASURY BOARD

5. A Treasury Board of the West Moberly First Nations 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 Chairman shall be elected by the Board and serve for a term of two (2) years.

9. The Chairman 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 West Moberly First Nations funds;
- b) the management and control of the expenditures and disbursements of the West Moberly First Nations;
- c) the maintenance of records of the financial activities of the West Moberly First Nations;
- d) the preparation of the annual budget in accordance with the priorities approved by Council;
- e) the preparation of the annual audit of the West Moberly First Nations;
- f) the reporting and recommending to Council on financial matters; and

g) all other matters relating to the financial affairs of the West Moberly First Nations not assigned by another bylaw 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 West Moberly First Nations 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 West Moberly First Nations 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 West Moberly First Nations.

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

- (a) by the Chairman 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 Chairman for the members 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 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 long-term 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 West Moberly First Nations 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 West Moberly First Nations 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 West Moberly First Nations and any amendments thereto.

20. The Council shall receive and approve the annual audit of the West Moberly First Nations.

21. The Council may, upon the recommendation of the Board or upon its own motion, approve of an exception to this bylaw by an amending bylaw 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 West Moberly First Nations within the annual budget and consistent with the financial organization of the West Moberly First Nations.

ANNUAL BUDGET

23. The Board shall prepare estimates of the revenues of the West Moberly First Nations 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 West Moberly First Nations.

25. The annual budget for the West Moberly First Nations 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 West Moberly First Nations 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 West Moberly First Nations, and copies are to be provided to West Moberly First Nations members on written request to the Controller upon payment of a twenty-five (\$25.00) 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 West Moberly First Nations funds shall be deposited.

32. The Controller shall ensure the safekeeping of the West Moberly First Nations funds received and shall forthwith deposit all West Moberly First Nations funds to the credit of the West Moberly First Nations Consolidated Account.

33. The Board may authorize the Controller to reallocate funds from the West Moberly First Nations 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 West Moberly First Nations 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 West Moberly First Nations 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 West Moberly First Nations or any other person on behalf of the West Moberly First Nations 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 bylaw.

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 West Moberly First Nations 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 \$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 \$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 \$15,000 and under \$500,000 or in such amounts as approved by Council may be made by invitations to tender.

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

53. In emergency situations telephone bids up to \$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 West Moberly First Nations, 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 West Moberly First Nations 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 West Moberly First Nations.

62. In the event that an official or employee of the West Moberly First Nations 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%) hold-back 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 West Moberly First Nations, its departments or agencies, shall not use that office or employment for personal gain to the detriment of the interests of the West Moberly First Nations.

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, father-in-law, mother-in-law, uncle, aunt, grandparent, son-in-law, daughter-in-law, 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 West Moberly First Nations 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 West Moberly First Nations which shall take effect upon approval by Council. These detailed conflict of interest rules would support those included under this bylaw.

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

AGREEMENTS

73. The Council may approve on behalf of the West Moberly First Nations such agreements of funding arrangements with the federal and provincial governments or with any other party for the provision of funding for the West Moberly First Nations, 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 West Moberly First Nations Government shall be from April 1st of each year to March 31st in the following year.

AUDIT

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

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 West Moberly First Nations 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 bylaws;
- (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 West Moberly First Nations.

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 West Moberly First Nations 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 bylaw is voidable by vote of a majority of Council.

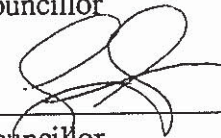
88. Amendment or repeal of this bylaw shall be in the manner stipulated by the *Indian Act*.

This bylaw is hereby enacted by Council at a duly convened meeting held on the 21 day of January 2002.

 Councillor Quorum 3 of 4.
Chief


Councillor


Councillor


Councillor

Councillor